

## Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	52 Monroe, LLC	Representative Name	Andy Peters, Otten Johnson Robinson Neff + Ragonetti, P.C.
Address	9695 E Maplewood Circle	Address	950 17th Street, Suite 1600
City, State, Zip	Greenwood Village, CO, 80111	City, State, Zip	Denver, CO, 80202
Telephone	(303) 903-4015	Telephone	(303) 575 - 7507
Email	dstamatoiumd@hotmail.com	Email	apeters@ottenjohnson.com
<p><b>*If More Than One Property Owner:</b>            All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p><b>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</b></p>	
<p>Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.</p> <p>If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.</p>			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):	52 Monroe Street, Denver, CO 80206		
Assessor's Parcel Numbers:	05125-04-020-000		
Area in Acres or Square Feet:	6,260 square feet		
Current Zone District(s):	PUD		
PROPOSAL			
Proposed Zone District:	G-RO-3		

REVIEW CRITERIA	
<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7</p>	<p><input checked="" type="checkbox"/> <b>Consistency with Adopted Plans:</b> The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan.</p> <p>Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need.</p> <p><input checked="" type="checkbox"/> <b>Uniformity of District Regulations and Restrictions:</b> The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.</p> <p><input checked="" type="checkbox"/> <b>Public Health, Safety and General Welfare:</b> The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p>
<p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8</p>	<p><b>Justifying Circumstances - One of the following circumstances exists:</b></p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.</p> <p><input checked="" type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.</p> <p>Please provide an attachment describing the justifying circumstance.</p> <p><input checked="" type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.</p> <p>Please provide an attachment describing how the above criterion is met.</p>
REQUIRED ATTACHMENTS	
Please ensure the following required attachments are submitted with this application:	
<input checked="" type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format) <input checked="" type="checkbox"/> Proof of Ownership Document(s) <input checked="" type="checkbox"/> Review Criteria	
ADDITIONAL ATTACHMENTS	
Please identify any additional attachments provided with this application:	
<input checked="" type="checkbox"/> Written Authorization to Represent Property Owner(s) <input checked="" type="checkbox"/> Individual Authorization to Sign on Behalf of a Corporate Entity	
Please list any additional attachments:	

# REZONING GUIDE

Rezoning Application Page 3 of 3

**PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION/PETITION**

We, the undersigned represent that we are the owners of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved	Has the owner authorized a representative in writing? (YES/NO)
<b>EXAMPLE</b> John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith</i> <i>Josie Q. Smith</i>	01/01/12	(A)	YES
52 Monroe, LLC	52 Monroe Street Denver, CO 80206 (303) 903-4015 dstamatoiumd@hotmail.com	100%	<i>[Signature]</i>	<i>4/11/2018</i>	(A)	YES <i>Yes</i>



03/01/2018 11:47 AM  
City & County of Denver  
Electronically Recorded

R \$23.00

WD

D \$190.00

State Documentary Fee  
Date 2-28-18  
\$ 190.00

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**Special Warranty Deed**  
(Pursuant to 38-30-115 C.R.S.)

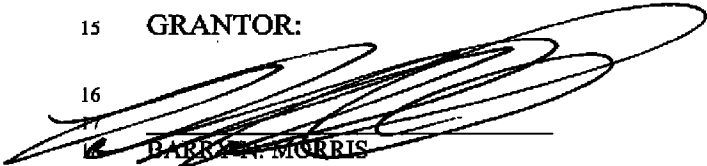
**THIS DEED**, made on February 28th, 2018 by **BARRY N. MORRIS AND GAIL J. MORRIS**, Grantors, of the County of Palm Beach and State of Florida, for the consideration of One Million Nine Hundred Thousand Dollars (\$1,900,000.00) and other good and valuable consideration in hand paid, hereby sell and convey to **52 MONROE LLC**, a Colorado limited liability company, Grantee, whose mailing address is 9695 East Maplewood Circle, Greenwood Village, Colorado 80111, the following real property in the City and County of Denver, and State of Colorado, to wit:

**LOTS 7 AND 8, BLOCK 13, BURLINGTON CAPITOL HILL ADDITION, CITY AND COUNTY OF DENVER, STATE OF COLORADO.**

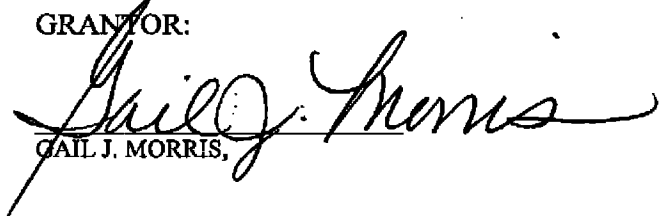
also known by street and number as: 52 Monroe Street, Denver, CO 80206

with all its appurtenances and warrants the title against all persons claiming under the Grantors, subject to *general taxes for the year 2018 and subsequent years and those specific Exceptions described by Exhibit A attached hereto.*

GRANTOR:

  
BARRY N. MORRIS

GRANTOR:

  
GAIL J. MORRIS,

State of Colorado )  
City and County of Denver ) ss.

The foregoing instrument was acknowledged before me on this day of February 28th, 2018 by Barry N. Morris.

Witness my hand and official seal.

My commission expires 3/11/21

  
Notary Public

State of Colorado )  
City and County of Denver ) ss.

**SHERI ANN HUTCHISON**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
NOTARY ID 20134017354  
My Commission Expires March 11, 2021

The foregoing instrument was acknowledged before me on this day of February 28th, 2018 by Gail J. Morris.

Witness my hand and official seal.

My commission expires 3/11/21

  
Notary Public

 7507178

Land Title

When Recorded Return to: 52 Monroe LLC, 9695 East Maplewood Circle, Greenwood Village, Colorado 80111.

**SHERI ANN HUTCHISON**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
NOTARY ID 20134017354  
My Commission Expires March 11, 2021

**EXHIBIT A****Permitted Exceptions**

Property Address: **52 Monroe Street, Denver, Colorado 80206**

1. DISTRIBUTION UTILITY EASEMENTS (INCLUDING CABLE TV).
2. THOSE SPECIFICALLY DESCRIBED RIGHTS OF THIRD-PARTIES NOT SHOWN BY THE PUBLIC RECORDS OF WHICH BUYER HAS ACTUAL KNOWLEDGE.
3. INCLUSION OF THE PROPERTY IN ANY SPECIAL TAXING DISTRICT.
4. ANY SPECIAL ASSESSMENT IF THE IMPROVEMENTS WERE NOT INSTALLED AS OF DECEMBER 14, 2017, WHETHER ASSESSED PRIOR TO OR AFTER CLOSING.
5. ANY UNKNOWN ZONING VIOLATIONS
6. WATER RIGHTS, CLAIMS OR TITLE TO WATER.
7. ORDINANCES PERTAINING TO THE PRESERVATION OF MOUNTAIN VIEWS RECORDED MARCH 14, 1968 IN BOOK 9854 AT PAGE 231 AND JANUARY 6, 1969 IN BOOK 9975 AT PAGE 351, AND JULY 30, 1973 IN BOOK 738 AT PAGE 127.
8. ORDINANCE NO. 519, SERIES OF 1999 RELATING TO CHANGING THE ZONING CLASSIFICATION OF 52MONROE STREET, RECORDED JULY 16, 1999 UNDER RECEPTION NO. 9900125237.
9. TERMS, CONDITIONS, PROVISIONS, BURDENS AND OBLIGATIONS OF MAP AMENDMENT FINDINGS RECORDED JULY 27, 1999 UNDER RECEPTION NO. 9900130905.
10. NOTES AND ALL OTHER MATTERS AS SHOWN ON THE PLANNED UNIT DEVELOPMENT PUD SITE PLAN RECORDED MARCH 6, 2000 UNDER RECEPTION NO. 2000031279 AND RECORDED JUNE 13, 2000 UNDER RECEPTION NO. 2000082115.
11. ANY FACTS, RIGHTS, INTERESTS OR CLAIMS WHICH MAY EXIST OR ARISE BY REASON OF THE FOLLOWING FACTS SHOWN ON IMPROVEMENT LOCATION CERTIFICATE CERTIFIED FEBRUARY 27, 2018 PREPARED BY C.C.S CONSULTANTS, INC. , JOB #18GEN02 SAID DOCUMENT STORED AS LAND TITLE ESI # 70667178 :

75            **A)    POWER POLE IN THE SOUTH EASTERLY CORNER OF SUBJECT**  
76            **PROPERTY.**

**Exhibit A**

**Legal Description**

LOTS 7 AND 8, BLOCK 13, BURLINGTON CAPITOL HILL ADDITION, CITY AND COUNTY OF DENVER, STATE OF COLORADO

March 30th, 2018

Community Planning & Development  
City and County of Denver  
201 W. Colfax Ave., 2nd Floor  
Denver, Colorado 80202

Re: Rezoning application for 52 Monroe Street, as more particularly described in Exhibit A attached hereto and incorporated herein (the "**Property**")

To Whom It May Concern:

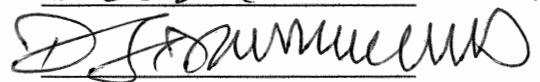
The undersigned (the "**Owner**") owns the Property. The Owner confirms to the City and County of Denver that Otten Johnson Robinson Neff + Ragonetti, P.C. is authorized to submit and process a rezoning application for the Property.

The Owner reserves the right to terminate Otten Johnson as its authorized representative in this matter at any time, in the sole and absolute discretion of the Owner. Should the Owner terminate Otten Johnson's representation, the Owner will deliver prompt written notice thereof to the City.

Sincerely,

52 MONROE, LLC

By:

Dawida Stamatovic  






**For this Record...**

- Filing history and documents
- Get a certificate of good standing
- File a form
- Subscribe to email notification
- Unsubscribe from email notification

- Business Home
- Business Information
- Business Search

- FAQs, Glossary and Information

## Summary

Details			
<b>Name</b>	52 Monroe LLC		
<b>Status</b>	Good Standing	<b>Formation date</b>	02/20/2018
<b>ID number</b>	20181138160	<b>Form</b>	Limited Liability Company
<b>Periodic report month</b>	February	<b>Jurisdiction</b>	Colorado
<b>Principal office street address</b>	52 Monroe Street, Denver, CO 80206, United States		
<b>Principal office mailing address</b>	9695 E Maplewood Circle, Greenwood Village, CO 80111, United States		

Registered Agent	
<b>Name</b>	Daniela Stamatoiu
<b>Street address</b>	9695 E Maplewood Circle, Greenwood Village, CO 80111, United States
<b>Mailing address</b>	n/a

- [Filing history and documents](#)
- [Get a certificate of good standing](#)
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## **DEVELOPMENT AGREEMENT**

by and between

**52 MONROE, LLC**

to and for the benefit of

**CHERRY CREEK EAST ASSOCIATION, A REGISTERED  
NEIGHBORHOOD ORGANIZATION WITHIN THE CITY AND COUNTY OF  
DENVER, COLORADO**

## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (this “*Agreement*”) is made and entered into as of this 30<sup>th</sup> day of March, 2018, by and between 52 Monroe, LLC (together with any successors or assigns, “*Owner*”) to and for the benefit of Cherry Creek East Association (“*CCEA*”) as the representative neighborhood organization for certain members of CCEA and residents of the Cherry Creek East neighborhood, including those who are Nearby Property Owners (as later defined) (together with CCEA, the “*Neighborhood Stakeholders*”). Capitalized terms used in this Agreement shall have the meaning given them in this Agreement.

### RECITALS:

A. CCEA is a registered “neighborhood organization” formed as a Colorado non-profit corporation and registered under Sections 12-91 through 12-98 of the Denver Municipal Code in effect as of the date of this Agreement (the “*Code*”), with a board of directors appointed or otherwise elected from the CCEA membership (the “*CCEA Board*”).

B. Owner owns the real property in the City and County of Denver, State of Colorado (the “*City*”) commonly referred to as 52 Monroe Street, which is legally described on Exhibit A attached hereto (the “*Property*”), and is zoned under the Planned Unit Development zone category pursuant to that certain Application for Map Amendment, PUD Application No. 4440, dated May 3, 1999 (the “*PUD*”).

C. The PUD encompasses only the Property and identifies “Dwelling Unit – South side – two story” as a permitted use on one portion of the Property and “Office or Dwelling Unit – North side – two story” as a permitted use on another portion of the Property. The PUD does not permit any other uses.

D. Owner intends to submit to the City an application requesting that the Property be rezoned from the PUD to the G-RO-3 zone category (the “*Rezoning Request*”) in connection with the planned use of the Property as a medical practice and clinic. The G-RO-3 zone category permits a range of uses, many more than allowed under the PUD.

E. CCEA has processed concerns raised by Neighborhood Stakeholders regarding the Rezoning Request. Such efforts have resulted in the agreements among Owner and CCEA as to the terms and conditions under which CCEA will support the Rezoning Request. Owner now desires to confirm such agreements for the benefit of CCEA and the Neighborhood Stakeholders.

NOW, THEREFORE, in consideration of the promises, covenants and undertakings set forth herein, and for ten dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner hereby agrees as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions and Interpretation.** The following terms shall have the respective meanings assigned to them in this Section 1.01 unless otherwise parenthetically defined elsewhere in this Agreement:

“*Affiliated Party*” means Owner or any party who controls or is controlled by Owner.

“*Agreement*” or “*Development Agreement*” means this Development Agreement.

“*Owner’s Representative*” means any person who at the time and from time to time may be designated as such by Owner.

“*Cherry Creek East Neighborhood*” means the residential neighborhood located within the City and specifically including the area north and east of Cherry Creek North Drive and Alameda Avenue to Colorado Boulevard (as the southern and western boundaries) and the area south of First Avenue and west of Colorado Boulevard (as the northern and eastern boundaries), the representative registered neighborhood organization for which is CCEA.

“*City Zoning Code*” means the zoning ordinances, laws, rules and regulations relating to zoning matters adopted by the City and codified in the City Zoning Code in effect as of the date of this Agreement and which is a part of the City Municipal Code.

“*Nearby Property Owners*” means the owners of property immediately adjacent to the Property, including those on the west side of Garfield Street and both sides of Monroe Street between Ellsworth Avenue and 1<sup>st</sup> Avenue.

“*Neighborhood Stakeholders*” has the meaning given such term in the initial paragraph of this Agreement.

## ARTICLE II

### DEVELOPMENT OBLIGATIONS AND REQUIREMENTS

**Section 2.01. Rezoning Request.** The recitals set forth above are incorporated herein. In connection with the Rezoning Request being made by Owner to the City, and in connection with the ownership and the future use of the Property, Owner covenants and agrees as follows:

(a) ***Prohibited Uses.*** Owner shall not permit on the Property any of the following uses that would otherwise be permitted in the G-RO-3 zone category pursuant to Section 6.4.4 of the City Zoning Code (Such uses shall have the meanings ascribed to them in the City Zoning Code.):

- (i) Assisted Living Facility
- (ii) Nursing Home, Hospice

- (iii) Residence for Older Adults
- (iv) Residential Care Use, Small or Large
- (v) Rooming and Boarding House
- (vi) Shelter for the Homeless
- (vii) Student Housing
- (viii) Bed and Breakfast Lodging

(ix) All uses listed within the Commercial Sales, Services, & Repair Primary Use Classification except “Dental/Medical Office or Clinic” and “Office, All Others”

(b) **Rezoning Process.** Owner shall notify the City of Owner’s obligations under this Agreement in connection with Owner’s processing of the Rezoning Request.

**Section 2.02. CCEA Approval.** CCEA shall prepare and submit to the City a letter in support of the Rezoning Request proposed by Owner under the specific terms and conditions as outlined herein and, in connection therewith, CCEA shall not file or support an appeal to the City Board of Adjustment regarding the Rezoning Request.

### ARTICLE III

#### BINDING NATURE OF AGREEMENT; ENFORCEMENT

**Section 3.01. Effective Date and Binding Nature of Agreement.** This Development Agreement and each of the provisions hereof shall become effective upon its execution and delivery, and shall remain in full force and effect as if fully set forth in the Rezoning Request. Owner agrees that the covenants and obligations set forth herein shall be binding upon the Property, and Owner agrees that, if Owner transfers the Property or any portion thereof, such transfer shall be subject to the provisions of this Development Agreement and any such purchaser shall be required to assume the covenants and obligations of Owner set forth herein, subject to the provisions of Section 3.03 below.

**Section 3.02. Owner’s Default; Enforcement.** If Owner defaults in the performance or observance of any obligation of Owner set forth in this Development Agreement, then written notice thereof (“*Notice of Default*”) shall be given to the Owner, with a copy to Owner’s Representative, by CCEA. If such Notice of Default remains uncured by Owner during the sixty (60) day period following the date of such notice of default, then an “*Event of Default*” shall be deemed to have occurred hereunder. Neither any individual member of CCEA nor any individual Neighborhood Stakeholder resident may enforce the provisions hereof, and the CCEA Board shall make all declarations of default hereunder and shall have sole authority to pursue any action to enforce this Agreement.

Following the declaration of an Event of Default, CCEA may enforce this Agreement by taking any action at law or in equity as may appear necessary or desirable to enforce the obligations hereunder. If CCEA prevails in any action or proceeding in court for breach of this Agreement, it shall be entitled to recover all reasonable court costs and attorneys' fees incurred in connection with such proceeding. Nothing herein shall be deemed to require the CCEA Board to act on any uncured Event or Default or to expend funds for enforcement of this Agreement.

**Section 3.03. Agreement Binding; Amendment of Agreement.** The covenants and agreements set forth in this Agreement shall be binding on the Property and shall bind Owner or any Affiliated Party or any successor or assignee with respect to the Property. This Agreement may be amended or otherwise terminated only upon a rezoning of the Property (or any portion thereof) subsequent to the Rezoning Request, in accordance with the rezoning procedures of the City, and after notice to CCEA.

## ARTICLE IV

### MISCELLANEOUS PROVISIONS

**Section 4.01. Governing Law.** This Development Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

**Section 4.02. Binding Effect.** All the covenants, agreements, terms and conditions to be observed and performed by Owner shall be applicable to and binding upon their respective successors and assigns.

**Section 4.03. Notices.** Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, certified or registered mail, overnight courier service postage prepaid, return receipt requested, at the addresses specified below, or at such other addresses as the parties hereto may specify in writing. Such notices being delivered to the Neighborhood Stakeholders shall also be sent via email to the CCEA Board president at the email address shown on the CCEA website. Notices shall be deemed delivered on the date of confirmed delivery.

**If to Owner:**

Daniela Stamatoiu and Adrian Neacsu  
52 Monroe Street  
Denver, CO 80206

**If to the Owner's Representative:**

Otten Johnson Robinson Neff + Ragonetti, P.C.  
Attn: Tom Ragonetti  
950 17<sup>th</sup> Street  
Ste. 1600

**If to CCEA:**

to the address of record with the Secretary of State  
Attention: President of the CCEA Board of  
Directors

**Section 4.04. Severability.** If any provision of this Development Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

**Section 4.05. Multiple Counterparts.** This Development Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

**Section 4.06. No Third Party Beneficiaries.** This Agreement is not intended nor shall it be construed to create any third-party beneficiary rights in any person who is not a party hereto (including, without limitation, the Nearby Property Owners).

**Section 4.07. Integration; Controlling Documents.** This Agreement constitutes the final agreement of the parties hereto as to the matters set forth herein. This Agreement controls as to any prior outline or other communications regarding the Rezoning Request and CCEA's positions with respect thereto.

**Section 4.08. Recording.** This Agreement shall be recorded in the real property records of the Clerk and Recorder's office of the City at such time as the City approves the Rezoning Request.

[Remainder of page intentionally left blank]

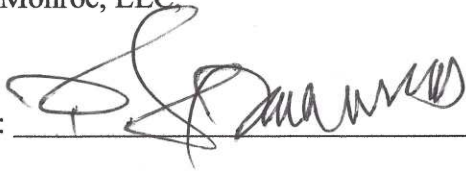


IN WITNESS WHEREOF, Owner and CCEA have duly executed this Agreement as of the date first set forth above.

Owner:

52 Monroe, LLC

By: \_\_\_\_\_



STATE OF COLORADO )  
CITY AND ) ss.  
COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 30 day of March, 2018, by Daniela Stamatoiu, as principal of 52 Monroe, LLC.

Witness my hand and official seal.  
My commission expires:

[S E A L]

DEBRA L FARNEY  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 19954007439  
MY COMMISSION EXPIRES JULY 14, 2019

Debra L Farney  
Notary Public (or official title)

***[SIGNATURE PAGES CONTINUE ON FOLLOWING PAGE]***

**CHERRY CREEK STAKEHOLDERS CONSENT AND APPROVAL**

**Cherry Creek East Association**

By: Nancy Austin  
Nancy Austin

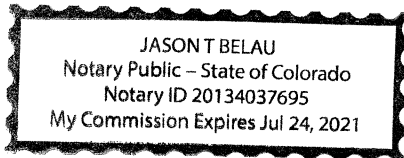
Acting CCEA Board President, on behalf of the CCEA Board and as approved by the CCEA Board by Resolution dated March 19, 2018

STATE OF COLORADO )  
CITY AND ) ss.  
COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 27 day of March, 2018, by Nancy Austin, as President of The Board of Cherry Creek East Association.

Witness my hand and official seal.  
My commission expires: 07/24/2021

[S E A L]



[Signature]  
Notary Public

**EXHIBIT A**

**DESCRIPTION OF PROPERTY**

Lots 7 and 8, Block 13, Burlington Capitol Hill Addition, City and County of Denver, State of Colorado.

May 30, 2018

ANDREW L.W. PETERS  
303.575.7507  
APETERS@OTTENJOHNSON.COM

Community Planning & Development (CPD)  
City and County of Denver  
201 W. Colfax Ave., 2nd Floor  
Denver, Colorado 80202

Re: Application for Potential Rezoning of 52 N. Monroe Street

Dear Community Planning & Development:

This firm is assisting 52 Monroe, LLC (the “**Owner**”) with respect to a rezoning of real property located at 52 North Monroe Street (the “**Property**”) in the City and County of Denver, Colorado (the “**City**”). As discussed during our pre-application meeting with the City on February 7, 2018 (the “**Pre-Application Meeting**”), the Owner desires to rezone the Property from its current PUD zoning designation (the “**PUD**”) to the General Urban Residential Office 3 zone district (“**G-RO-3**”) under the Denver Zoning Code (the “**Code**”). At the moment, the PUD is specific to the Property and permits only a live/work arrangement designed for the original builder/owner’s needs in 1999.

Following the Pre-Application Meeting, Dr. Daniela Stamatoiu, a principal of 52 Monroe, LLC, met with the Cherry Creek East registered neighborhood organization to discuss the proposed rezoning. A letter of support from the Cherry Creek East Association is submitted with this application. Also attached is a Development Agreement by and between 52 Monroe, LLC and the Cherry Creek East Association. Additionally, this firm met with councilman Wayne New, who represents the district encompassing the Property. He supports this application.

### **Criteria for Rezoning**

Pursuant to the Denver Zoning Code, applications for rezoning must meet all of the “general review criteria” set forth in Section 12.4.10.7 as well as (i) at least one of the “justifying circumstances” of the first group of “additional review criteria” set forth in Section 12.4.10.8.A, and (ii) the general additional review standard set forth in Section 12.4.10.8.B. The proposed rezoning to G-RO-3 meets these required review criteria as follows:

*General Review Criteria: Consistency with Adopted Plans. The proposed official map amendment is consistent with the City’s adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City’s Plan.*

The Denver Comprehensive Plan 2000 (the “**Comp. Plan**”) sets a vision for the entire City, and although that vision is broad, it supports the rezoning request here. The Comp. Plan’s land use section in particular envisions “a richer and more diverse mix of uses within geographically proximate areas.” *Comp. Plan* at 55. Objective 3-

B in the Comp. Plan similarly urges “quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses.” *Comp. Plan* at 60. Rezoning the Property to G-RO-3 advances both goals by allowing a more flexible land use classification that offers both a “more diverse mix of uses” and “broadens the variety of compatible uses” from the existing PUD, which sets only two uses for the Property. Moreover, the G-RO-3 classification represents an evolution from the uses allowed under the existing PUD, therefore making the change “consistent with the character of the surrounding neighborhood.”

The Property is designated as “Urban Residential” and an “Area of Stability” under Blueprint Denver. *Blueprint Denver*, The Plan Map. The balance of the block on which the Property is located features a range of categories available under Blueprint Denver, most of them within an area of change, and also includes properties classified as Regional and Neighborhood Centers. A drive down the block showcases that diversity. The present uses variously include a utility substation, a bank, a multi-story office building with structured parking, a multistory apartment building, and one single-family home. These uses in turn lie within a range of zone districts, which include G-RH-3, G-MX-3, another PUD, and B-1 with waivers, the last two of which predate the current Code. The G-RO-3 district, though a longitudinal change from the PUD, therefore blends with the existing cross-section on the block as depicted in Blueprint Denver, harmonizing both its residential and limited commercial characteristics. Moreover, although the G-RO-3 district expands the uses allowed on the Property, the aim remains the same as it was under the PUD: to allow both residential and limited commercial use. Inasmuch as a change can promote stability, then, this one does.

Blueprint Denver further supports a finding of consistency with adopted plans and expressly provides that “it may be appropriate to change the zoning in Areas of Stability to create a better match between existing land uses and the zoning,” *Blueprint Denver*, p. 75, and also that “[Concerns regarding the widespread proliferation of PUDs] can be addressed if the city acts on the authority to repeal obsolete PUD zoning and change it to a more appropriate district,” *Blueprint Denver*, p. 82. The proposed rezoning addresses both of these goals by eliminating a Property-specific PUD and allowing what would otherwise become an underutilized parcel to evolve more consistently with its surroundings. Similarly, Blueprint Denver provides that the “role of regulation in Areas of Stability is to ensure that land uses and densities are compatible with stable neighborhoods.” *Blueprint Denver*, p. 123. Since the land uses and densities permitted within the G-RO-3 zone district are generally the same as, or less intense than, those permitted by the surrounding zoning designations, the proposed rezoning would be compatible with the surrounding neighborhood.

The Cherry Creek Area Plan (the “**Area Plan**”) also supports the Rezoning. As the City indicated in the Pre-Application Meeting, the Area Plan recommends eliminating aging undeveloped PUDs. *Area Plan*, p. 71. Although the Property’s PUD is developed, the Area Plan’s observations that “PUD zoning typically does not provide the flexibility needed to react to the changing real estate market and updating a PUD entails a lengthy rezoning process,” *Area Plan*, p. 71, applies here as well. The PUD allows only two uses, each of them specific to a portion of the Property, and even though the Property is developed, those restrictions, which effectively mandate a live/work arrangement, provide no flexibility whatsoever.

The Area Plan also specifies that Cherry Creek East “supports a mix of residential and office uses,” *Area Plan*, p. 70, and suggests that “[c]ontinued introduction of office space, retail, and residential units will enhance the

mixed-use nature of the neighborhood and reinforce the plan vision,” *Area Plan*, p. 27. The G-RO-3 zone district, which allows both residential and limited commercial uses, will maintain that mix. Speaking more directly to the G-RO-3 zone district’s permitted uses, the Area Plan notes, too, that “Cherry Creek . . . also attracts advertising, creative media, architecture and design firms, as well as boutique medical offices” and that “[c]ontinuing to provide high quality office space for these boutique firms and creative industries is essential to the mixed-use character of Cherry Creek.” The G-RO--3 zone district allows for precisely these uses.

*General Review Criteria: Uniformity of District Regulations and Restrictions.* *The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.*

The proposed rezoning promotes uniformity of district regulations and restrictions by replacing a Property-specific PUD, which shares no uniformity with any other PUD, with a basic zone district that can be managed in the same fashion throughout the City. Because the proposed rezoning does not include any waivers, conditions or other variances from the provisions of the G-RO-3 district, the proposed rezoning ensures uniform treatment under the Code. To be sure, the good neighbor agreement will somewhat restrict the uses allowed on the Property, but that restriction exists as between the Property’s owner and the Cherry Creek East Association. It will not affect the City’s ability to manage the G-RO-3 zone district.

*General Review Criteria: Public Health, Safety and General Welfare.* *The proposed official map amendment furthers the public health, safety and general welfare of the City.*

The proposed rezoning would further the public health, safety and general welfare of the City for several reasons. It would allow for gradual evolution of a Property-specific and restrictive PUD without fundamentally changing the character of the permitted uses. The proposed rezoning would allow the entire Property to be used for a boutique medical practice of the sort envisioned in the Area Plan while remaining consistent with the surrounding neighborhood context. And, as noted above, the proposed rezoning is consistent with plan guidance and the City’s overall goals and objectives, such as eliminating obsolete PUDs and retaining a mix of residential and commercial uses in the Cherry Creek neighborhood.

*Additional Review Criteria: Justifying Circumstances.* *The City adopted the Denver Zoning Code and the property retained Former Chapter 59 Zoning, or in the alternative, the land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area.*

On May 21, 2018, the City amended the Code to add a property’s Former Chapter 59 zoning as an additional circumstance justifying rezoning. This added circumstance directly justifies the rezoning request here: the Property is currently subject to a PUD under Former Chapter 59, and the rezoning request would update that zoning to a classification within the Code.

In the alternative, the City may also conclude that the surrounding area has changed in such a way as to justify the rezoning. The Cherry Creek neighborhood has boomed since the City adopted the PUD in 1999. Just three years later, Blueprint Denver recognized the Property as located on the dividing line between areas of change

and stability, and in the intervening years, that change has arrived. Most importantly, aerial imagery indicates that all of the structures on the east side of the block post-dated the PUD and replaced single-family homes or undeveloped lots in the process. And, in the same way that land use intensity has increased near the neighborhood core, so too have its margins begun to experience the same changes. Three blocks to the west, a multi-story mixed use tower was under construction last year, and one block beyond that, the Steele Street corridor has experienced enormous redevelopment and features multiple projects completed in the last few years. This latter development has all occurred under the Code, not a former Chapter 59 zone district or a set of restrictive PUDs.

Put simply, the PUD governing on the Property is an outdated relic, and the proposed G-RO-3 district is substantially more consistent with the current condition of the surrounding properties. The current PUD designation, which mandates the original builder/owner's vision for a live/work arrangement, does not allow for evolution that would be consistent with the more intense uses on the surrounding properties.

*Additional Review Criteria. The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.*

According to Section 6.1.1 of the Code, the "general urban" neighborhood context is characterized by multi-unit residential uses in a variety of building forms, with low-scale commercial areas embedded within residential areas. Commercial uses may occur in a "variety of building forms" and may be located "at or between intersection of local streets." Section 6.1.4 further characterizes the General Urban District as featuring "low to moderate commercial and mixed use structures" and that those lower structures are "typically found in areas transition to a less dense urban neighborhood."

Given these guidelines, the G-RO-3 classification is appropriate for the Property because it at most allows a low commercial structure at a point on the block transitioning from more intense commercial uses into residential areas and embeds low-scale commercial uses in this residential transition area. Allowing residential or limited commercial uses in the existing structure with a residential form also supports the Code's guidance supporting a "variety of building forms." Moreover, the properties to the north and south both lie within the "general urban" neighborhood context, so that choice of context is appropriate, and as discussed in more detail above, the G-RO-3 district is consistent with the surrounding neighborhood.

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For the foregoing reasons, we respectfully request that the City approve the proposed rezoning. Please feel free to contact me with any questions or comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Andy Peters", with a long horizontal flourish extending to the right.

Andy Peters  
for the Firm

cc: Daniela Stamatoiu  
Adrian Neacsu

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