



REZONING GUIDE

Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	CC Gateway Owners LLC	Representative Name	Doug McKinnon
Address	730 17th Street 220	Address	730 17th Street 220
City, State, Zip	Denver, CO 80202	City, State, Zip	Denver, CO 80202
Telephone	303-629-6700	Telephone	303-629-6700
Email	dm@mckinnonre.com	Email	dm@mckinnonre.com
<p>*If More Than One Property Owner: 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>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</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>			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):	55 S Colorado Blvd, 65 S Colorado Blvd, 101 S Colorado Blvd, 51 N Colorado Blvd, 97 N Colorado Blvd. 98 Harrison St., 101 S Colorado Blvd		
Assessor's Parcel Numbers:	Due to size see attached sheet with additional info		
Area in Acres or Square Feet:	57,504		
Current Zone District(s):	Due to size see attached sheet with additional info		
PROPOSAL			
Proposed Zone District:	Due to size see attached sheet with additional info		
Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	

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"/> 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.</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"/> 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.</p> <p><input checked="" type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p>
<p>Additional Review Criteria for Non-Legislative Rezonings: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8</p>	<p>Justifying Circumstances - One of the following circumstances exists:</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:

- Legal Description (required to be attached in Microsoft Word document format)
- Proof of Ownership Document(s)
- Review Criteria

ADDITIONAL ATTACHMENTS

Please identify any additional attachments provided with this application:

- Written Authorization to Represent Property Owner(s)

Please list any additional attachments:

Narrative - AMENDED



REZONING GUIDE

Rezoning Application Page 3 of 3

101 Colorado

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)
EXAMPLE 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
CC Gateway Owners LLC Doug McKinnon	730 17th Street 220 Denver, CO 80202	100%	<i>[Signature]</i>	10/25/19	A	Yes

Last updated: May 24, 2018

Return completed form to rezoning@denvergov.org

201 W. Colfax Ave., Dept. 705
Denver, CO 80202
720-865-2974 • rezoning@denvergov.org



Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	Betty Vincent	Representative Name	Doug McKinnon
Address	2925 Jay Street	Address	730 17th Street 220
City, State, Zip	Wheat Ridge CO 80214	City, State, Zip	Denver CO 80202
Telephone	303-233-6061	Telephone	303-629-6700
Email	N/A	Email	dm@mckinnonre.com
<p>*If More Than One Property Owner: 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>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</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):	51 Colorado Blvd		
Assessor's Parcel Numbers:	061250101300		
Area in Acres or Square Feet:	11,300 Sq. Ft.		
Current Zone District(s):	G-HR-3		
PROPOSAL			
Proposed Zone District:	G-MU-5		

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"/> 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. 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 type="checkbox"/> 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.</p> <p><input type="checkbox"/> Public Health, Safety and General Welfare: 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>Justifying Circumstances - One of the following circumstances exists:</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"/> Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include:</p> <p>a. Changed or changing conditions in a particular area, or in the city generally; or</p> <p>b. A City adopted plan; or</p> <p>c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.</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. 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. 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:

- Legal Description (required to be attached in Microsoft Word document format)
- Proof of Ownership Document(s)
- Review Criteria, as identified above

ADDITIONAL ATTACHMENTS

Please identify any additional attachments provided with this application:

- Written Authorization to Represent Property Owner(s)
- Individual Authorization to Sign on Behalf of a Corporate Entity

Please list any additional attachments:

narrative



REZONING GUIDE

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

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EXAMPLE 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
Betty Vincent	2925 Jay Street Wheat Ridge, CO 80214	100%	<i>Betty Vincent</i>	<i>11.23.19</i>	A	Yes

Last updated: May 24, 2018

Return completed form to rezoning@denvergov.org

201 W. Colfax Ave., Dept. 205
Denver, CO 80202
720-865-2974 • rezoning@denvergov.org

CC Gateways Re Zoning Application

Applicable Addresses

55 S Colorado Blvd, 65 S Colorado Blvd, 101 S Colorado Blvd, 51 N Colorado Blvd, 97 N Colorado Blvd, 98 Harrison St., 101 N Colorado Blvd.

Applicable Assessor

- 55 S Colorado Blvd Schedule # 0512516005000
- 65 S Colorado Blvd Schedule # 0512516007000
- 101 S Colorado Blvd Schedule # 0512517001000
- 51 N Colorado Blvd Schedule # 0512501013000
- 97 N Colorado Blvd Schedule # 0512501002000
- 98 Harrison St. Schedule # 0512501012000
- 101 N Colorado Blvd. Schedule # 0512132013000

Requested Zone Districts

- 55 S Colorado Blvd current PUD 56 1981 (19810683) proposed G-RO-5
- 65 S Colorado Blvd current PUD 56 1981 (19810683) proposed G-RO-5
- 101 S Colorado Blvd current G-MU-3 proposed G-MU-5
- 51 N Colorado Blvd current G-RH-3 proposed G-RO-5
- 97 N Colorado Blvd current G-RH-3 proposed G-RO-5
- 98 Harrison St. current G-RH-3 proposed G-RO-5
- 101 N Colorado Blvd, current G-RH-3 proposed G-MU-5

Property Square Footage (as per ALTA Survey attached)

55 S Colorado Blvd	SF 4,692
65 S Colorado Blvd	SF 11,812
101 S Colorado Blvd	SF 9,527
51 N Colorado Blvd	SF 11,306
97 N Colorado Blvd	SF 2,170
98 Harrison St.	SF 6,769
101 N Colorado Blvd	SF 11,228
Total Square footage	SF 57,504

Legal
Description

PARCEL I
(97 Colorado Boulevard):

Those parts of Lots 1 and 2, Block 10,
BURLINGTON CAPITOL HILL ADDITION,
Located within boundaries described as follow:
Beginning at the Southwest corner of said Lot 2;
Thence Northerly on the West line of said Lots 2 and 1, 38 feet;
Thence Southeasterly to a point which is 27.45 feet South of the North line of said Lot 1 and
60.62 feet East of the West
line of said Lots 1 and 2;
Thence Southeasterly to the Southeast corner of said Lot 2;
Thence Westerly on the South line of said Lot 2 to the Point of Beginning,
City and County of Denver,
State of Colorado.

PARCEL II
(98 Harrison Street):

Lots 3, 4 and 5, Block 10,
BURLINGTON CAPITOL HILL ADDITION,
City and County of Denver
State of Colorado.

PARCEL III
(101 Colorado Boulevard):

Lots 1 to 6, inclusive,
EXCEPT that part of said Lots described as follows:
Beginning at the Northeast corner of said Lot 1;
Thence Westerly on the North line of said Lot 1, a distance of 6.16 feet;
Thence Southerly on a line parallel with the East line of Block 9, a distance of 69.38 feet to
a point of curve;
Thence Southwesterly on a curve, convex to the Southeast and having a radius of 85 feet to a
point on the South line of
said Lot 6 and 71.12 feet West of the Southeast corner thereof;
Thence Easterly on the South line of Lot 6 to the East line of Block 9;
Thence Northerly on the East line to the Point of Beginning,

Block 9,
BURLINGTON CAPITOL HILL ADDITION,
City and County of Denver,
State of Colorado.

PARCEL IV
(55 South Colorado Boulevard):

Lots 14 and 15, Block 27,
BURLINGTON CAPITOL HILL ADDITION,
City and County of Denver,
State of Colorado.

PARCEL V
(65 South Colorado Boulevard):

Lots 16, 17, 18, 19, and 20, Block 27,
BURLINGTON CAPITOL HILL ADDITION,
City and County of Denver,
State of Colorado.

PARCEL VI
(101 South Colorado Boulevard):

Lots 1, 2, 3 and 4, Block 28
BURLINGTON CAPITOL HILL ADDITION,
City and County of Denver,
State of Colorado.

PARCEL VII
(45-51 South Colorado Boulevard):

Lots 6 through 10, inclusive, Block 10,
BURLINGTON CAPITOL HILL ADDITION,
City and County of Denver,
State of Colorado



Real Property Records

Date last updated: Thursday, October 24, 2019

Real Property Records Search

If you have a question about the value, ownership, or characteristics of this property, or any other property in Denver, please call the Assessor at 720-913-4162.

[Link to real property information for this property](#)

[Link to property tax information for this property](#)

[Link to comparable sales information for this property](#)

[Link to property sales information for all Denver neighborhoods](#)

[Link to chain of title information for this property](#)

[Link to map/historic district listing for this Property](#)

[Link to property sales information for this neighborhood](#)

[Back to Property List](#)

The property description shown is data from the Assessor's active, in-progress 2017 file. The "current year" values are from the 2017 tax year for real property tax due in 2018. These values are based on the property's physical status as of January 1, 2017.

PROPERTY INFORMATION

Property Type: COMMERCIAL - RETAIL	Parcel: 0512516007000
Name and Address Information	Legal Description
CC GATEWAY OWNERS LLC	L 16 TO 20 INC BLK 27
730 17TH ST 220	BURLINGTON CAPITOL HILL ADD
DENVER, CO 80202-3506	
Property Address: 65 S COLORADO BLVD	Tax District DENV

Assessment Information

	Actual	Assessed	Exempt	Taxable
Current Year				
Land	762700	221180		
Improvements	67900	19690		
Total	830600	240870	0	240870
Prior Year				
Land	568700	164920		
Improvements	144600	41930		
Total	713300	206850	0	206850

Style: Other
 Year Built: 1970
 Building Sqr. Foot: 2,740
 Bedrooms:
 Baths Full/Half: 0/0

Reception No.: 2019067425
 Recording Date: 06/03/19
 Document Type: Affidavit
 Sale Price: 5550000
 Mill Levy: 77.365

Basement/Finished: 0/0

Lot Size: 11,827

[Click here for current zoning](#)

Zoning Used for Valuation: PUD

Note: Valuation zoning maybe different from City's new zoning code.

 [Print](#)



Real Property Records
 Date last updated: Wednesday, November 13, 2019

Real Property Records Search

If you have a question about the value, ownership, or characteristics of this property, or any other property in Denver, please call the Assessor at 720-913-4162.

- [Link to real property information for this property](#)
- [Link to comparable sales information for this property](#)
- [Link to chain of title information for this property](#)
- [Link to property sales information for this neighborhood](#)
- [Link to property tax information for this property](#)
- [Link to property sales information for all Denver neighborhoods](#)
- [Link to map/historic district listing for this Property](#)

[Back to Property List](#)

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PROPERTY INFORMATION

Property Type: RX ZONED VACANT LAND - (RES) Parcel: 0512501002000

<p>Name and Address Information</p> <p>CC GATEWAY OWNERS LLC</p> <p>730 17TH ST 220</p> <p>DENVER, CO 80202-3506</p> <p>Property Address: 97 N COLORADO BLVD</p>	<p>Legal Description</p> <p>BURLINGTON CAPITOL HILL ADD B10 L3 TO 5</p> <p>Tax District DENV</p>
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Assessment Information

	Actual	Assessed	Exempt	Taxable
Current Year				
Land	84100	24390		
Improvements	0	0		
Total	84100	24390	0	24390
Prior Year				
Land	76900	22300		
Improvements	0	0		
Total	76900	22300	0	22300

Style: Other
 Year Built:
 Building Sqr. Foot: 0
 Bedrooms:
 Baths Full/Half: 0/0

Reception No.: 2019067425
 Recording Date: 06/03/19
 Document Type: Affidavit
 Sale Price: 5550000
 Mill Levy: 77.365

Basement/Finished: 0/0

Lot Size: 1,460

[Click here for current zoning](#)

Zoning Used for Valuation: G-RH-3

Note: Valuation zoning maybe different from City's new zoning code.

 [Print](#)



Real Property Records

Date last updated: Thursday, October 24, 2019

Real Property Records Search

If you have a question about the value, ownership, or characteristics of this property, or any other property in Denver, please call the Assessor at 720-913-4162.

[Link to real property information for this property](#)

[Link to property tax information for this property](#)

[Link to comparable sales information for this property](#)

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[Link to chain of title information for this property](#)

[Link to map/historic district listing for this Property](#)

[Link to property sales information for this neighborhood](#)

[Property](#)

[Back to Property List](#)

The property description shown is data from the Assessor's active, in-progress 2017 file. The "current year" values are from the 2017 tax year for real property tax due in 2018. These values are based on the property's physical status as of January 1, 2017.

PROPERTY INFORMATION

Property Type: RX ZONED VACANT LAND - (RES) Parcel: 0512501012000

Name and Address Information

Legal Description

CC GATEWAY OWNERS LLC

BURLINGTON CAPITOL HILL ADD

730 17TH ST 220

B10 L1 & 2 BEG SW COR OF L2

DENVER, CO 80202-3506

N 38FT SELY TO PT 27.45FT S

& 60.62FT W OF NE COR OF L1

SELY TO COR OF L2 W TO POB

Property Address: 98 N HARRISON ST

Tax District

DENV

Assessment Information

	Actual	Assessed	Exempt	Taxable
Current Year				
Land	84100	24390		
Improvements	0	0		
Total	84100	24390	0	24390
Prior Year				
Land	76900	22300		
Improvements	0	0		
Total	76900	22300	0	22300

Style: Other

Reception No.: 2019067425

Year Built:

Recording Date: 06/03/19

Building Sqr. Foot: 0

Document Type: Affidavit

Bedrooms:

Sale Price: 5550000

Baths Full/Half: 0/0
Basement/Finished: 0/0

Mill Levy: 77.365

Lot Size: 1,460

[Click here for current zoning](#)

Zoning Used for Valuation: G-RH-3

Note: Valuation zoning maybe different from City's new zoning code.

 [Print](#)



Real Property Records

Date last updated: Friday, October 25, 2019

Real Property Records Search

If you have a question about the value, ownership, or characteristics of this property, or any other property in Denver, please call the Assessor at 720-913-4162.

[Link to real property information for this](#)

[property](#)

[Link to property tax information for this property](#)

[Link to comparable sales information for this](#)

[property](#)

[Link to property sales information for all Denver neighborhoods](#)

[Link to chain of title information for this property](#)

[Link to map/historic district listing for this](#)

[Link to property sales information for this](#)

[neighborhood](#)

[Property](#)

[Back to Property List](#)

The property description shown is data from the Assessor's active, in-progress 2017 file. The "current year" values are from the 2017 tax year for real property tax due in 2018. These values are based on the property's physical status as of January 1, 2017.

PROPERTY INFORMATION

Property Type: RESIDENTIAL TRIPLEX

Parcel: 0512516005000

Name and Address Information

Legal Description

CC GATEWAY OWNERS LLC

730 17TH ST 220

DENVER, CO 80202-3506

L 14 & 15 BLK27 BURLINGTON
CAPITOL HILL ADD

Property Address: 55 S COLORADO BLVD

Tax District DENV

Assessment Information

	Actual	Assessed	Exempt	Taxable
Current Year				
Land	343900	24590		
Improvements	369400	26410		
Total	713300	51000	0	51000
Prior Year				
Land	269300	19390		
Improvements	379600	27330		
Total	648900	46720	0	46720

Style: Other

Reception No.: 2019067425

Year Built: 1939

Recording Date: 06/03/19

Building Sqr. Foot: 2,172

Document Type: Affidavit

Bedrooms:

Sale Price: 5550000

Baths Full/Half: 0/0

Mill Levy: 77.365

Basement/Finished: 0/0

Lot Size: 4,700

[Click here for current zoning](#)

Zoning Used for Valuation: PUD

Note: Valuation zoning maybe different from City's new zoning code.

 [Print](#)



Real Property Records

Date last updated: Friday, December 13, 2019

Real Property Records Search

If you have a question about the value, ownership, or characteristics of this property, or any other property in Denver, please call the Assessor at 720-913-4162.

[Link to real property information for this property](#)

[Link to comparable sales information for this property](#)

[Link to chain of title information for this property](#)

[Link to property sales information for this neighborhood](#)

[Link to property tax information for this property](#)

[Link to property sales information for all Denver neighborhoods](#)

[Link to map/historic district listing for this Property](#)

[Back to Property List](#)

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PROPERTY INFORMATION

Property Type: RESIDENTIAL 4 THRU 8 UNITS

Parcel: 0512501013000

Name and Address Information

Legal Description

VINCENT,BETTY F

2925 JAY ST

WHEAT RIDGE, CO 80214-8150

Property Address: 51 N COLORADO BLVD

BURLINGTON CAPITOL HILL ADD
B10 L6 TO 10

Tax District DENV

Assessment Information

	Actual	Assessed	Exempt	Taxable
Current Year				
Land	735000	52550		
Improvements	618600	44230		
Total	1353600	96780	0	96780
Prior Year				
Land	546600	39360		
Improvements	637900	45930		
Total	1184500	85290	0	85290

Style: Other

Year Built: 1953

Building Sqr. Foot: 3,844

Bedrooms:

Baths Full/Half: 0/0

Reception No.: 2005075213

Recording Date: 05/07/05

Document Type: Personal Rep

Sale Price:

Mill Levy: 77.365

Basement/Finished: 0/0

Lot Size: 11,300

[Click here for current zoning](#)

Zoning Used for Valuation: G-RH-3

Note: Valuation zoning maybe different from City's new zoning code.

 [Print](#)



Real Property Records

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[Link to real property information for this property](#)

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PROPERTY INFORMATION

Property Type: RX ZONED VACANT LAND - (RES) Parcel: 0512132013000

Name and Address Information

CC GATEWAY OWNERS LLC

730 17TH ST 220

DENVER, CO 80202-3506

Property Address: 101 N COLORADO BLVD

Legal Description

BURLINGTON CAPITOL HILL ADD B9

L1 TO 6 DIF RCP #00065723 RCD 12-19-86

Tax District DENV

Assessment Information

	Actual	Assessed	Exempt	Taxable
Current Year				
Land	672000	194880		
Improvements	0	0		
Total	672000	194880	0	194880
Prior Year				
Land	516900	149900		
Improvements	0	0		
Total	516900	149900	0	149900

Style: Other

Reception No.: 2019067425

Year Built:

Recording Date: 06/03/19

Building Sqr. Foot: 0

Document Type: Affidavit

Bedrooms:

Sale Price: 5550000

101 S COLORADO BLVD

Owner	Schedule Number	Legal Description	Property Type	Tax District
CC GATEWAY OWNERS LLC 730 17TH ST 220 DENVER, CO 80202-3506	05125-17-001-000	BURLINGTON CAPITOL HILL ADD B28 L1 TO 4	RESIDENTIAL 4 THRU 8 UNITS	DENV

Real Property Records

Date last updated: Friday, December 13, 2019

[Real Property Records Search](#)

If you have a question about the value, ownership, or characteristics of this property, or any other property in Denver, please call the Assessor at 720-913-4162.

- [Link to real property information for this property](#)
- [Link to comparable sales information for this property](#)
- [Link to chain of title information for this property](#)
- [Link to property sales information for this neighborhood](#)
- [Link to property tax information for this property](#)
- [Link to property sales information for all Denver neighborhoods](#)
- [Link to map/historic district listing for this Property](#)

[Back to Property List](#)

The property description shown is data from the Assessor's active, in-progress 2017 file. The "current year" values are from the 2017 tax year for real property tax due in 2018. These values are based on the property's physical status as of January 1, 2017.

PROPERTY INFORMATION

Property Type: RESIDENTIAL 4 THRU 8 UNITS Parcel: 0512517001000

Name and Address Information	Legal Description
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CC GATEWAY OWNERS LLC	BURLINGTON CAPITOL HILL ADD
730 17TH ST 220	B28 L1 TO 4
DENVER, CO 80202-3506	
Property Address: 101 S COLORADO BLVD	Tax District: DENV

Assessment Information

Owner	Schedule Number	Legal Description	Property Type		Tax District
	Actual		Assessed	Exempt	Taxable
Current Year					
Land	640500	45800			
Improvements	126300	9030			
Total	766800	54830	0		54830
Prior Year					
Land	471000	33910			
Improvements	864800	62270			
Total	1335800	96180	0		96180

Style: Other

Reception No.: 2019067425

Year Built: 1952

Recording Date: 06/03/19

Building Sqr. Foot: 4,777

Document Type: Affidavit

Bedrooms:

Sale Price: 5550000

Baths Full/Half: 0/0

Mill Levy: 77.365

Basement/Finished: 0/0

Lot Size: 9,500

[Click here for current zoning](#)

Zoning Used for Valuation: G-MU-3

Note: Valuation zoning maybe different from City's new zoning code.

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

CC Gateway Owners, LLC

is a

Limited Liability Company

formed or registered on 02/07/2019 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20191118004 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 11/12/2019 that have been posted, and by documents delivered to this office electronically through 11/13/2019 @ 21:02:48 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 11/13/2019 @ 21:02:48 in accordance with applicable law. This certificate is assigned Confirmation Number 11910982 .



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



Colorado Secretary of State
 Date and Time: 02/07/2019 10:23 AM
 ID Number: 20191118004
 Document number: 20191118004
 Amount Paid: \$50.00

Document must be filed electronically.
 Paper documents are not accepted.
 Fees & forms are subject to change.
 For more information or to print copies
 of filed documents, visit www.sos.state.co.us.

ABOVE SPACE FOR OFFICE USE ONLY

Articles of Organization

filed pursuant to § 7-90-301 and § 7-80-204 of the Colorado Revised Statutes (C.R.S.)

1. The domestic entity name of the limited liability company is

CC Gateway Owners, LLC

(The name of a limited liability company must contain the term or abbreviation "limited liability company", "Ltd. liability company", "limited liability co.", "Ltd. liability co.", "limited", "l.l.c.", "llc", or "ltd.". See §7-90-601, C.R.S.)

(Caution: The use of certain terms or abbreviations are restricted by law. Read instructions for more information.)

2. The principal office address of the limited liability company's initial principal office is

Street address 730 17th Street
(Street number and name)
Suite 220
Denver CO 80202
(City) (State) (ZIP/Postal Code)
United States
(Province - if applicable) (Country)

Mailing address
 (leave blank if same as street address) _____
(Street number and name or Post Office Box information)

(City) (State) (ZIP/Postal Code)

(Province - if applicable) (Country)

3. The registered agent name and registered agent address of the limited liability company's initial registered agent are

Name
 (if an individual) McKinnon Douglas
(Last) (First) (Middle) (Suffix)

or
 (if an entity) _____
(Caution: Do not provide both an individual and an entity name.)

Street address 730 17th Street
(Street number and name)
Suite 220
Denver CO 80202
(City) (State) (ZIP Code)

Mailing address
 (leave blank if same as street address) _____
(Street number and name or Post Office Box information)

(City) CO _____
(State) (ZIP Code)

(The following statement is adopted by marking the box.)

The person appointed as registered agent has consented to being so appointed.

4. The true name and mailing address of the person forming the limited liability company are

Name
(if an individual) _____
(Last) (First) (Middle) (Suffix)

or

(if an entity)

McKinnon & Associates, LLC

(Caution: Do not provide both an individual and an entity name.)

Mailing address

730 17th Street

(Street number and name or Post Office Box information)

Suite 220

Denver

(City)

CO

(State)

80202

(ZIP/Postal Code)

United States

(Country)

(Province – if applicable)

(If the following statement applies, adopt the statement by marking the box and include an attachment.)

The limited liability company has one or more additional persons forming the limited liability company and the name and mailing address of each such person are stated in an attachment.

5. The management of the limited liability company is vested in

(Mark the applicable box.)

one or more managers.

or

the members.

6. (The following statement is adopted by marking the box.)

There is at least one member of the limited liability company.

7. (If the following statement applies, adopt the statement by marking the box and include an attachment.)

This document contains additional information as provided by law.

8. (Caution: Leave blank if the document does not have a delayed effective date. Stating a delayed effective date has significant legal consequences. Read instructions before entering a date.)

(If the following statement applies, adopt the statement by entering a date and, if applicable, time using the required format.)

The delayed effective date and, if applicable, time of this document is/are _____
(mm/dd/yyyy hour:minute am/pm)

Notice:

Causing this document to be delivered to the Secretary of State for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that the document is the individual's act and deed, or that the individual in good faith believes the document is the act and deed of the person on whose behalf the individual is causing the document to be delivered for filing, taken in conformity with the requirements of part 3 of article 90 of title 7, C.R.S., the constituent documents, and the organic statutes, and that the individual in good faith believes the facts stated in the document are true and the document complies with the requirements of that Part, the constituent documents, and the organic statutes.

This perjury notice applies to each individual who causes this document to be delivered to the Secretary of State, whether or not such individual is named in the document as one who has caused it to be delivered.

9. The true name and mailing address of the individual causing the document to be delivered for filing are

Oster	Kathy		
<small>(Last)</small>	<small>(First)</small>	<small>(Middle)</small>	<small>(Suffix)</small>
410 17th Street			
<small>(Street number and name or Post Office Box information)</small>			
Suite 2200			
Denver	CO	80202	
<small>(City)</small>	<small>(State)</small>	<small>(ZIP/Postal Code)</small>	
	United States		
<small>(Province – if applicable)</small>	<small>(Country)</small>		

(If the following statement applies, adopt the statement by marking the box and include an attachment.)

- This document contains the true name and mailing address of one or more additional individuals causing the document to be delivered for filing.

Disclaimer:

This form/cover sheet, and any related instructions, are not intended to provide legal, business or tax advice, and are furnished without representation or warranty. While this form/cover sheet is believed to satisfy minimum legal requirements as of its revision date, compliance with applicable law, as the same may be amended from time to time, remains the responsibility of the user of this form/cover sheet. Questions should be addressed to the user's legal, business or tax advisor(s).



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CO

(State)

80202

(ZIP/Postal Code)

United States

(Province - if applicable)

(Country)

Mailing address

(leave blank if same as street address)

(Street number and name or Post Office Box information)

(City)

(State)

(ZIP/Postal Code)

(Province - if applicable)

(Country)

3. The registered agent name and registered agent address of the limited liability company's initial registered agent are

Name

(if an individual)

McKinnon

(Last)

Douglas

(First)

(Middle)

(Suffix)

or

(if an entity)

(Caution: Do not provide both an individual and an entity name.)

Street address

730 17th Street

(Street number and name)

Suite 220

Denver

(City)

CO

(State)

80202

(ZIP Code)

Mailing address

(leave blank if same as street address)

(Street number and name or Post Office Box information)

November 21, 2019

Denver Community Development and Planning
201 W Colfax Ave Department 205
Denver, CO 80202

Re: Rezoning Application for 51 N Colorado Blvd.

Please let this letter serve as written property owner authorization for applicant representation for CC Gateway Owners, LLC, for my property located at 51 N Colorado, rezoning submittal.

Doug McKinnon has the authority to represent the property owner in the rezoning application process for the above referenced submittal.

Thank you.



Betty F. Vincent
2925 Jay Street
Wheat Ridge CO 80214



2019044321

Page: 1 of 2

04/12/2019 03:42 PM
City & County of Denver
Electronically Recorded

R \$18.00

MIS

D \$0.00

After recording, return to:
Gregory Vallin, Esq.
Brownstein Hyatt Farber Schreck, LLP
410 17th Street, Suite 2200
Denver, CO 80202



17000311092
\$18.00

STATEMENT OF AUTHORITY

1. This Statement of Authority relates to an entity¹ named **CC Gateway Owners, LLC**, and is executed on behalf of the entity pursuant to the provisions of Section 38-30-172, C.R.S.
2. The type of entity is: limited liability company.
3. The entity is formed under the laws of: State of Colorado.
4. The mailing address for the entity is: 730 17th Street, Suite 220, Denver, CO 80202.
5. The name position of each person authorized to execute instruments conveying, encumbering, or otherwise affecting title to real property on behalf of the entity is:

Name	Title
Douglas C. McKinnon	Manager of McKinnon & Associates, LLC, as Manager of CC Gateway Owners, LLC
- 6.² The authority of the foregoing persons (acting separately) to bind the entity is not limited limited as follows:
7. Other matters concerning the manner in which the entity deals with interests in real property: N/A.

[signature on following page]

¹This form should not be used unless the entity is capable of holding title to real property.
²The absence of any limitation shall be prima facie evidence that no such limitation exists.
³The statement of authority must be recorded to obtain the benefits of the statute.

After recording, return to:
Gregory Vallin, Esq.
Brownstein Hyatt Farber Schreck, LLP
410 17th Street, Suite 2200
Denver, CO 80202

 17000311092
\$18.00

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[signature on following page]

¹This form should not be used unless the entity is capable of holding title to real property.
²The absence of any limitation shall be prima facie evidence that no such limitation exists.
³The statement of authority must be recorded to obtain the benefits of the statute.

Executed as of this 10th day of April, 2019.

CC GATEWAY OWNERS, LLC,
a Colorado limited liability company

By: McKinnon & Associates, LLC,
a Colorado limited liability company,
its Manager

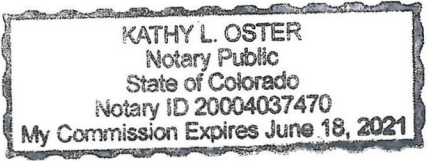
By: 
Douglas C. McKinnon, Manager

STATE OF COLORADO)
) ss.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me this 10th day of April, 2019, by Douglas C. McKinnon as Manager of McKinnon & Associates, LLC, a Colorado limited liability company, as Manager of CC Gateway Owners, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 6/18/2021




Notary Public

Gateways East Updated Narrative

17 July 2020

Executive Summary – Why we are requesting rezoning from G-RH-3/PUD to G-RO-5/G- MU-5:

The several parcels of land (see next section for addresses of the various parcels) requesting to be rezoned are located at critical “Gateway” locations as identified in the Cherry Creek Area Plan and are also located on blocks that are immediately adjacent to a high traffic arterial street (Colorado Blvd.). The nature of the historical initial development of this area also shortened the size of block/developable area of the parcels from Colorado Blvd. to Harrison Streets and this, when coupled with the large ROW along Harrison Street, creates extraordinary challenges in developing these parcels in a way that the now established neighborhood grid requires. Challenges for these sites include:

- Required 20’ setback along Colorado Blvd. to meet Parkway requirements
- Shortened east/west block dimension from Colorado Blvd. to Harrison Street
- Large ROW dedication along Harrison Street
- Dedicated right turn lanes from Colorado Blvd. to 1st Avenue

In addition, during the significant public outreach to RNOs and other interested parties, it has been made very clear to the applicant that the “Gateway” nature of these projects will require significant investment in the public ROW (especially along 1st and Bayaud Streets) to create safe pedestrian circulation pathways that currently do not exist. The unusual nature and characteristics of these sites requires additional developable area through increased zoning density in order to offset the challenging development hardships these sites represent. The increased zoning density is in alignment with many goals outlined in current Denver Planning guidelines as noted below and will also allow the applicant to voluntarily participate in the City’s *Housing and Inclusive Denver* and work to construct affordable units on site.

Justifying Circumstances -- Adherence to Review Criteria

The nature of the proposed map amendment is to permit redevelopment of several parcels of land (57,504 sq. ft.) addressed as 55 S Colorado Blvd., 65 S. Colorado Blvd., 101 S. Colorado Blvd., 51 N. Colorado Blvd., 97 N Colorado Blvd., 98 Harrison St. and 101 N. Colorado Blvd. The properties are all located on the west side of Colorado Blvd. (the eastern border of the Cherry Creek East neighborhood and the south eastern border of the Cherry Creek North neighborhood.)

The two parcels on the north and south side of 1st Avenue and Colorado have never been developed and the parcel on the north side of Bayaud and Colorado has remained vacant for over 15 years. This long-standing lack of development is a clear indicator that there is a need to revise the current single-family G-RH-3 zoning and rezone the properties in order to better meet area plan guidelines as well as community and market requirements. Given the heavy transportation usage of Colorado Blvd. as well as increased demand for affordable housing in the Denver market as a whole, single family housing in this location is an inappropriate use of land moving forward.

This map amendment request is for two zone districts, including G-MU-5 and G-RO-5, which would allow for creation of mixed use and residential development, and provide the incentive to implement the vision for the “Gateway” into the Cherry Creek neighborhood as depicted in the Cherry Creek Area Plan, the Colorado Blvd. Plan and the Comprehensive Plan 2040.

Additionally, the rezoning and development of these parcels is an opportunity to provide equity in development in this neighborhood and pursue a voluntary affordable housing agreement with the City of Denver.

The effect of the proposed amendment will allow the redevelopment of underutilized property and allow for a dynamic high-quality project on the edge of Cherry Creek providing opportunities for enhanced pedestrian connectivity, safety, and a welcoming gateway into the Cherry Creek neighborhood. The current zoning code classifications do not support implementation of the tremendous gateway opportunity at these locations. Additionally, there are a number of inherent site constraints that make viable development under the current zoning classification on these sites effectively impossible, as evidenced by the parcels left undeveloped for over 50 years.

Select Legal Basis for Rezoning Request

Key Development Documents

- Comprehensive Plan 2040
- Blueprint Denver
- Cherry Creek Area Plan
- Colorado Boulevard Plan
- Denver Zoning Code

Comprehensive Plan 2040

This application meets the goals stated in Denver’s Comprehensive Plan 2040. Specifically:

Vision Element 1: The proposed rezoning supports the goal of Denver being an equitable, inclusive community with a high quality of life for all residents regardless of income level, race, ethnicity, gender, ability or age. The applicant, as part of this rezoning request is voluntarily entering into an agreement with *Denver Department of Housing Stability (HOST)* to provide dedicated workforce housing as part of the development project.

Vision Element 2: The proposed rezoning supports the goal of Denver’s neighborhoods being complete, unique, and reflective of our city’s diverse history. The sites have been vacant or completely undeveloped for a significant period of time. Investment into these sites will strengthen the neighborhoods and offer unique “Gateway” opportunities through high quality and creative placemaking and urban design and architecture, as well as improved rights of way, landscape, and art features. The Applicant has also spent over 14 months of significant public outreach, encouraging citizens to be involved and collaborate in city government. The improved Rights of Way will increase neighborhood safety.

Vision Element 3: The rezoning and proposed development will support Denver being connected by safe, high-quality, and utilizing multi-modal transportation options. The development will highly encourage use of multimodal transportation by providing a safer, more pedestrian friendly environment. An existing bus stop will be redesigned to be more accessible and safer. The development project will include bicycle parking and amenities. The development will also embrace innovative curb and parking policies.

Vision Element 4: The rezoning will support Denver as a global city with a robust economy that reflects the diversity of our community. The resulting development will contribute to the growing economy by providing design and construction jobs, as well as help grow Denver’s local business community. The development will embrace the arts through physical commissioned pieces on site.

Vision Element 5: The rezoning will support Denver as a thriving, sustainable city connected to nature and resilient to climate change. The development will be designed to be sustainable – achieving LEED and/or Well Building status as economically feasible. The location of the project adjacent to a high traveled arterial street will encourage alternative modes of transportation. The development will embrace utilizing the City’s green infrastructure – especially water quality management.

Vision Element 6: The rezoning will contribute to Denver being a city of safe, accessible, and healthy communities. The development will help create a safe, enhanced environment that supports physical activity by significant improvement to the pedestrian environment and landscape.

Equitable, Affordable, and Inclusive – Goal 3 – Strategy B:

The rezoning supports this Goal by the applicant agreeing to entering into a voluntary agreement with *Denver HOST* to enable construction of income restricted housing units on the high capacity transit street of Colorado Blvd.

Environmentally Resilient – Goal 8 – Strategies A, B, and C

The rezoning supports strategies A,B, and C by promoting infill development where infrastructure and services are already in place; by encouraging mixed-use communities where residents can live, work, and play in their own neighborhoods; and focus growth along transit stations along high capacity transit corridors. These factors would also bring the added benefit of promoting multi modal transportation, possibly reducing greenhouse gas emissions.

Blueprint Denver

The following analysis is organized through the categories listed under the ‘*Applying Blueprint Denver to Rezoning*’ section on page 66-67.

Neighborhood Context

All four sites are characterized as *low-medium* residential place types within the *General Urban context*. Residential Areas within the General Urban context are described as ‘*areas where the predominate use is residential. Although they are primarily residential, they are supported by a*

variety of embedded uses needed for a complete neighborhood...Limited neighborhood serving commercial can be found, particularly at intersections. Given the Gateway designation of the 4 sites, and their location at prime intersections, we feel these are appropriate areas to provide limited flexibility for ‘a variety of embedded uses’ outside of residential only as described by Blueprint Denver.

The proposed zoning designations (**G-Residential Office-5 & G-Multi-Unit-5**) are appropriate as they represent two of the eight possible *Residential Districts* within the General Urban neighborhood context of the Denver Zoning Code. The general purpose of these districts is to ‘*promote safe, active, pedestrian-scaled residential areas...These regulations reinforce desired patterns in existing neighborhoods.*’ While limited commercial office uses would be allowed on the two G-RO-5 parcels, retail and other higher intensity use is prohibited and the predominate use will be multi-unit residential.

Place

The Future Places map identifies these sites as low-medium residential. Specific height guidance is not given in this future place designation, although a 4 story apartment building is depicted in the place description. Blueprint Denver does not provide specific height guidance, but rather provides a general sense of scale for the various place types. While 5 stories would likely be seen as the upper limit of a low-medium residential zone district, factors to be considered relative to these sites include:

- Guidance from the Cherry Creek Area Plan (see next section)
- Surrounding context
- Furthering plan goals for community benefit
- Furthering urban design goals.

Surrounding context: the 1st Ave Gateway is the only stretch along 1st Ave between Colorado Blvd and University Blvd that is not considered either a Community Corridor or Regional Center place type. Given the specific designation calling for a ‘Gateway’ intersection at 1st/Colorado the intensity of use should be higher, not lower, than its immediate surroundings, so in our opinion these sites are mis-characterized on the future places map.

Furthering plan goals for community benefit: the specified #1 goal of Blueprint Denver is to ‘*Serve all Denver residents with a diverse range of affordable housing options*’. This project supports this goal through the applicant entering into a voluntary affordable housing agreement to enable construction of income restricted housing on site. The impact of this commitment is enhanced as the housing will be located in one of the most expensive and affluent districts in all of Denver.

Furthering urban design goals: the proposed site design strategy (to be enforceable through a development agreement) will contribute to Blueprint Denver’s goals #2 and #3. It will help ‘*ensure all Denver residents have safe, convenient and affordable access to basic services and a variety of amenities*’ by providing the opportunity for limited neighborhood serving commercial uses at key intersections to create a complete neighborhood. It will also help ‘*develop safe, high-quality mobility options that prioritize walking, rolling, biking and transit*’ through the implementation of traffic calming measures and detached sidewalks.

Street Type

The three primary streets to be considered are Colorado Blvd, E 1st Ave, and E Bayaud Ave:

Colorado Blvd is classified as a Residential Arterial street, while also designated as a parkway street and a high-capacity transit priority corridor. Residential streets are characterized by *‘primarily residential uses, but may also include schools, civic uses, parks, small retail nodes and other similar uses.’* As previously stated the gateway designation of these parcels are a justifying circumstance to create flexibility for limited neighborhood-serving commercial nodes at these intersections. Furthermore, the urban design commitments on these parcels contribute to the Parkway designation in a meaningful way not present on adjacent parcels.

E 1st Ave is classified as a Mixed-Use Collector street. The intersection at 1st/Colorado is considered a *‘pedestrian enhanced Future Modal Priority’* intersection. Mixed-Use streets are characterized by a *‘varied mix of uses including retail, office, residential and restaurants.’* This description is consistent with our proposed zoning designations.

E Bayaud Ave is classified as a Residential Collector street, while also designated as a bicycle priority street. Although this designation exists, the current use of the parcel at Bayaud/Colorado (65 S Colorado Blvd) is currently occupied by an abandoned commercial office building formerly occupied by Peepers Optical, and the PUD in place is limited to commercial uses only.

Plan Policies and Strategies

Several policy recommendations are met as a part of this rezoning:

Land use and Built Form Policy 2: *‘Incentivize or require efficient development of land, especially in transit rich areas’*. While these are not transit rich sites (although there is a bus stop at 1st/Colorado) one strategy identified for incentivizing redevelopment is to allow increased density in exchange for desired outcomes, such as affordable housing. The applicant has agreed to enter into a voluntary affordable housing agreement to build income related housing on site, which will enable implementation of this strategy.

Land use and Built Form Policy 4: *‘Ensure equitable planning processes and include underrepresented residents in plans and plan implementation’*. The community outreach portion of this rezoning started in late 2018 and since that time the applicant and project team have had over 20 meeting with neighborhood groups and residents – many of these meetings and presentations have been fully open to the public. The Cherry Creek East neighborhood association distributed an online survey link to all of its residents and allowed public voting to either support or oppose the project, and the results showed a *‘plurality’* of residents supported the rezoning as currently presented.

Housing Policy 6: *‘Increase the development of affordable housing and mixed-income housing, particularly in areas near transit, services and amenities.’* The proposed affordable housing agreement, which commits to building new affordable units on-site will have a particularly significant impact in this affluent neighborhood, where other affordable housing options are limited.

Mobility Policy 1: *‘Encourages mode shift – more trips by walking and rolling, biking and transit – through efficient land use and infrastructure improvements.’* This rezoning enables redevelopment that will provide infrastructure improvements, specifically detached sidewalks, improved access to the 1st/Colorado bus stop, and traffic calming measures with a focus on pedestrian safety.

Mobility Policy 3: *‘On all streets, prioritize people walking and rolling over other modes of transportation.’* Vision Zero identifies the 1st/Colorado intersection as part of the High Injury Network, and the public realm improvements planned for this intersection will prioritize pedestrian crossings while minimizing vehicular conflicts.

Quality-of-Life Infrastructure Policy 1: *‘Protect and expand Denver’s tree canopy on both public and private property.’* The incorporation of detached sidewalks, removal of the free-turn ‘porkchops’ at 1st/Colorado, and embracing the 20’ Colorado Blvd parkway setback will incorporate much needed vegetation and beautification at these important gateway moments.

Quality-of-Life Infrastructure Policy 6: *‘Preserve and rehabilitate Denver’s designated parkways and boulevards.’* The Colorado Boulevard parkway setback which affects each of the four subject properties will be incorporated as it was originally intended to be – as a landscaped parkway edge to the street. Adjacent property owner for several blocks both north and south along Colorado Boulevard have built fences to the edge of their property lines, effectively removing the impact of the parkway setback from the street. By re-introducing a true parkway at these important corners we’re acknowledging Denver’s legacy of grand tree-lined streets.

Cherry Creek Area Plan

In addition to Blueprint Denver, these properties are also subject to the recommendations identified in the Cherry Creek Area Plan, adopted in 2012. This document was the outcome of a two year public process involving community members, key stakeholders, and city staff. It establishes a long range vision and guiding principles for the development and future growth of Cherry Creek. Importantly, *‘The Plan provides city-adopted policy direction to guide decision-making related to development opportunities, transportation, partnerships and many others....The plan is intended to give the latitude needed to pursue unforeseen opportunities that will arise and to respond to new challenges in the coming years.’* Area Plan pp.5.

When analyzed holistically, the Area Plan offers plan support for the proposed rezoning at the four gateway sites. While there is a Future Land Use map and a Maximum Building Heights map (Area Plan pp. 69) that on the surface seem to weaken the justification, they only do so when viewed in isolation. These maps take a far too generalized approach by generically assigning height and land use guidance to large portions of Cherry Creek without accounting for the many nuances and special circumstances identified repeatedly in other parts of the document. One example of this inherent contradiction is the frequent identification of the 1st/Colorado and Bayaud/Colorado intersections as key gateways and development opportunities in Cherry Creek, while the land use maps and height guidance fail to recognize this and instead suggest they

should be identical to neighboring parcels. Shouldn't a 'gateway' be unique in some way to surrounding context?

The recommendations presented in the Area Plan which support the proposed rezoning can be categorized into 3 broad concepts as outlined below:

1. Acknowledgement of subject parcels as Gateway locations

One of the primary challenges to targeted growth identified by the Chery Creek Area Plan is *'The east side of Harrison St and the north side of Alameda have seen little reinvestment.'* Area Plan pp.8.

'1st Avenue and Alameda Avenue at Colorado Boulevard are key gateways into Cherry Creek. These locations show particular opportunity for improvements to the pedestrian realm.' Area Plan pp. 13.

Recommendation D.2.B Development Opportunites

Perhaps the strongest plan guidance offered by the Cherry Creek Area Plan in support of this rezoning is the specific recognition of these sites as 'key development opportunities' and the recommendation to use zoning and other regulatory tools to 'achieve high quality private development.'

'A wide array of development opportunities exist including small residential infill, outdated buildings and underdeveloped parcels. Highly visible opportunities include: ... Colorado Boulevard gateways on 1st Avenue and Bayaud.... zoning, general development plans, and design standards and guidelines are available tools to establish the regulatory framework to achieve high quality private development.' Area Plan pp. 48-49.

2. Recommended urban design & streetscape design strategies

Recommendation A.4.D Colorado Boulevard

'As a major arterial and priority transit corridor, a comprehensive study of this important roadway is recommended to improve its function for all modes and enhance the user experience... The study should also address the parkway designation and recommend how to make Colorado look, feel and function better as a parkway. Streetscape improvements desired by Cherry Creek include a planted median, separated sidewalks, and tree lawn to make the street look, feel and function as a parkway and create a better gateway to the Cherry Creek Area.' Area Plan pp. 25.

3. Building Height and Land Use Guidance

Recommendation B.1.B Areas of Change

The area plan acknowledges both areas of change and stability within Cherry Creek. *'Although not every property will see significant redevelopment, overall these areas (of change) benefit from new development, reinvestment, and more intense use. Areas of change include the Shopping District, Cherry Creek Triangle, 1st Avenue, the commercial node at Madison and Bayaud and Harrison Street south of 1st Avenue... Modify land use policy, zoning regulations and design guidelines to encourage*

appropriate reinvestment to assure that Areas of Change continue to mature in positive ways.’ Area Plan pp. 29.

Recommendation B.2.C Land Use

The residential office zoning designation (G-RO-5) we are seeking is appropriate on two of the four sites given their highly visible gateway locations. *‘Embedded small-scale commercial uses may be appropriate within Primarily residential areas to provide neighborhood serving amenities.’* Area Plan pp. 31.

Recommendation B.3.B Encourage Moderate Scale Development in Mixed-Use Areas of Change

The Area Plan clearly acknowledges the need for moderately more intense development buffering adjacent lower scale neighborhoods from their surroundings. The proposed 5 story zoning (limited to 4 stories through a Good Neighbor Agreement) fully meets this criterion as explicitly stated in the following. *‘Areas of Change which are not adjacent to the higher intensity locational criteria are appropriate for mid-rise buildings to accommodate continued growth. General locations include the Shopping District, 1st Avenue east of Steele, and some existing mixed-use areas within Cherry Creek North Residential and Cherry Creek East.*

- *Encourage mid-rise buildings to promote reinvestment and to help transition development intensity and buffer stable residential areas from higher intensity locations.’*

Area Plan pp. 31. Although ‘mid-rise’ is not clearly defined in this context, it confidently suggested that development in these specific areas should be of a moderately higher scale than immediate surroundings. This recommendation (along with B.1.B) creates a contradiction with some of the subsequent height and use maps which create a blanket approach by designating consistent guidance across all parcels east of the BID while ignoring important nuances created by the gateways language and areas of change.

Recommendation B.3.C Utilize Urban Design Strategies to Create Appropriate Transitions in Building Heights and Uses

In conjunction with recommendations for mid-rise buildings in certain buffer locations, the Area Plan recommends transitioning the scale of these buildings down to the adjacent residential neighborhoods. The zoning designations we are seeking require generous building stepdowns adjacent to protected residential districts, both at interior lot lines and also stepdowns along Harrison St through a good neighbor agreement. These stepdowns require the building to be no taller that 27’ adjacent to residential districts, so the 4 story buildings constructed on the site will appear more like 2 or 3 story buildings at sensitive edges.

Housing an Inclusive Denver

As in other areas of the City, Cherry Creek has a very limited supply of affordable housing units. In an effort to better meet the goals of Housing an Inclusive Denver, the applicant has agreed to a

voluntary agreement with the City (HOST) to build affordable units under the following parameters:

- A. An individual agreement/restrictive covenant will be provided for each of the rezoned sites (101 Colorado Blvd. , 97 Colorado Blvd., 98 Harrison Street, 51 Colorado Blvd., 55 and 65 S Colorado Blvd. and 101 S Colorado Blvd.) for a term of 60 years such that, in the event of Residential Development on each site, 10% of the Residential units developed will be income restricted units (IRU's).
- B. The affordability levels restrictions will range from 60% to 100% of AMI for the IRU's as follows:

For-Rent IRU's – range of 60% to 80% of the AMI with 50% of the IRU's at 60% and 50% of the IRU's at 80% of the AMI.

For-Sale IRU's – range of 80% to 100% of the AMI with 50% of the IRU's at 80% and 50% of the IRU's at 100% of the AMI.
- C. 100% of the IRU's will contain a minimum of two (2) bedrooms.
- D. No City subsidy will be required to build to IRU's.
- E. Other general/normal terms in the City Affordable Covenant will apply.

All terms of the Affordable housing Agreement have been agreed between the parties and final execution of the Affordable Housing Agreement is expected in the next week (7/24/2020). By voluntarily committing to build affordable units as part of the rezoning request, the goals of Housing an Inclusive Denver in terms of equitable housing opportunities for an important area of the City will be met by the applicant.

Health, Safety and Welfare

The proposed rezoning and map amendment will improve the Public Health, Safety and Welfare in the City by providing the framework for re-investment in currently under-utilized properties in alignment with the pertinent adopted plans for the area.

The specific improvements for Health, Safety and Welfare include:

1. Increased and improved connectivity to sidewalk and bike lane network.
2. Improved access and safety for RTD Bus Line connection on Colorado Blvd.
3. Vehicle traffic calming at 1st. Ave. and Colorado Blvd. and improved traffic safety at Bayaud and Colorado due to extended Bike Lanes and improved Pedestrian crossing opportunities.

4. Enhanced Pedestrian connectivity to healthy activities including use of Burns Park/Pulaski Park/Gates Tennis Center as well as improved walkability to various Supermarket, Dining and Retail locations.

Denver Zoning Code

The Denver zoning code provides direction with regard to higher density residential neighborhoods within the character of the General Urban Neighborhood Context. This property is within the General Urban Context. These regulations allow for multi-unit districts with a variety of residential building forms.

Residential Office - 5 (G-RO-5) is a multi-unit residential and office district allowing urban house, duplex, row house, town house, and apartment building forms. The tallest building form has a maximum height of five stories.

Multi-Unit 5 (G-MU-5) is a multi-unit residential district allowing urban house, duplex, row house, garden court, town house, and apartment building forms. The tallest building form has a maximum height of five stories.

Project-Specific Outreach

The applicant (CC Gateway Owners, LLC) has engaged in extensive community outreach over the past 15 months by way of informing neighbors, City Council representatives, and city staff of its intent to rezone the property, and providing information comparing the existing and proposed zoning classifications. Specific project meetings are listed below in chronological order:

December 4, 2018	Introduction Meeting with Councilman Wayne New
December 18, 2018	Follow-Up with Councilman Wayne New
January 15, 2019	Review of Initial Concepts with CCE Community Stakeholders
January 28, 2019	Meeting with Caryn Champine, Community Planning & Development
February 19, 2019	Presentation to CCE Development Committee
February 27, 2019	Presentation to CC Steering Committee, Leadership Team
March 5, 2019	Pre-Application Meeting with Chandler Van Schaack, Community Planning & Development
March 18, 2019	Presentation to CCE Board
March 20, 2019	Presentation to CCN Zoning Committee
April 24, 2019	Project introduction to Stephanie McCray, CCE
May 2, 2019	Meeting with Courtney Levingston, Community Planning & Development

May 31, 2019	Meeting with CCE Residents
July 8, 2019	Meeting with CDOT
July 10, 2019	CCE Community Informational Meeting
August 2, 2019	Meeting with Courtney Levingston, Community Planning & Development
August 2, 2019	Meeting with Councilman Chris Hinds
September 11, 2019	Presentation to CCN Neighborhood Group
October/November 2019	Multiple meetings with Development Committee leadership of both CCEOA and CCNNA.
January 28 th , 2020	Full neighborhood presentation to CCNNA.
February 11 th , 2020	Detailed negotiations with Development Committee and Board Members of both CCEOA and CCNNA.
July 16 th , 2020	Final execution of full Development Agreements with both CCEOA and CCNNA for the development of the sites.

CC Gateway Owners, LLC has continued to meet with and reach out to and meet with neighbors and their respective RNO's for the duration of the rezoning process.

Conclusion

We hope this analysis proves helpful in the City's review of the proposed rezoning. As presented in detail above, this proposal satisfies all of the criteria of the Denver city code, Blueprint Denver, and the Cherry Creek Area Plan for a non-legislative rezoning. Therefore, we respectfully request that the City approve the proposed rezoning request.

Sincerely,
 CC Gateway Owners, LLC

Douglas C. McKinnon



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City & County of Denver
Electronically Recorded

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**DEVELOPMENT AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS**

by and among

CC GATEWAY OWNERS LLC, a Colorado limited liability company

to and for the benefit of

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

and

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

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**DEVELOPMENT AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

THIS DEVELOPMENT AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (this "Agreement") is made and entered into as of 16 day of July, 2020, by and among CC Gateway Owners LLC, a Colorado limited liability company and its members, managers, successors and assigns (collectively, the "Owner") to and for the benefit of Cherry Creek East Association, a registered neighborhood association in the City and County of Denver ("CCEA") and Cherry Creek North Neighborhood Association, a registered neighborhood association in the City and County of Denver ("CCNNA" and collectively with CCEA, the "Neighborhood RNOs"). Capitalized terms used in this Agreement shall have the meaning given such terms where parenthetically defined or, if not parenthetically defined, in Section 1.01 of this Agreement.

RECITALS:

A. Each of the Neighborhood RNOs is a registered "neighborhood organization" formed as Colorado non-profit corporations and registered under Sections 12-91 through 12-98 of the Denver Municipal Code in effect as of the date of this Agreement, which is defined in Section 12-92 of the Code to mean "a voluntary group of individual residents and Owner of real property, including businesses, within a certain prescribed area of the city, and/or a coalition of such groups formed for the purpose of collectively addressing issues and interest common to and widely perceived throughout the area."

B. Owner owns two parcels of real property in the City and County of Denver, State of Colorado, one containing approximately 11,228 +/- SF of land area located on the NW corner of First Avenue and Colorado Boulevard (the "CCNNA Property") and the other located on the SW corner of First Avenue and Colorado Boulevard containing 20,245 SF +/- (the "CCEA Property" and collectively with the CCNNA Property, the "Development Properties"), as the same are legally described on Exhibit A hereto.

C. Owner desires to construct a building on each of the Development Properties (each a "Building" and, collectively, the "Buildings") in the locations and with the site set-backs as substantially depicted by the site plan on Exhibit B hereto (the "Site Plan").

D. Owner has expressed its intent to develop the Development Properties and, to that end, Owner has filed application for rezoning of the Development Properties to a combination of a G-MU-5 zoning designation for the CCNNA Property to allow for stacked residential units and a G-RO-5 zoning designation for the CCEA Property to allow for residential/office uses, as such zone categories are described in Owner's rezoning application dated December 23, 2019, and to which the City has assigned the number 2019i – 00031 (relating to the Development Properties and properties located at Colorado Boulevard and Bayaud Avenue that are also owned by Owner) (the "Rezoning Application").

E. The Parties to this Agreement desire that the Development Properties be developed in a conceptually consistent and coordinated fashion (the "Projects") in CCEA and CCNNA and serving as the eastern gateway (the "Cherry Creek Gateway") to and for the benefit

of the entire Cherry Creek Area as the same is contemplated in the Denver Cherry Creek Area Plan adopted by the Denver City Council July 16, 2012 (the "Cherry Creek Area Plan").

F. The current configuration of the drive lanes for First Avenue adjacent to the Development Properties includes two turn lanes (i) one for the southbound Colorado Boulevard turn-lane turning west onto First Avenue and (ii) the other for the eastbound First Avenue turn-lane turning south onto Colorado Boulevard (collectively, the "Turn Lanes"), each of which Turn Lanes is located within the City of Denver right of way and/or the Colorado State highway under the Colorado Department of Transportation ("CDOT") and includes an existing pedestrian island for the cross-walk across First Avenue commonly referred to as the 'porkchops' (the "Cross Walk Porkchops"), which Turn Lanes and Cross Walk Porkchops are depicted on Exhibit C hereto. That portion of the proposed Projects' development including the area owned by the City of Denver and/or CDOT adjacent to the Development Properties containing the Turn Lanes and the Cross Walk Porkchops in the public rights of way are referred to collectively herein as the "Public ROW Properties" and, together with the Development Properties is collectively referred to as the "First Avenue Gateway Sites").

G. CCEA and CCNNA are the registered Neighborhood RNOs in which the Development Properties are located and, as such, Owner is required to notify CCEA and CCNNA of Owner's development and rezoning efforts and, in connection therewith, Owner has worked with such Neighborhood RNOs to disseminate information about the Projects within the CCEA and CCNNA neighborhood boundaries and sought input from the residents in the CCEA and CCNNA neighborhoods. Such efforts have resulted in the preparation by Owner and the Neighborhood RNOs of that certain Gateway rezoning letter for the Development Properties dated February 18, 2020 (the "Rezoning Conditions Letter"), which letter requires this Agreement be completed prior to proceeding through the City Planning Board Hearing Process.

H. Owner now desires to set forth the agreements with respect to the Development Properties reached with and for the benefit of the Neighborhood RNOs as contemplated by the Rezoning Conditions Letter, including its agreements concerning the land use concepts governing the Development Properties and the overall redevelopment of the First Avenue Gateway Sites and to ensure that the Development Properties will be rezoned, developed and used in accordance with this Agreement.

NOW, THEREFORE, in consideration of the conditions of rezoning, covenants, conditions, restrictions 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 and the Neighborhood RNOs hereby agree 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 a limited or general partner or member of Owner or any party who controls or is controlled by Owner which owns any portion of the First Avenue Gateway Sites.

“*Agreement*” means this Development Agreement and Declaration of Restrictive Covenants, as it may be amended from time to time.

“*Approved Development Plan*” means the site development plan for each of the Projects approved by the City, as amended from time to time, that anticipates a development program and the necessary infrastructure systems (road network, drainage, open space, utilities) to support the development on the Development Properties in a manner consistent with this Agreement. Each Approved Development Plan for each of the Projects must adhere to any restriction, prohibition or requirement made by this Agreement. Each Approved Development Plan shall be recorded by the City and provided to each of the Neighborhood RNOs.

“*Board*” or “*Boards*” means, individually or collectively, the boards of directors of CCEA and/or CCNNA, in each case as appointed or elected pursuant to the respective organizational documents and bylaws of CCEA and/or CCNNA, respectively.

“*Blueprint Denver*” means the City’s integrated Land Use and Transportation Comprehensive Plan 2040 adopted April 22, 2019.

“*Building*” or “*Buildings*” have the meanings given such terms in Recital C.

“*CCEA*” means the registered neighborhood association in the City and County of Denver for the neighborhood bounded by First Avenue on the north, Colorado Boulevard on the east, Alameda Avenue on the south, and Steele Street on the west.

“*CCEA Property*” has the meaning given such term in Recital B.

“*CCNNA*” means the registered neighborhood association in the City and County of Denver for the neighborhood bounded by First Avenue on the south, Colorado Boulevard on the east, York on the west, and 6th Avenue Street on the north.

“*CCNNA Property*” has the meaning given such term in Recital B.

“*CCRs*” means the covenants, conditions and restrictions imposed by Owner as the declarant of any condominium or planned community at either of the Projects under the provisions of the Common Interest Ownership Act, as the same has been codified (and as amended from time to time) in Colorado Statutes as Sections 38-33.3-101, et seq., which govern ownership, use and occupancy of any planned community or condominium units in either of the Projects and which are binding on Owner and any future owners of the developed condominium units or any planned community portion of either of the Projects, and their successors and assigns.

“*CDOT*” has the meaning given such term in Recital F.

“*Cherry Creek Area*” means the neighborhoods and commercial district bounded by Sixth Avenue on the north, Colorado Boulevard on the east, Alameda Avenue and the actual creek known as Cherry Creek on the South, and University/Josephine on the west.

“*Cherry Creek Gateway*” has the meaning given such term in Recital E.

“*Cherry Creek Area Plan*” has the meaning given such term in Recital E.

“*Cherry Creek Area Stakeholders*” means, collectively, those organizations representing the citizens and businesses in the Cherry Creek Area and which includes CCEA, CCNNA, the Business Improvement District for the Cherry Creek North shopping district (the “*CCN BID*”), the Cherry Creek Steering Committee representing additional neighborhoods to the east, north and south of the Cherry Creek Area (including, without limitation, Hilltop, Denver Country Club Historic Neighborhood) (the “*Steering Committee*”), the Cherry Creek Business Alliance, the Cherry Creek Shopping Center, and the Owner as the owner of the Development Properties.

“*City*” means the City and County of Denver, State of Colorado.

“*Code*” means the Denver Municipal Code in effect as of the date of this Agreement, as the same may be modified from time to time and includes the Denver zoning code and the Denver building code and the rules and regulations promulgated thereunder.

“*Cross Walk Porkchops*” has the meaning given such term in Recital F.

“*Design Review Committee*” means any committee of representatives from CCNNA Board and the CCEA Board and together with such other members of the Cherry Creek Area Stakeholders that may, from time to time, be appointed by the CCNNA or CCEA Boards to serve on such committee, for the purpose of reviewing the ongoing Projects’ design elements being developed by Owner for the purpose of addressing design changes or related design issues relating to the Projects or the First Avenue Gateway Sites as and when necessary to confirm that the Projects are being developed and implemented in accordance with the intent, spirit and requirements of this Agreement; provided, however, that a vote of the CCNNA Board and CCEA Board are required in order to confirm any action recommended by such Design Review Committee.

“*Development Documents*” means, collectively, the Rezoning Application, the Site Plan, the Approved Development Plan for each of the Development Properties, and any and all documents and instruments (including, without limitation, all building plans, permits and authorizations) by and between Owner and the City or Owner and the Neighborhood RNOs or any third party relating to the use, development or construction of the Projects.

“*Development Properties*” has the meaning given such term in Recital B.

“*Event of Default*” has the meaning given such term in Section 3.05.

“*First Avenue Gateway Sites*” has the meaning given such term in Recital F, and together with all rights and appurtenances pertaining thereto.

“*Gateway Improvements*” means the infrastructure and land uses that support the “urban center” context of the Cherry Creek Area. This includes the residential and diversified character of the neighborhood and the importance of pedestrian links and emphasis on pedestrian based travel, as such amenities are further described in the Cherry Creek Area Plan and Blueprint Denver.

“*Legal Requirements*” means all laws, rules, regulations, ordinances, codes, statutes and guidelines relating to the performance of Owner in connection with construction of improvements on the Development Properties, including, without limitation, those under the Code.

“*Mortgage*” means any mortgage or deed of trust executed by Owner or any Affiliated Party with respect to the Development Properties, as any such document may be amended, supplemented or otherwise modified from time to time to the extent permitted herein.

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

“*Notice of Default*” has the meaning given such term in Section 3.05 of this Agreement.

“*Owner*” has the meaning given such term in the initial paragraph of this Agreement, together with their respective successors and assigns and together with any Affiliated Party that acquires property within the First Avenue Gateway Sites.

“*Public Right of Way Properties*” has the meaning given such term in Recital F.

“*Projects*” means the mixed use residential and office developments planned to be developed on the First Avenue Gateway Sites by Owner as described in Recital E.

“*Project Improvements*” means, collectively, the residential Building improvements to be constructed on the CCNNA Property and the residential and/or office Building improvements to be constructed on the CCEA Property.

“*Recorded Covenants*” means the covenants, conditions and restrictions (including, without limitation, any CCRs for the Projects and this Agreement) recorded against the Development Properties.

“*Rezoning Application*” has the meaning given such term in Recital D.

“*Rezoning Conditions Letter*” has the meaning given such term in Recital G.

“*Site Plan*” means the conceptual site plan for the Development Properties previously shared by Owner with the Neighborhood RNOs, in substantially the form attached hereto as Exhibit B.

“*Turn Lanes*” has the meaning given such term in Recital F.

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Section 1.02. Use of Defined Terms. Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neuter gender shall be construed to include each other gender and words of the singular number shall be construed to include the plural number, and vice versa. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

Section 1.03. Titles and Headings. The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

ARTICLE II DEVELOPMENT OBLIGATIONS AND REQUIREMENTS

Section 2.01. Development of the First Avenue Gateway Sites Generally; Process and Requirements. The recitals set forth above are incorporated herein. In connection with the request for approval of the Rezoning Application being made by Owner to the City, and in connection with ownership, development, construction and use of the Projects on the Development Properties or on any portion of the First Avenue Gateway Sites, Owner covenants and agree as follows:

(i) **Rezoning.** Owner shall seek approval from the City for a change in the zoning for the Development Properties in a manner consistent with this Agreement. The rezoning of the CCNNA Property shall be G-MU-5 and the CCEA Property shall be G-RO-5. The Development Properties shall be further limited by, and must comply with, the restrictions in this Agreement.

(ii) **Development Process; Ongoing Communications to Neighborhood RNOs.** Owner shall notify the City of Owner's obligations under this Agreement in connection with Owner's processing of the Rezoning Application and site planning process for the Projects. In connection with the completion of the Development Documents and the site planning process for the Projects, Owner agrees to keep the Design Review Committee of the Neighborhood RNOs reasonably informed by presentation, not less than quarterly, and upon request, at the regularly scheduled meetings with the CCEA Board and the CCNNA Board or general meetings of the Neighborhood RNOs, as to the status of development of the Projects, including updates regarding the Rezoning Application, the City site planning process, and presentation of the design development of the Projects, including overall materials selected by Owner for the Projects.

(iii) **Traffic Study.** Owner shall complete a traffic study to identify and address both traffic and pedestrian issues in connection with obtaining approval of each of the Approved Development Plans. Owner shall provide a copy of the traffic study to the Neighborhood RNOs.

(iv) **Trash; Building Equipment.** Owner shall locate all trash in interior trash storage areas of the Buildings so that such areas are screened from view from adjoining properties, drives and roadways (to the extent permitted by the City). Owner shall screen roof top mechanical equipment in accordance with the City Code and shall integrate all exterior vents and intake grilles with each Building's exterior design.

(v) **Lighting.** All signage shall be in accordance with City signage requirements. Landscape and pedestrian lighting shall be installed on all street sides of the Projects. Such lighting shall be designed and installed so as to further the goal of increasing the pedestrian friendly and walkable nature of the First Avenue Gateway Sites.

(vi) **Utilities.** Owner shall, subject to utility approval, locate all utility lines, including without limitation, water, gas, telephone, electrical, and cable, underground. Owner shall locate all utility meters to the interior of the Projects (if approved by the responsible utility companies) or shall screen from view from adjoining properties.

(vii) **Alternative Transportation Strategies.** Owner shall employ all commercially reasonable efforts to encourage transportation strategies that are commensurate with Blueprint Denver and the transportation plan therein. Owner shall work with the City and CDOT to address the importance of Cherry Creek Gateway in setting the standard for other street-crossing that may be needed along East First Avenue and Colorado Boulevard. Bike parking areas shall not be located along East First Avenue or Colorado Boulevard.

Section 2.02. CCNNA Property Permitted Uses, Covenants and Restrictions. Owner may construct, erect, use and maintain improvements permitted in the proposed G-MU-5 zone district pursuant to the City Code and as outlined in the Rezoning Application for the CCNNA Property subject to the following covenants, conditions and restrictions:

(i) **Use and Size.** The Project Improvements on the CCNNA Property shall be residential only condominiums/apartments designed and constructed using the 'Apartment' building form as described in the Code. There shall be no more than 32,500 gross above-ground square footage in such Building with no more than 32 total residential units. No residential unit shall contain less than 900 gross square feet, including its pro-rata share of building common areas, resulting in an internal unit square footage of not less than 865 gross square feet. Building regulations and CCRs (if any) shall require that all outdoor balconies and patios shall be restricted for location of outdoor furniture and amenities and shall not be used for storage, including for the storage of bicycles or sporting equipment. Building regulations and CCRs (if any) shall require that window coverings' exterior facings/linings shall be restricted to a uniform lining or color to provide for a congruous view of the exterior of the Building.

(ii) **Parking and Access.** All parking associated with the Project Improvements on the CCNNA Property shall be below-grade parking with a single ingress/egress access drive at the northern end of the CCNNA Property on Harrison Street.

(iii) **Height and Rooftop Activation.** The Project Improvements on the CCNNA Property shall limited to four (4) above-ground stories/floors of habitable space with a maximum permitted height of 60 feet, calculated pursuant to the methods of the Code for such zone category. Rooftop activation improvements shall be allowed so long as they are set back in accordance with the requirements of the Code and do not suggest a 5th floor. The anticipated use and elevation depiction of such rooftop improvements are as shown on the Project Depictions attached hereto as Exhibit D.

Section 2.03. CCEA Property Permitted Uses, Covenants and Restrictions. Owner may construct, erect, use and maintain improvements permitted in the proposed G-RO-5 zone district pursuant to the City Code and as outlined in the Rezoning Application for the CCEA Property subject to the following covenants, conditions and restrictions:

(i) **Use and Size.** The Project Improvements on the CCEA Property shall be residential and/or office use only designed and constructed in a manner to be coordinated with the Project Improvements to be located on the CCNNA Property. There shall be no more than 57,500 gross above-ground square footage in such Building, with no more than 64 total residential units and/or 57,500 square feet of office space. No residential unit shall contain less than 900 gross square feet, including its pro-rata share of building common areas, resulting in an internal unit square footage of not less than 865 gross square feet. Building regulations and CCRs (if any) shall require that all outdoor balconies and patios shall be restricted for location of outdoor furniture and amenities and shall not be used for storage, including for the storage of bicycles or sporting equipment. Building regulations and CCRs (if any) shall require that window coverings' exterior facings/linings shall be restricted to a uniform lining or color to provide for a congruous view of the exterior of the Building. No "dental / medical office or clinic", as defined in Section 11.12.4.6.B.1 of the Code, as amended in the future, shall be allowed.

(ii) **Parking and Access.** All parking associated with the Project Improvements on the CCEA Property shall be below-grade parking with a single ingress/egress access drive at the southern end of the CCEA Property on Harrison Street.

(iii) **Height and Rooftop Activation.** The Project Improvements on the CCEA Property shall limited to four (4) above-ground stories/floors of habitable development space with a maximum permitted height of 60 feet, calculated pursuant to the methods of the Code for such zone category. Rooftop activation improvements shall be allowed so long as they are set back in accordance with the requirements of the Code and do not suggest a 5th floor. The anticipated use and elevation depiction of such rooftop improvements are as shown on the Project Depictions attached hereto as Exhibit D.

Section 2.04. Site Plan and Step-down Requirements; Building Façade Design. The Project Improvements on the Development Properties shall observe the location, massing, setback and step-down elements as shown on the Site Plan attached hereto as Exhibit B and in the Project Depictions attached hereto as Exhibit D. The elevations shown on the Projects' Depiction shall be used as a design guide, with the understanding that the exact design elements will be determined by Owner as the development proceeds. However, Owner agrees that the

final Projects' designs shall be generally consistent with the Project Depictions and Site Plan, drawings and models presented by Owner to the Neighborhood RNOs and representatives.

Section 2.05. Contextual Design Requirements; Materials. Owner shall construct the Projects Improvements on the First Avenue Gateway Sites in an architecturally compatible "theme", using a neutral color palate. The Buildings and site design shall relate to and be sensitive to the context of the immediate Cherry Creek North and Cherry Creek East neighborhoods as well as the larger context of the entire Cherry Creek Area. In connection with the materials used for construction of the Projects Improvements, Owner shall use only high-quality materials such as stone masonry units, stone panels, brick cast stone, metal, glass, pre-cast concrete, decorative metal panel, stucco, and similar materials that wear well and are long lasting. The Buildings design at the street level shall be designed with appropriate pedestrian scale and detailing to promote a positive pedestrian experience. Details such as change in materials above the Buildings base, awnings, canopies, lighting, pedestrian scale window treatments, green rooftops, doorways, and use of materials are encouraged. Mechanical louvers and vents located on Buildings walls shall be integrated into the Buildings design to minimize their visual impact. Owner shall construct the improvements on the First Avenue Gateway Sites in a good and workmanlike manner in accordance with the Approved Development Plan, the Denver Code, Blueprint Denver, Cherry Creek Area Plan and all applicable Legal Requirements. **Public Sidewalks and Landscaping.** Owner shall install new sidewalk and streetscape improvements on Harrison Street, 1st Avenue and Colorado Blvd. adjacent to the Development Properties, which will include separated sidewalks with tree lawns and lush landscaping. Landscape improvements shall take into account location and City forestry requirements. Xeriscaped options sensitive to water concerns may be considered and used, but no landscape areas shall consist of only rock, mulch or similar materials.

Section 2.07. Creation of Cherry Creek Gateway. The Neighborhood RNOs require that the First Avenue Gateway Sites include and incorporate the Cherry Creek Gateway. To that end, Owner shall facilitate the appropriate parties to implement the following requirements as a condition of the rezoning.

(i) **Intersection Reconfiguration.** Owner agrees to cause the reconfiguration of the existing intersection at First Avenue and Colorado Boulevard such that the Cross Walk Porkchops are removed, the Turn Lanes are straightened or otherwise modified to provide for a 'right turn on red only' when the traffic so allows and a portion of the surface areas comprising the Public ROW Properties previously used for the Turn Lanes and Cross Walk Porkchops are allowed to be designated and used for the eastern Cherry Creek Gateway. To the extent possible, this intersection reconfiguration will include a First Avenue median to allow for a safer pedestrian crossing. The land area comprising the Public ROW Properties gained by removal of the Turn Lanes and Cross Walk Porkchops and reconfiguration of the intersection will be set aside for use as a Cherry Creek Gateway as contemplated in the Cherry Creek Area Plan. The site development plan for each of the Projects shall include the intersection reconfiguration and area on the Public ROW Properties for use as a Cherry Creek Gateway, as described herein and depicted in the Site Plan, and the City shall not approve a site development plan without these inclusions.

(ii) **Cherry Creek Gateway Improvements.** Owner agrees to work, in good faith, to ensure that any improvements implementing the Cherry Creek Gateway concept which are to be located on the Public ROW Properties (and any portion of the First Avenue Gateway Sites, subject to Owner's approval) (collectively, the "Gateway Improvements") shall be designed and determined by a wider group of Cherry Creek Area Stakeholders, likely with or through the Cherry Creek Steering Committee with substantial input from the Neighborhood RNOs. The Gateway Improvements are to be initially installed by the Owner with the exception of the cost of sculpture art or third-party prepared elements for the Cherry Creek Gateway acquired by or for the Cherry Creek Area Stakeholders, if any. The sculpture art or third-party prepared element shall be owned by the Neighborhood RNOs or any entity formed by or in concert with them. The infrastructure for the Gateway Improvements (including, without limitation, water for irrigation or fountains and lighting) shall be installed by Owner and maintained in perpetuity by the future owner or owners of the Development Properties and the Buildings constructed thereon. The Gateway Improvements shall provide for a pedestrian experience at the base of the Project Buildings in a manner consistent with the exterior of such Buildings, including any streetscape improvements and outdoor seating, thus providing inviting areas for walking, gathering and social interaction.

(iii) **Coordination with City, CDOT and Ongoing Project Support.** A written letter from the City dated March 18, 2020 affirms Owner's and the City's intention to redevelop the Cherry Creek Gateway in conjunction with CDOT. The ownership, maintenance and future capital improvement of the Gateway Improvements and the lighting and landscape watering installation and maintenance requirements shall be confirmed as part of the overall Projects' development. Building regulations and CCRs (if any) shall require that, if Gateway Improvements are located on the Development Properties, the applicable owner association documentation for any planned community, if and as required by Colorado law, or otherwise Building regulations shall require that ongoing irrigation, water and lighting shall be paid for and provided by the respective Buildings' owners. The requirements set forth in this Section 2.07 are all subject to modifications as required by the City and CDOT, and Owner shall not be obligated to comply with any requirement set forth in this Section 2.07 if prohibited from doing so by the City or CDOT, except for the requirement that the site development plan for each of the Projects shall include the intersection reconfiguration and Gateway Improvements.

Section 2.08. Good Neighbor Construction Practices. Owner acknowledges that the size and density of the Projects will require the implementation of certain construction regulations in order to decrease the negative impact of such construction on the neighborhood. Accordingly, Owner agrees to implement construction practices to keep construction traffic to a minimum on side streets within the neighborhood. Owner shall implement a construction parking and implementation plan as may be required by the City and which shall incorporate the policies outlined on Exhibit E, as modified by mutual agreement between Owner and the Neighborhood RNOs. A copy of such plan shall be provided to the Neighborhood RNOs prior to commencing construction on the Development Properties.

Section 2.09. Continuity; Design Review Committee. Owner agree to work with the Neighborhood RNOs and their applicable zoning or development committees as the Projects

proceed. Owner agrees to meet with the Neighborhood RNOs from time to time to address matters relating to the implementation of this Agreement, not less than quarterly. Upon the request of either party thereto, the parties shall meet to discuss changes or modifications to the Projects' Site Plan that may be deemed necessary or desirable or otherwise to review changes to the Projects' design as may be required by the City or otherwise required to meet a specific need or concern of Owner in their development of the Projects.

Section 2.10. Residential Condominium Project; CCRs. In the event that Owner develops any portion of the Projects as a condominium or planned community project for sale to third parties, the CCRs or other declarations therefor shall refer to and be subject to the restrictions and requirements contained in this Agreement, including, without limitation, the requirements for providing lighting and water to the Gateway Improvements. Such CCRs and declarations shall also provide conditions and restrictions that are commercially reasonable with condominium for-sale product.

Section 2.11. Neighborhood RNOs Approval; Board Participation. The Neighborhood RNOs agree to prepare a letter in support of the Rezoning Application proposed by Owner on the conditions as outlined herein. Notwithstanding such letters of support, Owner acknowledges that there may be members or non-members of the Neighborhood RNOs who may take individual actions inconsistent with the approved actions of the Neighborhood RNOs or their respective Boards or committees. Owner acknowledges that the Neighborhood RNOs are non-profit organizations with volunteer Boards. Owner agrees to hold harmless the individual members of the Boards (whether serving prior to or as of the date of this Agreement or in the future) in their individual capacity for any loss, expenses, damages or harm accruing to Owner and resulting out of this Agreement or from and against any actions by or through the Neighborhood RNOs (acting through or under their respective Boards) in the negotiation, adoption, implementation and enforcement of this Agreement or in processing any changes hereto or in the implementation of the obligations hereunder.

Section 2.12. Modifications to Code. Owner agrees that (i) to the extent that the City Code is modified to relax or change any zoning or use restrictions contemplated herein, then this Agreement shall continue to control with respect to the matters so modified, and (ii) to the extent that the City Code is modified to impose more restrictive zoning and/or use requirements than those that are contemplated herein, then the modified zoning code provisions control with respect to such matters made more restricted. This Agreement shall continue to be effective notwithstanding the implementation of revisions to or restatements of the Code and shall, to the extent possible, be read to be in conformity with such Code. In the event of a conflict between the Code and this Agreement, this Agreement shall control.

**ARTICLE III
BINDING NATURE OF AGREEMENT; ENFORCEMENT**

Section 3.01. Effective Date and Binding Nature of Agreement; Recorded. This Agreement and all 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 Application. This Agreement or a memorandum hereof in form and substance satisfactory to the Neighborhood RNOs shall be recorded by Owner against the Development Properties in order to

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restrict such parcels in accordance with this Agreement. Owner agrees that the covenants and obligations set forth herein shall be binding upon the development of the Projects and Owner agrees that, if Owner transfer the First Avenue Gateway Sites or any portion thereof, such transfer shall be subject to the provisions of this Agreement and any such purchaser shall be subject to the covenants and obligations of Owner set forth herein.

Section 3.02. Recording of Conditions; Covenants To Run With the Land. Owner hereby subjects the Development Properties and the First Avenue Gateway Sites to the covenants, reservations and restrictions set forth in this Agreement by Recorded Covenants, it being expressly agreed and understood that the provisions hereof are intended to survive the transfer, sale or assignment (whether by voluntary transfer, foreclosure or otherwise) of any portion of the Development Properties or the First Avenue Gateway Sites. In addition, in the event of demolition and reconstruction of the Buildings, the covenants and restrictions contained herein shall apply to any reconstruction of the Buildings on the Development Properties and, to effectuate such agreement, the restrictions contained herein shall be incorporated into the Recorded Covenants to bind any reconstruction. The Recorded Covenants and restrictions contained herein shall be recorded by Owner against the Development Properties prior to completing the rezoning under the Rezoning Application and prior to applying for any permit for construction of the Projects. The Neighborhood RNOs and Owner hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors in title to the Development Properties. The Recorded Covenants and each and every contract, deed or other instrument hereafter executed covering or conveying the Projects or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

Section 3.03. Burden and Benefit. Owner hereby declares its understanding and intent that the burden of the covenants, conditions and agreements set forth herein touch and concern the land in that Owner's legal interest in the Projects and the Development Properties is burdened by the provisions of this Agreement.

Section 3.04. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire First Avenue Gateway Sites in order to establish and carry out a common plan for the use, development and improvement of the First Avenue Gateway Sites.

Section 3.05. Default; Enforcement. If Owner (or its successors or assigns) defaults in the performance or observance of any covenant, agreement or obligation of Owner set forth in this Agreement or in any of the Recorded Covenants, then written notice thereof shall be given to Owner by the applicable Neighborhood RNO in which the defaulting Building is located, only as to the applicable defaulting Building. For purposes of the enforcement of this Agreement, the Neighborhood RNO in which the defaulting Building is located shall have a right to identify facts under which such Neighborhood RNO asserts constitute a default by Owner under this Agreement and each such Neighborhood RNO shall confirm such assertion by and through the Board for or on behalf of such Neighborhood RNO (following a formal vote of such Board in accordance with the respective organizational bylaws or adopted processes). Notwithstanding

anything herein to the contrary, nothing herein shall give any individual member of either Neighborhood RNO or any individual owner or resident within such Neighborhood RNOs or any Cherry Creek Stakeholder within any portion of the Cherry Creek Area any right to enforce the provisions hereof, it being the intent that only an action by and through the Boards of the Neighborhood RNOs have the right to take action under this Agreement. In the event that the Boards or either of them agrees that an Owner default has occurred, then the Boards (or either of them) shall deliver written notice of such default to Owner with a copy to the City (the "*Notice of Default*"). 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 as to the applicable Building; provided, however, that if the Event of Default stated in the Notice of Default is of such a nature that it cannot be corrected within 60 days, such default shall not constitute an Event of Default hereunder so long as Owner institutes corrective action within said 60 days and diligently pursues such action until the default is corrected. Following the declaration of an Event of Default hereunder, this Agreement may be enforced as follows:

(i) By mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, requiring Owner to perform its obligations and covenants hereunder or enjoining any acts or things which may be unlawful or in violation of the rights or obligations hereunder.

(ii) By taking such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of Owner hereunder, including seeking damages, equitable remedies or both.

(iii) If the applicable Neighborhood RNO institutes any action or proceeding in court to enforce any provision hereof against Owner for breach of this Agreement or for damages by reason of any alleged breach of any provision of this Agreement or for any other judicial remedy, the prevailing party, as determined in such action or suit, shall be entitled to recover from the non-prevailing party all reasonable court costs and attorneys' fees incurred in connection with such proceeding, it being understood and agreed that the determination of the substantially prevailing party shall be included in the matters which are the subject of such action or suit.

(iv) Owner hereby agrees that specific enforcement of Owner's agreements contained herein is the only means by which the Neighborhood RNOs may obtain the benefits of such agreements made by Owner herein and Owner therefore agrees to the imposition of the remedy of specific performance against them in the case of any default by Owner hereunder. Notwithstanding anything herein to the contrary, nothing herein shall be deemed to require the Boards to act on any uncured Event or Default or to expend funds for enforcement of this Agreement. Any costs so expended to enforce this Agreement shall be recoverable by in accordance with Section 4.05(iii).

(v) Notwithstanding the foregoing, the Neighborhood RNOs have the right to assign their rights hereunder (including the right of enforcement) to any nonprofit entity the purpose of which is to own, oversee, manage and maintain the Gateway Improvements.

Section 3.06. Term; Termination or Amendment of Agreement. The Recorded Covenants shall be binding on the Development Properties for fifty (50) years from the date of this Agreement, and shall become applicable to and shall bind Owner or any Affiliated Party and all property acquired by them within the First Avenue Gateway Sites. This Agreement may be amended or otherwise terminated only upon (i) a rezoning of the First Avenue Gateway Sites (or as to any portion thereof) subsequent to the rezoning of the Development Properties pursuant to the Rezoning Application which is the subject of this Agreement so long as such further rezoning is in accordance with the rezoning procedures of the City and the Neighborhood RNOs or any then applicable registered neighborhood organizations existing under the then applicable Code are notified and given an opportunity to comment, approve or contest such rezoning and the applicability of this Agreement thereto, or (ii) by amendment or termination agreement in writing executed by Owner and the Neighborhood RNOs, including written approvals of the Boards thereof.

Section 3.07. Reconstruction. The provisions of this Agreement shall apply to any improvements constructed on the First Avenue Gateway Sites and to any reconstructed Project Improvements which, from time to time, may be constructed on the First Avenue Gateway Sites.

Section 3.08. No Cross-Default between Development Properties. The Parties acknowledge that the Development Properties may be under separate ownership or control in the future. Any default under this Agreement for one of the Buildings noticed by either CCNNA or CCEA, that continues based on applicable notice and cure period specified herein, shall constitute an Event of Default under this Agreement as to the identified Building only and shall have no impact or implication to the other Building under this Agreement.

ARTICLE IV MISCELLANEOUS PROVISIONS OF GENERAL IMPORT

Section 4.01. Governing Law. This 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 Affiliated Parties and their 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, postage prepaid, return receipt requested, at the addresses specified below for each of the parties hereto, or at such other addresses as may be specified in writing by the parties hereto to the other parties or by email so long as such email is confirmed received. Such notices being delivered to the Neighborhood RNOs by email shall be sent to the Neighborhood RNOs' Board president at the email address for contact purposes as shown on the respective Neighborhood RNOs' website. Copies of any notices shall also be given to the Denver City Councilperson for the District in which the Neighborhood RNOs are located. Notices shall be deemed delivered on the date that confirmed delivery is made if by courier service or registered or certified mail.

If to Owner: CC Gateway Owners LLC
c/o McKinnon & Associates, LLC
730 17th Street, Suite 220
Denver, CO 80202
Attention: Doug McKinnon

with a copy to: Caitlin Quander, Esq.
Brownstein Hyatt Farber Schreck
410 17th Street, Suite 2200
Denver, CO 800224

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

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

If to City: IN EACH CASE, WITH A COPY TO THE CITY COUNCILPERSON FOR THE DISTRICT IN WHICH THE DEVELOPMENT PROPERTY IS LOCATED.

Section 4.04. Severability. If any provision of this 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 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. Third Party Beneficiaries. The City shall be an express third party beneficiary of this Agreement. Except for the City, 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 unless expressly otherwise provided herein. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Development Properties (or any portion of the First Avenue Gateway Sites acquired in the future by Owner or any Affiliated Party) to the general public, it being the intention and understanding of Owner that the benefits and burdens created by this Agreement shall be limited to and for the purposes herein specified.

Section 4.07. RECORDED COVENANTS PRIOR TO ANY MORTGAGE OR FINANCING. It is the intention of the Parties that any mortgage or financing liens against the Development Properties entered into after the execution and recordation of this Agreement shall be subject to the Recorded Covenants. Owner shall use good faith efforts to obtain the written consent to this Agreement by Owner's current lender, in a form substantially similar to **Exhibit F** attached hereto and incorporated herein, prior to this Agreement becoming binding on the parties hereto, which consent shall be recorded concurrently with the recordation of this Agreement. Owner shall use good faith efforts to obtain lender's consent to this Agreement prior to Owner appearing before City Council seeking the Rezoning Application. Any future lender

shall consent to this Agreement via a lender consent in the form substantially similar to Exhibit F.

Section 4.08. 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 term sheet, outline or other communications regarding the Project and the Neighborhood RNO's positions with respect thereto.

Section 4.09. Termination of Agreement. Should the Denver City Council fail to approve the Rezoning Application or approve the Rezoning Application with conditions unacceptable to Owner which cause Owner not to proceed with the Projects, or if the approved rezoning is challenged / appealed without resolution allowing Owner to proceed with the Projects as anticipated, within one hundred eighty (180) days after the date of this Agreement, then this Agreement is automatically void without further action of the Owner or the Neighborhood RNOs and shall no longer burden title to the Development Properties, unless the Owner and Neighborhood RNOs mutually agree to extend this 180 day time period in writing. If this condition precedent is not met, and if requested by the Owner, the Neighborhood RNOs will execute and record a document evidencing that this Agreement was deemed void.

[Remainder of page intentionally left blank]

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

Owner:

CC GATEWAY OWNERS LLC,
a Colorado limited liability company

By: 

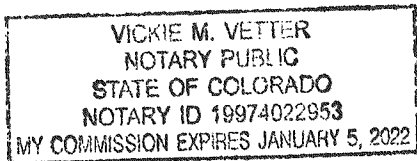
Doug McKinnon, Manager

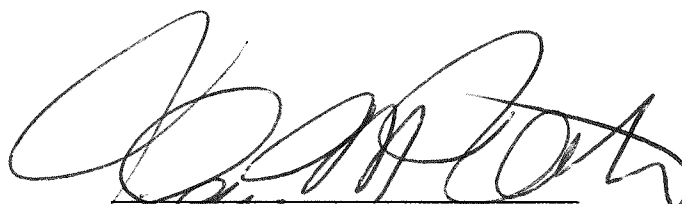
STATE OF COLORADO)
CITY AND) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 8th day of July, 2020, by Doug McKinnon, as Manager of CC GATEWAY OWNERS LLC, a Colorado limited liability company.

Witness my hand and official seal.
My commission expires: 1-5-2022

[S E A L]




Notary Public (or official title)

[SIGNATURE PAGES CONTINUE ON FOLLOWING PAGE]

NEIGHBORHOOD RNOs

Cherry Creek East Association

By: *[Signature]* *John Fredenick*

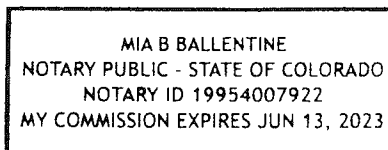
Acting CCEA Board President, on behalf of the CCEA Board and as approved by the CCEA Board by Resolution dated *approved and ratified July 14, 2020.*

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

The foregoing instrument was acknowledged before me this *13th* day of *July*, 2020, by *John Fredenick*, as President of Cherry Creek East Association, a Colorado nonprofit corporation.

Witness my hand and official seal.
My commission expires: *June 13 2023*

[S E A L]



[Signature]
Notary Public (or official title)

AT r

Cherry Creek North Neighborhood Association

By: *Milou Raders*

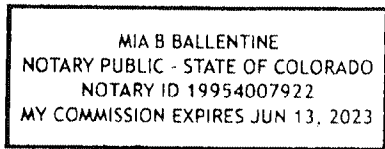
Acting CCNNA Board President, on behalf of the CCNNA Board and as approved by the CCNNA Board by Resolution dated June 25, 2020.

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

The foregoing instrument was acknowledged before me this 13th day of July, 2020, by Milou Raders, as President of Cherry Creek North Neighborhood Association, a Colorado nonprofit corporation.

Witness my hand and official seal.
My commission expires: Jun 13 2023

[SEAL]



Mia Ballentine
Notary Public (or official title)

at ✓

**EXHIBIT A
LEGAL DESCRIPTION OF DEVELOPMENT PROPERTIES**

CCNA PROPERTY:

LOTS 1 TO 6, INCLUSIVE,

EXCEPT THAT PART OF SAID LOTS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1;

THENCE WESTERLY ON THE NORTH LINE OF SAID LOT 1 A DISTANCE OF 6.16 FEET;

THENCE SOUTHERLY ON A LINE PARALLEL WITH THE EAST LINE OF BLOCK 9 A DISTANCE OF 69.38 FEET TO A POINT OF CURVE;

THENCE SOUTHWESTERLY ON A CURVE COVEX TO THE SOUTHEAST AND HAVING A RADIUS OF 85 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 6 AND 71.12 FEET WEST OF THE SOUTHEAST CORNER THEREOF;

THENCE EASTERLY ON THE SOUTH LINE OF LOT 6 TO THE EAST LINE OF BLOCK 9;

THENCE NORTHERLY ON THE EAST LINE TO THE POINT OF BEGINNING,

BLOCK 9,

BURLINGTON CAPITOL HILL ADDITION,

CITY AND COUNTY OF DENVER, STATE OF COLORADO

Containing 11,228 +/- sq. ft

CCEA PROPERTY:

Parcel I:

THOSE PARTS OF LOTS 1 AND 2, BLOCK 10,

BURLINGTON CAPITOL HILL ADDITION,

LOCATED WITHIN BOUNDARIES DESCRIBED:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 2;

THENCE NORTHERLY ON THE WEST LINE OF SAID LOTS 2 AND 1, 38 FEET;

THENCE SOUTHEASTERLY TO A POINT WHICH IS 27.45 FEET SOUTH OF THE NORTH LINE OF SAID LOT 1 AND 60.62 FEET EAST OF THE WEST LINE OF SAID LOTS 1 AND 2;

THENCE SOUTHEASTERLY TO THE SOUTHEAST CORNER OF SAID LOT 2;

THENCE WESTERLY ON THE SOUTH LINE OF SAID LOT 2 TO THE POINT OF BEGINNING.

CITY AND COUNTY OF DENVER, STATE OF COLORADO

Containing 2170 +/- sq. ft.

Parcel II:

LOTS 3, 4 AND 5, BLOCK 10

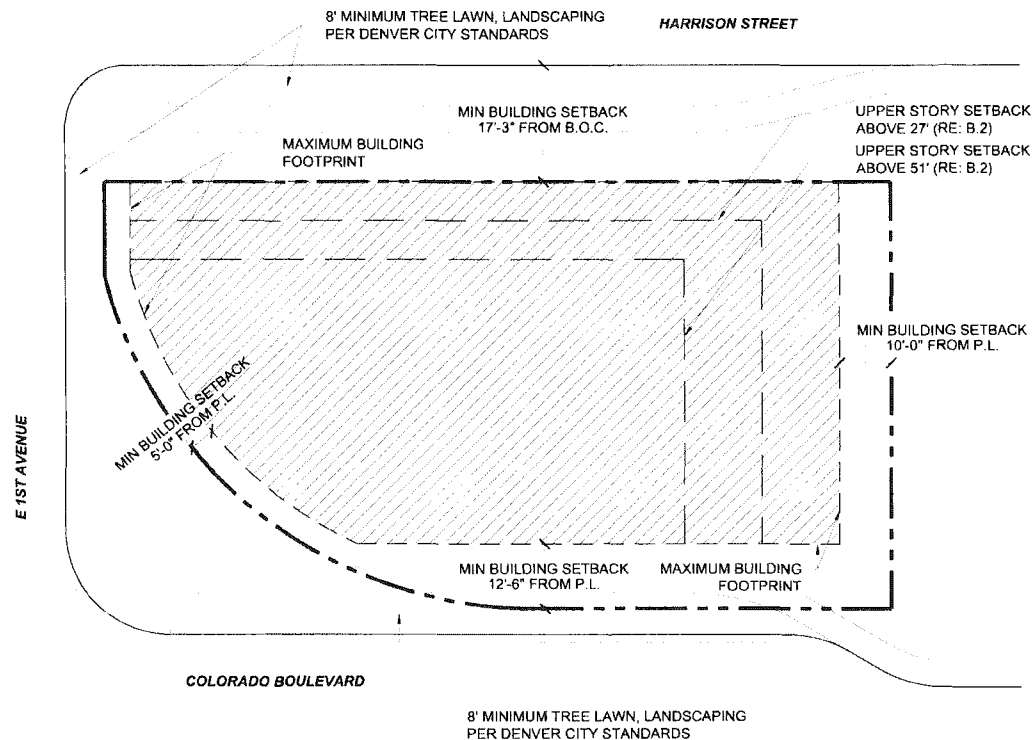
BURLINGTON CAPITOL HILL ADDITION,

CITY AND COUNTY OF DENVER, STATE OF COLORADO

Containing 6769 +/- sq. ft.

EXHIBIT B SITE PLAN

EXHIBIT B.1 101 COLORADO BLVD, DENVER CO REVISED FEBRUARY 26, 2020



SITE PLAN REQUIREMENTS

NOTES

1. ALL NEW SIDEWALKS SHALL BE 5'-0" MINIMUM WIDTH AND TIE INTO EXISTING SIDEWALKS ALONG COLORADO BOULEVARD AND HARRISON STREET.
2. MINOR ARCHITECTURAL ELEMENTS SHALL BE ALLOWED TO ENCR OACH INTO SETBACKS PER THE DENVER ZONING CODE.
3. IN ALL RESPECTS, THE DETAIL AND FINAL DESIGN OF THE FOREGOING IMPROVEMENTS WILL BE FINALIZED DURING THE SITE DEVELOPMENT REVIEW PROCESS.

DRAWING NTS 

JD

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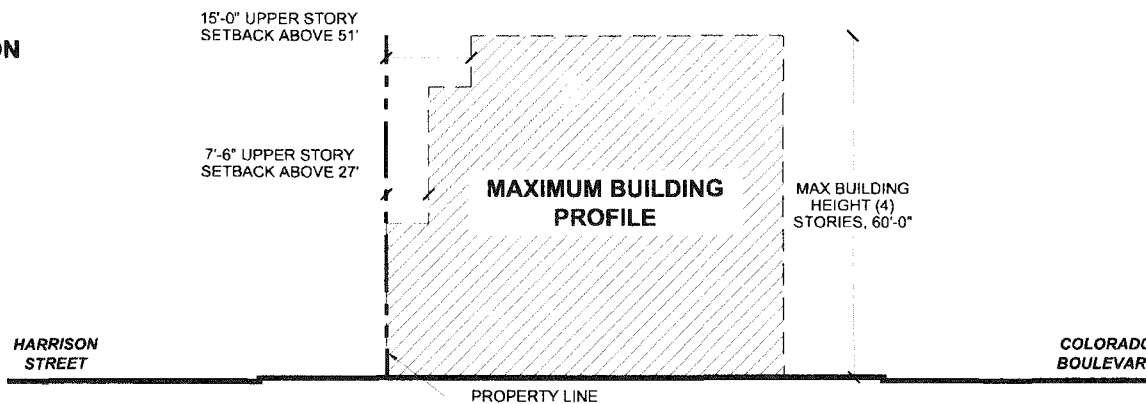
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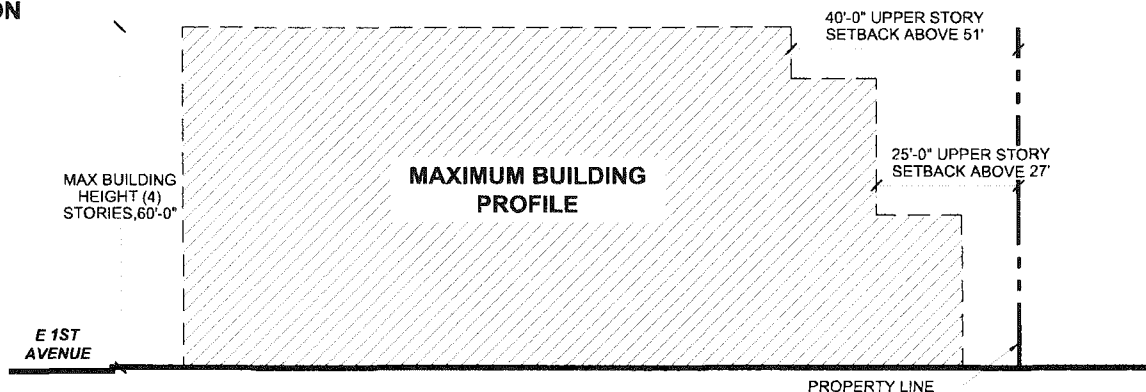
EXHIBIT B.2

101 COLORADO BLVD, DENVER CO
REVISED FEBRUARY 26, 2020

SOUTH ELEVATION



EAST ELEVATION



ELEVATION REQUIREMENTS

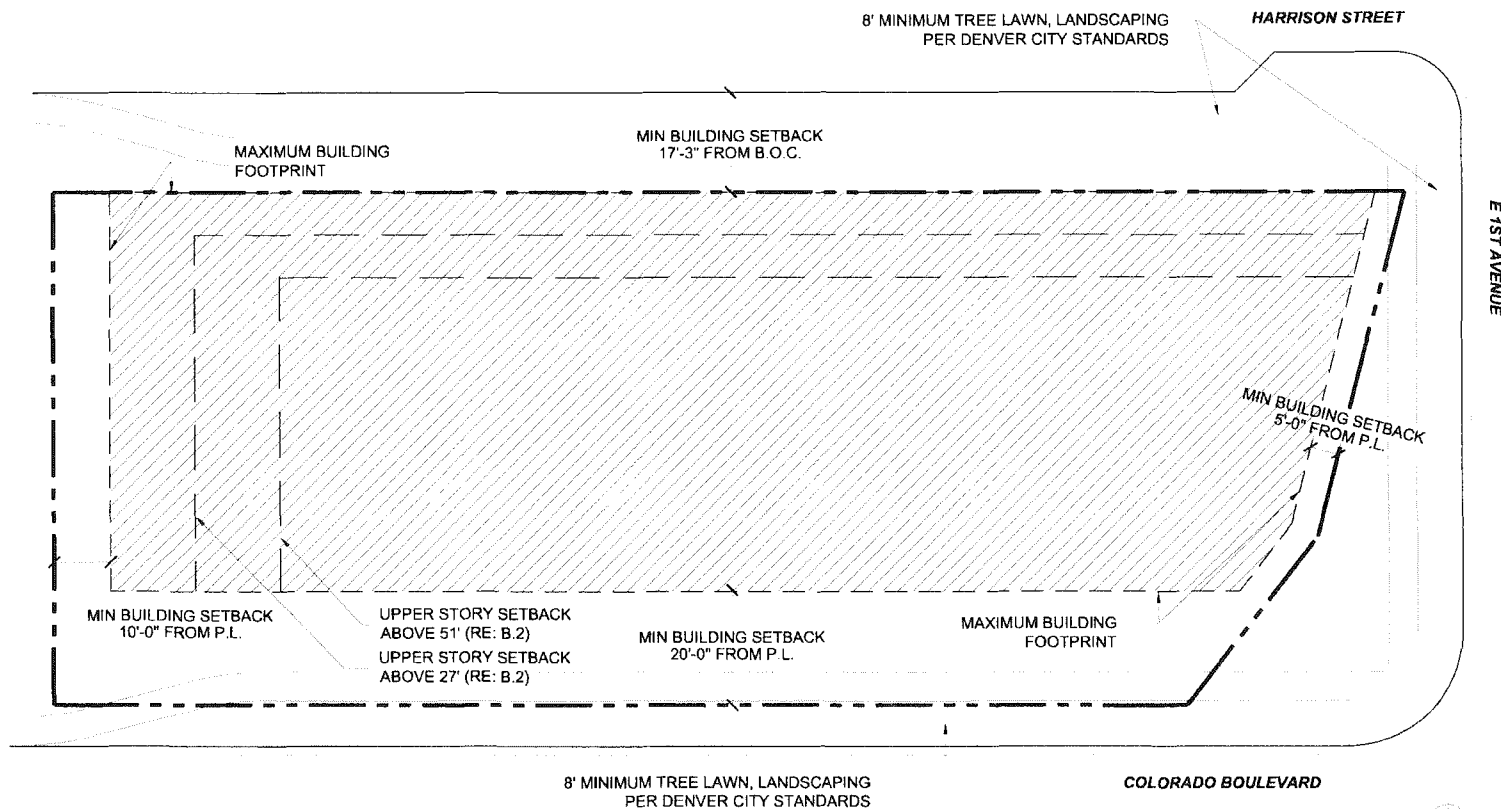
DRAWING NTS 

NOTES

1. ALL VERTICAL DIMENSIONS (INCLUDING NUMBER OF STORIES) ARE MEASURED FROM THE 'BASE PLANE' AS DEFINED BY THE DENVER ZONING CODE.
2. ALLOWED HEIGHT EXCEPTIONS PER THE DENVER ZONING CODE SHALL REMAIN PERMISSIBLE.
3. A ROOFTOP AMENITY PENTHOUSE (ABOVE LEVEL 4) BUILT WITHIN THE LIMITS OF THE DENVER ZONING CODE SHALL BE PERMISSIBLE. THIS PENTHOUSE SHALL INCLUDE LIMITED INTERIOR SPACE ANCILLARY TO PRIMARY LIVING SPACES BELOW. NO DWELLING SPACES SHALL BE LOCATED WITHIN THIS PENTHOUSE AND THE PRIMARY FUNCTION OF ALL ENCLOSED SPACE SHALL BE FOR THE PURPOSE OF ACCESS AND USE OF ADJACENT OUTDOOR TERRACES.
4. UPPER STORY SETBACKS ARE MEASURED FROM THE PROPERTY LINE, EXTENDING TO THE SPECIFIED HEIGHT FROM THE BASE PLANE AND THEN HORIZONTALLY TO THE SPECIFIED SETBACK DISTANCE.
5. VERTICAL OR SLOPED WALLS ENCLOSING THE ROOFTOP AMENITY PENTHOUSE SHALL BE SET BACK FROM THE PERIMETER OF THE BUILDING A MINIMUM OF ONE FOOT HORIZONTALLY FOR EVERY ONE FOOT OF VERTICAL HEIGHT, STARTING FROM A POINT 60'-0" ABOVE THE BASE PLANE. THIS RESTRICTION IS MEANT TO BE SIMILAR TO REQUIRED SCREENING FOR ROOFTOP ENCROACHMENTS PER SECTION 7.3.7.1 OF THE ZONING CODE.

EXHIBIT B.1

97 COLORADO BLVD, 98 HARRISON ST AND 45-51 COLORADO BLVD, DENVER CO
REVISED FEBRUARY 26, 2020



SITE PLAN REQUIREMENTS

DRAWING NTS 

NOTES

1. ALL NEW SIDEWALKS SHALL BE 5'-0" MINIMUM WIDTH AND TIE INTO EXISTING SIDEWALKS ALONG COLORADO BOULEVARD AND HARRISON STREET.
2. MINOR ARCHITECTURAL ELEMENTS SHALL BE ALLOWED TO ENCROACH INTO SETBACKS PER THE DENVER ZONING CODE.
3. IN ALL RESPECTS, THE DETAIL AND FINAL DESIGN OF THE FOREGOING IMPROVEMENTS WILL BE FINALIZED DURING THE SITE DEVELOPMENT REVIEW PROCESS.

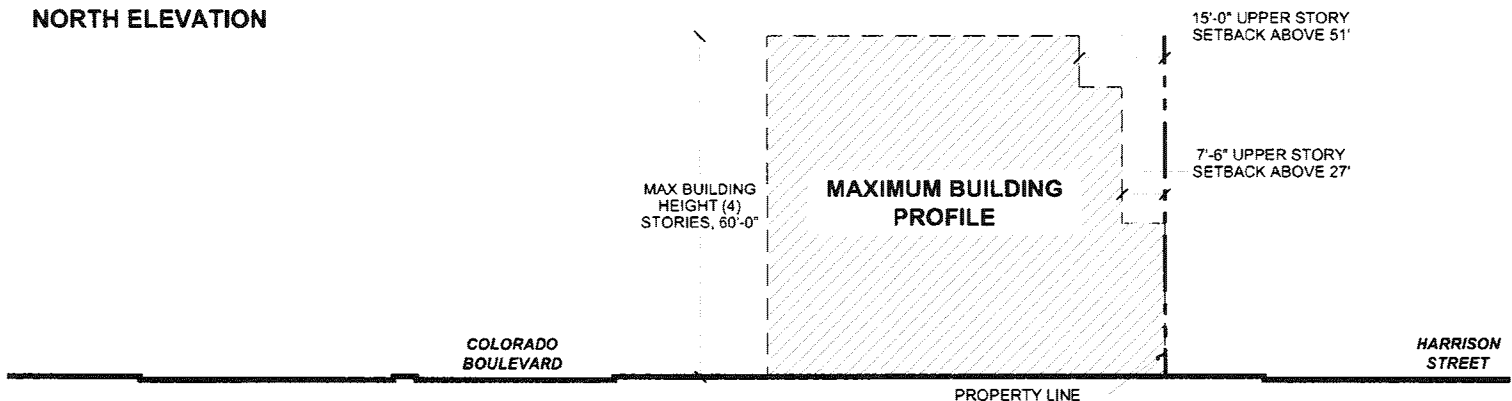
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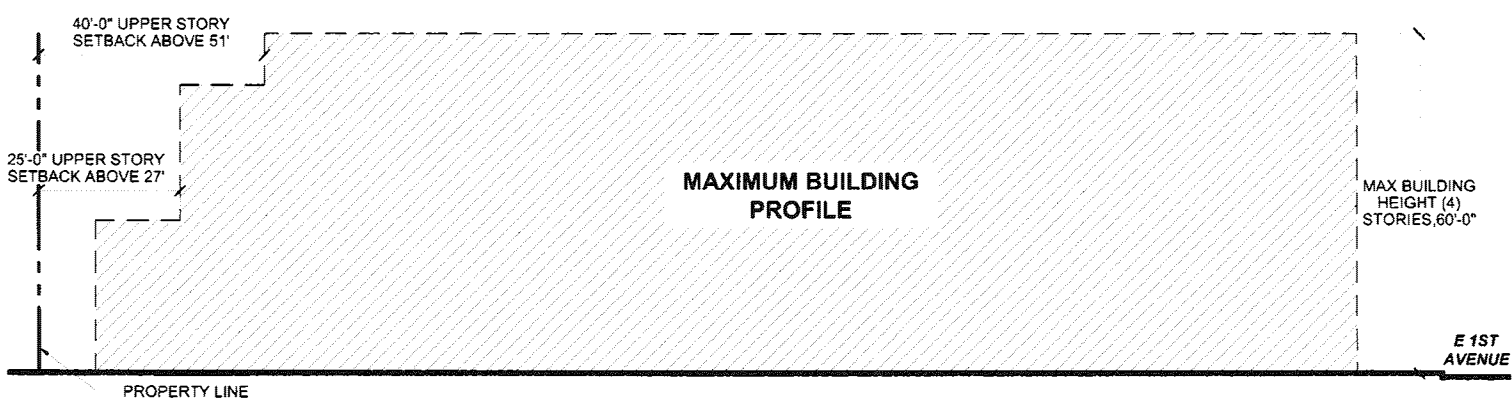
EXHIBIT B.2

97 COLORADO BLVD, 98 HARRISON ST AND 45-51 COLORADO BLVD, DENVER CO
REVISED FEBRUARY 26, 2020

NORTH ELEVATION



EAST ELEVATION



ELEVATION REQUIREMENTS

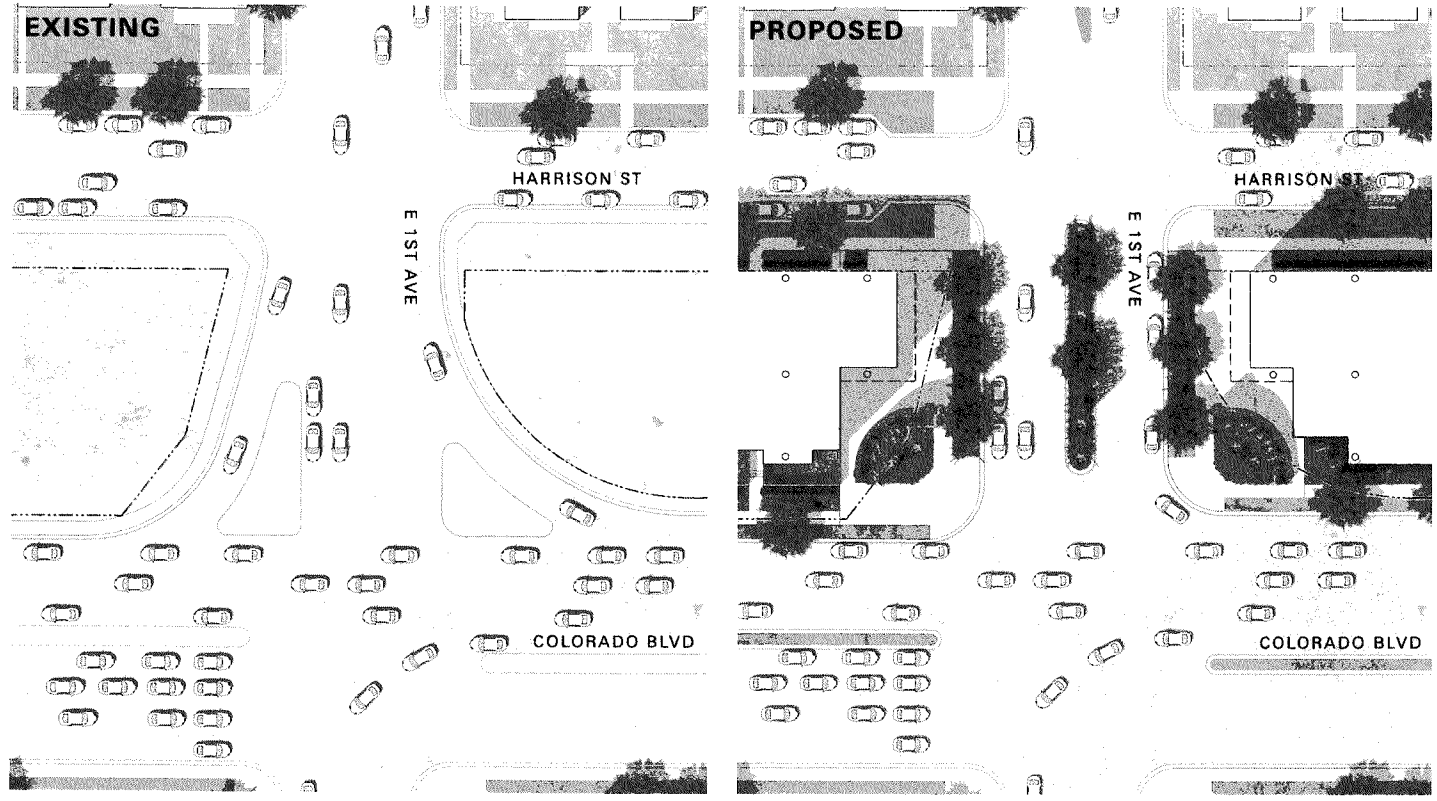
DRAWING NTS 

NOTES

1. ALL VERTICAL DIMENSIONS (INCLUDING NUMBER OF STORIES) ARE MEASURED FROM THE 'BASE PLANE' AS DEFINED BY THE DENVER ZONING CODE.
2. ALLOWED HEIGHT EXCEPTIONS PER THE DENVER ZONING CODE SHALL REMAIN PERMISSIBLE.
3. A ROOFTOP AMENITY PENTHOUSE (ABOVE LEVEL 4) BUILT WITHIN THE LIMITS OF THE DENVER ZONING CODE SHALL BE PERMISSIBLE. THIS PENTHOUSE SHALL INCLUDE LIMITED INTERIOR SPACE ANCILLARY TO PRIMARY LIVING SPACES BELOW. NO DWELLING SPACES SHALL BE LOCATED WITHIN THIS PENTHOUSE AND THE PRIMARY FUNCTION OF ALL ENCLOSED SPACE SHALL BE FOR THE PURPOSE OF ACCESS AND USE OF ADJACENT OUTDOOR TERRACES.
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EXHIBIT C TURN LANES AND CROSS-WALK PORK CHOP DEPICTION

1st Avenue Gateway Streetscape Improvements



Gateways East 19 SEPTEMBER 2019

McKinnon & Associates, LLC
TRYBA ARCHITECTS

2020101477

City & County of Denver

NT

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19i-00031

EXHIBIT D
DEPICTION OF PROJECTS

Gateways East

Cherry Creek, Colorado

McKinnon & Associates, LLC
TRYBA ARCHITECTS

Massing Update: 4-Story Buiding Elevations

February 23, 2020

20

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R

19i-00031



ELEVATION AND SITE PLAN

1st Avenue Gateway



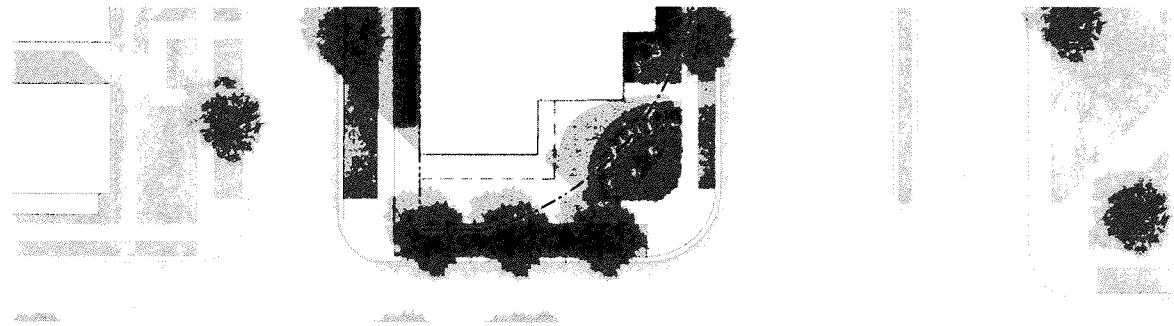
McKINNON & ASSOCIATES, LLC · TRYBA ARCHITECTS
23 FEBRUARY 2020

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ELEVATION AND SITE PLAN

1st Avenue Gateway

McKINNON & ASSOCIATES, LLC · TRYBA ARCHITECTS
23 FEBRUARY 2020



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EXHIBIT E GOOD NEIGHBOR CONSTRUCTION POLICY

Owner agree to implement a plan of construction management techniques, including the following:

- Project manager cell phone 24/7
- Address parking for workers (on-site if possible) and agree to apply for parking restrictions if the rest of the block owners so desire, and City allows
- Trash picked up/enclosed port of lets in less visible location
- No trucks and back up beeps before 7 a.m. on weekdays, 8 a.m. on weekends
- Construction weekdays 7a.m. – 7 p.m. / weekends 8 a.m. – 5 p.m.
- Dust mitigation methods, including without limitation, water wagons for construction dust control.
- Use a website for the purpose of updating the Cherry Creek Area Stakeholders of important dates (such as street closures and water interruption) and generally for project updates. Provide an email so that neighborhood concerns are able to be expressed on a timely basis.

Owner will adhere to the “4 C’s”

Communication with Neighbors Can Facilitate Cooperation and Support

The 4-C Solution:

1. **Communication:** Builders who communicate while attempting to limit the impact that construction invariably causes will win the tolerance of the neighboring residents. A sign on the site, a flyer, a letter to residents in the immediate area explaining the project and the anticipated schedule can alleviate much of the residents’ concerns about the short-term problems commonly generated by construction.
2. **Common Sense:** While it is the nature of construction to be messy, noisy and paced to meet the pressure of deadlines and budgets, neighborhood sites require special consideration. Neighbors and builders must acknowledge the root of the situation – the area is both a neighborhood, where people retreat from the work-a-day world, and a job site, where time is money and money is the bottom line. Residents’ concerns arise when construction practices continually go beyond the limits of common sense.
3. **Courtesy:** Builders can work to the limit of the law, which allows construction noise from 7 AM to 9 PM seven days a week. Thoughtful contractors who make the effort to schedule the more disruptive aspects of the project to take place during weekdays between 8 AM and 5 PM should expect few complaints from the surrounding residents. Builders who respect neighbors’

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concerns and take action to remedy or modify a problem will find that that kind of consideration should gain friendly support during the project. By responding with common courtesy, the contractor may attract a future project from another homeowner.

4. **Compromise:** Compromise begins when builders and neighbors consider each other's point of view. Compromise takes place through friendly communication between neighbors, Owner and the contractors.

GUIDELINES FOR BUILDERS

Informing Neighbors: At least two days in advance of construction or demolition, Owner should:

1. Call or meet with as many neighbors as possible
2. Mail letter or flyers describing the project
3. Post a sign at the site with a phone number for questions

During Construction: Considerate site policies and procedures should be specifically outlined for the contractors' employees as well as any sub-contractors on the job.


1. Limit working hours of high noise operations to the middle of the day at least until the structure is fully enclosed
2. Limit and control radio noise
3. Consider neighbor's exposure in siting and screening the project's mechanical equipment
4. Place the dumpster on the lot or on the street in the middle of the site
5. Avoid blowing debris and accumulation of clutter
6. Cover the dumpster with a tarp bound by cord to contain dust and debris and to control unauthorized use of the dumpster, at the end of each construction day
7. Park construction vehicles off-street if possible. Turn off engines unless operating other equipment
8. Place portable toilets away from property lines in less visible locations; arrange for regular service
9. Control dust with water and chutes
10. Avoid damage to trees and landscaping

E-2

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 revised-8.11.20
 fee paid - \$1,500

**EXHIBIT F
CONSENT OF LIENHOLDER**

The undersigned lienholder (the "**Lienholder**"), holder of a leasehold deed of trust lien on the Development Properties, recorded in the real property records of the City and County of Denver, Colorado ("**Records**") on _____, at Reception No. _____ ("**Deed of Trust**"), hereby consents to and approves the terms, covenants and provisions of the Development Agreement and Declaration of Restrictive Covenants recorded in the Records on _____, 20__, at Reception No. _____ ("**Agreement**") and agrees that the Agreement shall not be extinguished, limited or affected to any extent by any foreclosure of the Deed of Trust.

IN WITNESS WHEREOF, the undersigned has caused this Consent of Lienholder to be signed by its duly authorized officer(s) on its behalf, on this ___ day of _____, 20__.

LIENHOLDER:

a _____

By: _____
Name: _____
Title: Authorized Representative

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, as _____ of _____, a _____.

Witness my hand and official seal.

My Commission Expires: _____.

Notary Public



07/16/2020 04:33 PM
City & County of Denver
Electronically Recorded

R \$173.00

D \$0.00

COV

**DEVELOPMENT AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS**

by and among

CC GATEWAY OWNERS LLC, a Colorado limited liability company

to and for the benefit of

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

21120759

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DEVELOPMENT AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

THIS DEVELOPMENT AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (this "Agreement") is made and entered into as of 16 day of July, 2020, by and among CC Gateway Owners LLC, a Colorado limited liability company and its members, managers, successors and assigns (collectively, the "Owner") to and for the benefit of Cherry Creek East Association, a registered neighborhood association in the City and County of Denver ("CCEA"). Capitalized terms used in this Agreement shall have the meaning given such terms where parenthetically defined or, if not parenthetically defined, in Section 1.01 of 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 ("Neighborhood RNO"), which is defined in Section 12-92 of the Code to mean "a voluntary group of individual residents and Owner of real property, including businesses, within a certain prescribed area of the city, and/or a coalition of such groups formed for the purpose of collectively addressing issues and interest common to and widely perceived throughout the area."

B. Owner owns two parcels of real property in the City and County of Denver, State of Colorado, one containing approximately 16,504 +/- SF of land area located on the NW corner of Bayaud and Colorado Boulevard (the "NW Property") and the other located on the SW corner of Bayaud and Colorado Boulevard containing 9,527 SF +/- (the "SW Property" and collectively with the NW Property, the "Development Properties"), as the same are legally described on Exhibit A hereto.

C. Owner desires to construct a building on each of the Development Properties (each a "Building" and, collectively, the "Buildings") in the locations and with the site set-backs as substantially depicted by the site plan on Exhibit B hereto (the "Site Plan").

D. Owner has expressed its intent to develop the Development Properties and, to that end, Owner has filed application for rezoning of the Development Properties to a combination of a G-MU-5 zoning designation for the SW Property to allow for stacked residential units and a G-RO-5 zoning designation for the NW Property to allow for residential/office uses, as such zone categories are described in Owner's rezoning application dated December 23, 2019, and to which the City has assigned the number 2019i – 00031 (relating to the Development Properties and properties located at First Avenue and Colorado Boulevard that are also owned by Owner) (the "Rezoning Application").

E. The Parties to this Agreement desire that the Development Properties be developed in a conceptually consistent and coordinated fashion (the "Projects") in CCEA and serving as the eastern gateway at Bayaud (the "Cherry Creek Gateway") to and for the benefit of the entire Cherry Creek Area as the same is contemplated in the Denver Cherry Creek Area Plan adopted by the Denver City Council July 16, 2012 (the "Cherry Creek Area Plan").

F. The current configuration of the Bayaud public right of way adjacent to the Development Properties includes crosswalks located within the City of Denver right of way and/or the Colorado State highway under the Colorado Department of Transportation (“CDOT”) which configuration is depicted on Exhibit C hereto. That portion of the proposed Projects’ development including the area owned by the City of Denver and/or CDOT adjacent to the Development Properties containing the crosswalks and bike lanes in the public rights of way are referred to collectively herein as the “Public ROW Properties” and, together with the Development Properties is collectively referred to as the “Bayaud Gateway Sites”).

G. CCEA is the registered Neighborhood RNO in which the Development Properties are located and, as such, Owner is required to notify CCEA of Owner’s development and rezoning efforts and, in connection therewith, Owner has worked with CCEA to disseminate information about the Projects within the CCEA neighborhood boundaries and sought input from the residents in the CCEA neighborhood. Such efforts have resulted in the preparation by Owner and CCEA of that certain Gateway rezoning letter for the Development Properties dated February 18, 2020 (the “Rezoning Conditions Letter”), which letter requires this Agreement be completed prior to proceeding through the City Planning Board Hearing Process.

H. Owner now desires to set forth the agreements with respect to the Development Properties reached with and for the benefit of CCEA as contemplated by the Rezoning Conditions Letter, including its agreements concerning the land use concepts governing the Development Properties and the overall redevelopment of the Bayaud Gateway Sites and to ensure that the Development Properties will be rezoned, developed and used in accordance with this Agreement.

NOW, THEREFORE, in consideration of the conditions of rezoning, covenants, conditions, restrictions 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 and CCEA hereby agree 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 a limited or general partner or member of Owner or any party who controls or is controlled by Owner which owns any portion of the Bayaud Gateway Sites.

“*Agreement*” means this Development Agreement and Declaration of Restrictive Covenants, as it may be amended from time to time.

“*Approved Development Plan*” means the site development plan for each of the Projects approved by the City, as amended from time to time, that anticipates a development program and the necessary infrastructure systems (road network, drainage, open space, utilities) to support the development on the Development Properties in a manner consistent with this Agreement. Each Approved Development Plan for each of the Projects must adhere to any restriction, prohibition

or requirement made by this Agreement. Each Approved Development Plan shall be recorded by the City and provided to CCEA.

“*Bayaud Gateway Sites*” has the meaning given such term in Recital F, and together with all rights and appurtenances pertaining thereto.

“*Board*” means the board of directors of CCEA, as appointed or elected pursuant to the organizational documents and bylaws of CCEA.

“*Blueprint Denver*” means the City’s integrated Land Use and Transportation Comprehensive Plan 2040 adopted April 22, 2019.

“*Building*” or “*Buildings*” have the meanings given such terms in Recital C.

“*CCEA*” means the registered neighborhood association in the City and County of Denver for the neighborhood bounded by First Avenue on the north, Colorado Boulevard on the east, Alameda Avenue on the south, and Steele Street on the west.

“*CCNNA*” means the registered neighborhood association in the City and County of Denver for the neighborhood bounded by First Avenue on the south, Colorado Boulevard on the east, York on the west, and 6th Avenue Street on the north.

“*CCRs*” means the covenants, conditions and restrictions imposed by Owner as the declarant of any condominium or planned community at either of the Projects under the provisions of the Common Interest Ownership Act, as the same has been codified (and as amended from time to time) in Colorado Statutes as Sections 38-33.3-101, et seq., which govern ownership, use and occupancy of any planned community or condominium units in either of the Projects and which are binding on Owner and any future owners of the developed condominium units or any planned community portion of either of the Projects, and their successors and assigns.

“*Cherry Creek Area*” means the neighborhoods and commercial district bounded by Sixth Avenue on the north, Colorado Boulevard on the east, Alameda Avenue and the actual creek known as Cherry Creek on the South, and University/Josephine on the west.

“*Cherry Creek Gateway*” has the meaning given such term in Recital E.

“*Cherry Creek Area Plan*” has the meaning given such term in Recital E.

“*Cherry Creek Area Stakeholders*” means, collectively, those organizations representing the citizens and businesses in the Cherry Creek Area and which includes CCEA, CCNNA, the Business Improvement District for the Cherry Creek North shopping district (the “*CCN BID*”), the Cherry Creek Steering Committee representing additional neighborhoods to the east, north and south of the Cherry Creek Area (including, without limitation, Hilltop, Denver Country Club Historic Neighborhood) (the “*Steering Committee*”), the Cherry Creek Business Alliance, the Cherry Creek Shopping Center, and the Owner as the owner of the Development Properties.

“*City*” means the City and County of Denver, State of Colorado.

“Code” means the Denver Municipal Code in effect as of the date of this Agreement, as the same may be modified from time to time and includes the Denver zoning code and the Denver building code and the rules and regulations promulgated thereunder.

“Design Review Committee” means any committee of representatives from the CCEA Board and together with such other members of the Cherry Creek Area Stakeholders that may, from time to time, be appointed by the CCEA Boards to serve on such committee, for the purpose of reviewing the ongoing Projects’ design elements being developed by Owner for the purpose of addressing design changes or related design issues relating to the Projects or the Bayaud Gateway Sites as and when necessary to confirm that the Projects are being developed and implemented in accordance with the intent, spirit and requirements of this Agreement; provided, however, that a vote of the CCEA Board are required in order to confirm any action recommended by such Design Review Committee.

“Development Documents” means, collectively, the Rezoning Application, the Site Plan, the Approved Development Plan for each of the Development Properties, and any and all documents and instruments (including, without limitation, all building plans, permits and authorizations) by and between Owner and the City or Owner and CCEA or any third party relating to the use, development or construction of the Projects.

“Development Properties” has the meaning given such term in Recital B.

“Event of Default” has the meaning given such term in Section 3.05.

“Gateway Improvements” means the infrastructure and land uses that support the “urban center” context of the Cherry Creek Area. This includes the residential and diversified character of the neighborhood and the importance of pedestrian links and emphasis on pedestrian based travel, as such amenities are further described in the Cherry Creek Area Plan and Blueprint Denver.

“Legal Requirements” means all laws, rules, regulations, ordinances, codes, statutes and guidelines relating to the performance of Owner in connection with construction of improvements on the Development Properties, including, without limitation, those under the Code.

“Mortgage” means any mortgage or deed of trust executed by Owner or any Affiliated Party with respect to the Development Properties, as any such document may be amended, supplemented or otherwise modified from time to time to the extent permitted herein.

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

“Notice of Default” has the meaning given such term in Section 3.05 of this Agreement.

“NW Property” has the meaning given such term in Recital B.

“*Owner*” has the meaning given such term in the initial paragraph of this Agreement, together with their respective successors and assigns and together with any Affiliated Party that acquires property within the Bayaud Gateway Sites.

“*Public Right of Way Properties*” has the meaning given such term in Recital F.

“*Projects*” means the mixed use residential and office developments planned to be developed on the Bayaud Gateway Sites by Owner as described in Recital E.

“*Project Improvements*” means, collectively, the residential Building improvements to be constructed on the SW Property and the residential and/or office Building improvements to be constructed on the NW Property.

“*Recorded Covenants*” means the covenants, conditions and restrictions (including, without limitation, any CCRs for the Projects and this Agreement) recorded against the Development Properties.

“*Rezoning Application*” has the meaning given such term in Recital D.

“*Rezoning Conditions Letter*” has the meaning given such term in Recital G.

“*Site Plan*” means the conceptual site plan for the Development Properties previously shared by Owner with CCEA, in substantially the form attached hereto as Exhibit B.

“*SW Property*” has the meaning given such term in Recital B.

Section 1.02. Use of Defined Terms. Unless the context clearly requires otherwise, as used in this Agreement, words of the masculine, feminine or neuter gender shall be construed to include each other gender and words of the singular number shall be construed to include the plural number, and vice versa. This Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

Section 1.03. Titles and Headings. The titles and headings of the sections of this Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

ARTICLE II DEVELOPMENT OBLIGATIONS AND REQUIREMENTS

Section 2.01. Development of the First Avenue Gateway Sites Generally; Process and Requirements. The recitals set forth above are incorporated herein. In connection with the request for approval of the Rezoning Application being made by Owner to the City, and in connection with ownership, development, construction and use of the Projects on the Development Properties or on any portion of the Bayaud Gateway Sites, Owner covenants and agree as follows:

(i) **Rezoning.** Owner shall seek approval from the City for a change in the zoning for the Development Properties in a manner consistent with this Agreement. The rezoning of the SW Property shall be G-MU-5 and the NW Property shall be G-RO-5. The Development Properties shall be further limited by, and must comply with, the restrictions in this Agreement.

(ii) **Development Process; Ongoing Communications to CCEA.** Owner shall notify the City of Owner's obligations under this Agreement in connection with Owner's processing of the Rezoning Application and site planning process for the Projects. In connection with the completion of the Development Documents and the site planning process for the Projects, Owner agrees to keep the Design Review Committee of the CCEA reasonably informed by presentation, not less than quarterly, and upon request, at the regularly scheduled meetings with the CCEA Board or general meetings of the CCEA, as to the status of development of the Projects, including updates regarding the Rezoning Application, the City site planning process, and presentation of the design development of the Projects, including overall materials selected by Owner for the Projects.

(iii) **Traffic Study.** Owner shall complete a traffic study to identify and address both traffic and pedestrian issues in connection with obtaining approval of each of the Approved Development Plans. Owner shall provide a copy of the traffic study to CCEA.

(iv) **Trash; Building Equipment.** Owner shall locate all trash in interior trash storage areas of the Buildings so that such areas are screened from view from adjoining properties, drives and roadways (to the extent permitted by the City). Owner shall screen roof top mechanical equipment in accordance with the City Code and shall integrate all exterior vents and intake grilles with each Building's exterior design.

(v) **Lighting.** All signage shall be in accordance with City signage requirements. Landscape and pedestrian lighting shall be installed on all street sides of the Projects. Such lighting shall be designed and installed so as to further the goal of increasing the pedestrian friendly and walkable nature of the Bayaud Avenue Gateway Sites.

(vi) **Utilities.** Owner shall, subject to utility approval, locate all utility lines, including without limitation, water, gas, telephone, electrical, and cable, underground. Owner shall locate all utility meters to the interior of the Projects (if approved by the responsible utility companies) or shall screen from view from adjoining properties.

(vii) **Alternative Transportation Strategies.** Owner shall employ all commercially reasonable efforts to encourage transportation strategies that are commensurate with Blueprint Denver and the transportation plan therein. Owner shall work with the City and CDOT to address the importance of Cherry Creek Gateway in setting the standard for other street-crossing and bike lane crossings that may be needed along Colorado Boulevard. Bike parking areas shall not be located along Bayaud or Colorado Boulevard.

Section 2.02. SW Property Permitted Uses, Covenants and Restrictions. Owner may construct, erect, use and maintain improvements permitted in the proposed G-MU-5 zone district pursuant to the City Code and as outlined in the Rezoning Application for the SW Property subject to the following covenants, conditions and restrictions:

(i) **Use and Size.** The Project Improvements on the SW Property shall be residential only condominiums/apartments designed and constructed using the 'Apartment' building form as described in the Code. There shall be no more than 25,000 gross above-ground square footage in such Building with no more than 25 total residential units. No residential unit shall contain less than 900 gross square feet, including its pro-rata share of building common areas, resulting in an internal unit square footage of not less than 865 gross square feet. Building regulations and CCRs (if any) shall require that all outdoor balconies and patios shall be restricted for location of outdoor furniture and amenities and shall not be used for storage, including for the storage of bicycles or sporting equipment. Building regulations and CCRs (if any) shall require that window coverings' exterior facings/linings shall be restricted to a uniform lining or color to provide for a congruous view of the exterior of the Building.

(ii) **Parking and Access.** All parking associated with the Project Improvements on the SW Property shall be below-grade parking with a single ingress/egress access drive at the southern end of the SW Property on Harrison Street.

(iii) **Height and Rooftop Activation.** The Project Improvements on the SW Property shall limited to four (4) above-ground stories/floors of habitable space with a maximum permitted height of 60 feet, calculated pursuant to the methods of the Code for such zone category. Rooftop activation improvements shall be allowed so long as they are set back in accordance with the requirements of the Code and do not suggest a 5th floor. The anticipated use and elevation depiction of such rooftop improvements are as shown on the Project Depictions attached hereto as Exhibit D.

Section 2.03. NW Property Permitted Uses, Covenants and Restrictions. Owner may construct, erect, use and maintain improvements permitted in the proposed G-RO-5 zone district pursuant to the City Code and as outlined in the Rezoning Application for the NW subject to the following covenants, conditions and restrictions:

(i) **Use and Size.** The Project Improvements on the NW Property shall be residential and/or office use only designed and constructed in a manner to be coordinated with the Project Improvements to be located on the SW Property. There shall be no more than 45,000 gross above-ground square footage in such Building, with no more than 45 total residential units and/or 45,000 square feet of office space. No residential unit shall contain less than 900 gross square feet, including its pro-rata share of building common areas, resulting in an internal unit square footage of not less than 865 gross square feet. Building regulations and CCRs (if any) shall require that all outdoor balconies and patios shall be restricted for location of outdoor furniture and amenities and shall not be used for storage, including for the storage of bicycles or sporting equipment. Building regulations and CCRs (if any) shall require that window coverings' exterior facings/linings shall be restricted to a uniform lining or color to provide for a congruous view of the exterior of

the Building. No “dental / medical office or clinic”, as defined in Section 11.12.4.6.B.1 of the Code, as amended in the future, shall be allowed.

(ii) **Parking and Access.** All parking associated with the Project Improvements on the NW Property shall be below-grade parking with a single ingress/egress access drive at the northern end of the NW Property on Harrison Street.

(iii) **Height and Rooftop Activation.** The Project Improvements on the NW Property shall limited to four (4) above-ground stories/floors of habitable development space with a maximum permitted height of 60 feet, calculated pursuant to the methods of the Code for such zone category. Rooftop activation improvements shall be allowed so long as they are set back in accordance with the requirements of the Code and do not suggest a 5th floor. The anticipated use and elevation depiction of such rooftop improvements are as shown on the Project Depictions attached hereto as Exhibit D.

Section 2.04. Site Plan and Step-down Requirements; Building Façade Design. The Project Improvements on the Development Properties shall observe the location, massing, setback and step-down elements as shown on the Site Plan attached hereto as Exhibit B and in the Project Depictions attached hereto as Exhibit D. The elevations shown on the Projects’ Depiction shall be used as a design guide, with the understanding that the exact design elements will be determined by Owner as the development proceeds. However, Owner agrees that the final Projects’ designs shall be generally consistent with the Project Depictions and Site Plan, drawings and models presented by Owner to CCEA.

Section 2.05. Contextual Design Requirements; Materials. Owner shall construct the Projects Improvements on the Bayaud Gateway Sites in an architecturally compatible “theme”, using a neutral color palate. The Buildings and site design shall relate to and be sensitive to the context of the immediate Cherry Creek East neighborhood as well as the larger context of the entire Cherry Creek Area. In connection with the materials used for construction of the Projects Improvements, Owner shall use only high-quality materials such as stone masonry units, stone panels, brick cast stone, metal, glass, pre-cast concrete, decorative metal panel, stucco, and similar materials that wear well and are long lasting. The Buildings design at the street level shall be designed with appropriate pedestrian scale and detailing to promote a positive pedestrian experience. Details such as change in materials above the Buildings base, awnings, canopies, lighting, pedestrian scale window treatments, green rooftops, doorways, and use of materials are encouraged. Mechanical louvers and vents located on Buildings walls shall be integrated into the Buildings design to minimize their visual impact. Owner shall construct the improvements on the Bayaud Gateway Sites in a good and workmanlike manner in accordance with the Approved Development Plan, the Denver Code, Blueprint Denver, Cherry Creek Area Plan and all applicable Legal Requirements. **Public Sidewalks and Landscaping.** Owner shall install new sidewalk and streetscape improvements on Harrison Street, Bayaud and Colorado Blvd. adjacent to the Development Properties, which will include separated sidewalks with tree lawns and lush landscaping. Landscape improvements shall take into account location and City forestry requirements. Xeriscaped options sensitive to water concerns may be considered and used, but no landscape areas shall consist of only rock, mulch or similar materials.

Section 2.07. Creation of Cherry Creek Gateway. CCEA requires that the Bayaud Gateway Sites include and incorporate the Cherry Creek Gateway. To that end, Owner shall facilitate the appropriate parties to implement the following requirements as a condition of the rezoning.

(i) ***Intersection Improvements.*** Owner agrees to cause the improvement of the existing intersections at Bayaud and Colorado Boulevard and Bayaud and Harrison as depicted in Exhibit C, specifically such that the (1) bike lanes are extended to connect with Burns Park; (2) sidewalks and tree lawn are detached; (3) curb bulb-outs and crosswalk striping are installed at the intersection of Harrison and Bayaud to calm traffic and improve pedestrian safety; (4) the public right of way is improved along Colorado Boulevard and Harrison Street; and (5) Gateway Improvements are able to be installed at the primary corners Bayaud and Colorado Boulevard. A portion of the corner of each of the Development Properties will be set aside for use as a Cherry Creek Gateway as contemplated in the Cherry Creek Area Plan. The site development plan for each of the Projects shall include the intersection improvements and area on the Development Properties for use as a Cherry Creek Gateway, as described herein and depicted in the Site Plan, and the City shall not approve a site development plan without these inclusions.

(ii) ***Bayaud Gateway Improvements.*** Owner agrees to work to ensure that any improvements implementing the Cherry Creek Gateway concept which are to be located on the Development Properties (and any portion of the Bayaud Gateway Sites, subject to Owner's approval) (collectively, the "Gateway Improvements") shall be designed and determined by a wider group of Cherry Creek Area Stakeholders, likely with or through the Cherry Creek Steering Committee with substantial input from the CCEA. Owner agrees to provide an area on each of the Development Properties for the Gateway Improvements, comparable to what is depicted in Exhibit C, and, upon request by CCEA, enter into appropriate easement documentation to the reasonable satisfaction of the Owner and CCEA to allow for the perpetual location of the Gateway Improvements and for the installation and maintenance thereof without any compensation for such easement rights. The Gateway Improvements are to be initially installed by the Owner with the exception of the cost of sculpture art or third-party prepared elements for the Cherry Creek Gateway acquired by or for the Cherry Creek Area Stakeholders, if any. The sculpture art or third-party prepared element shall be owned by the CCEA or any entity formed by or in concert with it. The infrastructure for the Gateway Improvements (including, without limitation, water for irrigation or fountains and lighting) shall be installed by Owner and maintained in perpetuity by the future owner or owners of the Development Properties and the Buildings constructed thereon. The Gateway Improvements shall provide for a pedestrian experience at the base of the Project Buildings in a manner consistent with the exterior of such Buildings, including any streetscape improvements and outdoor seating, thus providing inviting areas for walking, gathering and social interaction.

(iii) ***Coordination with City, CDOT and Ongoing Project Support.*** A written letter from the City dated March 18, 2020 affirms Owner's and the City's intention to redevelop the Cherry Creek Gateway in conjunction with CDOT. The ownership, maintenance and future capital improvement of the Gateway Improvements and the

lighting and landscape watering installation and maintenance requirements shall be confirmed as part of the overall Projects' development. Building regulations and CCRs (if any) shall require that, if Gateway Improvements are located on the Development Properties, the applicable owner association documentation for any planned community, if and as required by Colorado law, or otherwise Building regulations shall require that ongoing irrigation, water and lighting shall be paid for and provided by the respective Buildings' owners. The requirements set forth in this Section 2.07 are all subject to modifications as required by the City and CDOT, and Owner shall not be obligated to comply with any requirement set forth in this Section 2.07 if prohibited from doing so by the City or CDOT, except for the requirement that the site development plan for each of the Projects shall include the intersection improvements and Gateway Improvements.

Section 2.08. Good Neighbor Construction Practices. Owner acknowledges that the size and density of the Projects will require the implementation of certain construction regulations in order to decrease the negative impact of such construction on the neighborhood. Accordingly, Owner agrees to implement construction practices to keep construction traffic to a minimum on side streets within the neighborhood. Owner shall implement a construction parking and implementation plan as may be required by the City and which shall incorporate the policies outlined on Exhibit E, as modified by mutual agreement between Owner and CCEA. A copy of such plan shall be provided to CCEA prior to commencing construction on the Development Properties.

Section 2.09. Continuity; Design Review Committee. Owner agree to work with CCEA and its applicable zoning or development committees as the Projects proceed. Owner agrees to meet with the CCEA from time to time to address matters relating to the implementation of this Agreement, not less than quarterly. Upon the request of either party thereto, the parties shall meet to discuss changes or modifications to the Projects' Site Plan that may be deemed necessary or desirable or otherwise to review changes to the Projects' design as may be required by the City or otherwise required to meet a specific need or concern of Owner in their development of the Projects.

Section 2.10. Residential Condominium Project; CCRs. In the event that Owner develops any portion of the Projects as a condominium or planned community project for sale to third parties, the CCRs or other declarations therefor shall refer to and be subject to the restrictions and requirements contained in this Agreement, including, without limitation, the requirements for providing lighting and water to the Gateway Improvements. Such CCRs and declarations shall also provide conditions and restrictions that are commercially reasonable with condominium for-sale product.

Section 2.11. CCEA Approval; Board Participation. The CCEA agrees to prepare a letter in support of the Rezoning Application proposed by Owner on the conditions as outlined herein. Notwithstanding such letters of support, Owner acknowledges that there may be members or non-members of the CCEA who may take individual actions inconsistent with the approved actions of the CCEA or their respective Boards or committees. Owner acknowledges that the CCEA is a non-profit organization with a volunteer Board. Owner agrees to hold harmless the individual members of the Board (whether serving prior to or as of the date of this Agreement or in the future) in their individual capacity for any loss, expenses, damages or harm

accruing to Owner and resulting out of this Agreement or from and against any actions by or through the CCEA (acting through or under their respective Boards) in the negotiation, adoption, implementation and enforcement of this Agreement or in processing any changes hereto or in the implementation of the obligations hereunder.

Section 2.12. Modifications to Code. Owner agrees that (i) to the extent that the City Code is modified to relax or change any zoning or use restrictions contemplated herein, then this Agreement shall continue to control with respect to the matters so modified, and (ii) to the extent that the City Code is modified to impose more restrictive zoning and/or use requirements than those that are contemplated herein, then the modified zoning code provisions control with respect to such matters made more restricted. This Agreement shall continue to be effective notwithstanding the implementation of revisions to or restatements of the Code and shall, to the extent possible, be read to be in conformity with such Code. In the event of a conflict between the Code and this Agreement, this Agreement shall control.

**ARTICLE III
BINDING NATURE OF AGREEMENT; ENFORCEMENT**

Section 3.01. Effective Date and Binding Nature of Agreement; Recorded. This Agreement and all 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 Application. This Agreement or a memorandum hereof in form and substance satisfactory to the CCEA shall be recorded by Owner against the Development Properties in order to restrict such parcels in accordance with this Agreement. Owner agrees that the covenants and obligations set forth herein shall be binding upon the development of the Projects and Owner agrees that, if Owner transfer the Bayaud Gateway Sites or any portion thereof, such transfer shall be subject to the provisions of this Agreement and any such purchaser shall be subject to the covenants and obligations of Owner set forth herein.

Section 3.02. Recording of Conditions; Covenants To Run With the Land. Owner hereby subjects the Development Properties and the Bayaud Gateway Sites to the covenants, reservations and restrictions set forth in this Agreement by Recorded Covenants, it being expressly agreed and understood that the provisions hereof are intended to survive the transfer, sale or assignment (whether by voluntary transfer, foreclosure or otherwise) of any portion of the Development Properties or the Bayaud Gateway Sites. In addition, in the event of demolition and reconstruction of the Buildings, the covenants and restrictions contained herein shall apply to any reconstruction of the Buildings on the Development Properties and, to effectuate such agreement, the restrictions contained herein shall be incorporated into the Recorded Covenants to bind any reconstruction. The Recorded Covenants and restrictions contained herein shall be recorded by Owner against the Development Properties prior to completing the rezoning under the Rezoning Application and prior to applying for any permit for construction of the Projects. The CCEA and Owner hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's successors in title to the Development Properties. The Recorded Covenants and each and every contract, deed or other instrument hereafter executed covering or conveying the Projects or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of

whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

Section 3.03. Burden and Benefit. Owner hereby declares its understanding and intent that the burden of the covenants, conditions and agreements set forth herein touch and concern the land in that Owner's legal interest in the Projects and the Development Properties is burdened by the provisions of this Agreement.

Section 3.04. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Bayaud Gateway Sites in order to establish and carry out a common plan for the use, development and improvement of the Bayaud Gateway Sites.

Section 3.05. Default; Enforcement. If Owner (or its successors or assigns) defaults in the performance or observance of any covenant, agreement or obligation of Owner set forth in this Agreement or in any of the Recorded Covenants, then written notice thereof shall be given to Owner by the CCEA, only as to the applicable defaulting Building. For purposes of the enforcement of this Agreement, the CCEA shall have a right to identify facts under which it asserts constitute a default by Owner under this Agreement and the CCEA shall confirm such assertion by and through the Board for or on behalf of the CCEA (following a formal vote of such Board in accordance with the respective organizational bylaws or adopted processes). Notwithstanding anything herein to the contrary, nothing herein shall give any individual member of the CCEA or any individual owner or resident within the CCEA or any Cherry Creek Stakeholder within any portion of the Cherry Creek Area any right to enforce the provisions hereof, it being the intent that only an action by and through the CCEA Boards has the right to take action under this Agreement. In the event that the Board agrees that an Owner default has occurred, then the Board shall deliver written notice of such default to Owner with a copy to the City (the "*Notice of Default*"). 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 as to the applicable Building; provided, however, that if the Event of Default stated in the Notice of Default is of such a nature that it cannot be corrected within 60 days, such default shall not constitute an Event of Default hereunder so long as Owner institutes corrective action within said 60 days and diligently pursues such action until the default is corrected. Following the declaration of an Event of Default hereunder, this Agreement may be enforced as follows:

(i) By mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, requiring Owner to perform its obligations and covenants hereunder or enjoining any acts or things which may be unlawful or in violation of the rights or obligations hereunder.

(ii) By taking such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of Owner hereunder, including seeking damages, equitable remedies or both.

(iii) If the CCEA institutes any action or proceeding in court to enforce any provision hereof against Owner for breach of this Agreement or for damages by reason of any alleged breach of any provision of this Agreement or for any other judicial remedy,

the prevailing party, as determined in such action or suit, shall be entitled to recover from the non-prevailing party all reasonable court costs and attorneys' fees incurred in connection with such proceeding, it being understood and agreed that the determination of the substantially prevailing party shall be included in the matters which are the subject of such action or suit.

(iv) Owner hereby agrees that specific enforcement of Owner's agreements contained herein is the only means by which the CCEA may obtain the benefits of such agreements made by Owner herein and Owner therefore agrees to the imposition of the remedy of specific performance against them in the case of any default by Owner hereunder. Notwithstanding anything herein to the contrary, nothing herein shall be deemed to require the Board of the CCEA to act on any uncured Event or Default or to expend funds for enforcement of this Agreement. Any costs so expended to enforce this Agreement shall be recoverable by in accordance with Section 4.05(iii).

(v) Notwithstanding the foregoing, the CCEA has the right to assign its rights hereunder (including the right of enforcement) to any nonprofit entity the purpose of which is to own, oversee, manage and maintain the Gateway Improvements.

Section 3.06. Term; Termination or Amendment of Agreement. The Recorded Covenants shall be binding on the Development Properties for fifty (50) years from the date of this Agreement, and shall become applicable to and shall bind Owner or any Affiliated Party and all property acquired by them within the Bayaud Gateway Sites. This Agreement may be amended or otherwise terminated only upon (i) a rezoning of the Bayaud Gateway Sites (or as to any portion thereof) subsequent to the rezoning of the Development Properties pursuant to the Rezoning Application which is the subject of this Agreement so long as such further rezoning is in accordance with the rezoning procedures of the City and the CCEA or any then applicable registered neighborhood organization existing under the then applicable Code are notified and given an opportunity to comment, approve or contest such rezoning and the applicability of this Agreement thereto, or (ii) by amendment or termination agreement in writing executed by Owner and the CCEA, including written approvals of the Boards thereof.

Section 3.07. Reconstruction. The provisions of this Agreement shall apply to any improvements constructed on the Bayaud Gateway Sites and to any reconstructed Project Improvements which, from time to time, may be constructed on the Bayaud Gateway Sites.

Section 3.08. No Cross-Default between Development Properties. The Parties acknowledge that the Development Properties may be under separate ownership or control in the future. Any default under this Agreement for one of the Buildings noticed by the CCEA, that continues based on applicable notice and cure period specified herein, shall constitute an Event of Default under this Agreement as to the identified Building only and shall have no impact or implication to the other Building under this Agreement.

**ARTICLE IV
MISCELLANEOUS PROVISIONS OF GENERAL IMPORT**

Section 4.01. Governing Law. This 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 Affiliated Parties and their 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, postage prepaid, return receipt requested, at the addresses specified below for each of the parties hereto, or at such other addresses as may be specified in writing by the parties hereto to the other parties or by email so long as such email is confirmed received. Such notices being delivered to the CCEA by email shall be sent to the CCEA Board president at the email address for contact purposes as shown on the website. Copies of any notices shall also be given to the Denver City Councilperson for the District in which the CCEA is located. Notices shall be deemed delivered on the date that confirmed delivery is made if by courier service or registered or certified mail.

If to Owner: CC Gateway Owners LLC
c/o McKinnon & Associates, LLC
730 17th Street, Suite 220
Denver, CO 80202
Attention: Doug McKinnon

with a copy to: Caitlin Quander, Esq.
Brownstein Hyatt Farber Schreck
410 17th Street, Suite 2200
Denver, CO 800224

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

If to City: **IN EACH CASE, WITH A COPY TO THE CITY COUNCILPERSON FOR THE DISTRICT IN WHICH THE DEVELOPMENT PROPERTY IS LOCATED.**

Section 4.04. Severability. If any provision of this 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 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. Third Party Beneficiaries. The City shall be an express third party beneficiary of this Agreement. Except for the City, 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 unless expressly otherwise provided herein. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Development Properties (or any portion of the Bayaud Gateway Sites acquired in the future by Owner or any Affiliated Party) to the general public, it being the intention and understanding of Owner that the benefits and burdens created by this Agreement shall be limited to and for the purposes herein specified.

Section 4.07. RECORDED COVENANTS PRIOR TO ANY MORTGAGE OR FINANCING. It is the intention of the Parties that any mortgage or financing liens against the Development Properties entered into after the execution and recordation of this Agreement shall be subject to the Recorded Covenants. Owner shall use good faith efforts to obtain the written consent to this Agreement by Owner's current lender, in a form substantially similar to Exhibit F attached hereto and incorporated herein, prior to this Agreement becoming binding on the parties hereto, which consent shall be recorded concurrently with the recordation of this Agreement. Owner shall use good faith efforts to obtain lender's consent to this Agreement prior to Owner appearing before City Council seeking the Rezoning Application. Any future lender shall consent to this Agreement via a lender consent in the form substantially similar to Exhibit F.

Section 4.08. 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 term sheet, outline or other communications regarding the Project and the CCEA's positions with respect thereto.

Section 4.09. Termination of Agreement. Should the Denver City Council fail to approve the Rezoning Application or approve the Rezoning Application with conditions unacceptable to Owner which cause Owner not to proceed with the Projects, or if the approved rezoning is challenged / appealed without resolution allowing Owner to proceed with the Projects as anticipated, within one hundred eighty (180) days after the date of this Agreement, then this Agreement is automatically void without further action of the Owner or the CCEA and shall no longer burden title to the Development Properties, unless the Owner and the CCEA mutually agree to extend this 180 day time period in writing. If this condition precedent is not met, and if requested by the Owner, the CCEA will execute and record a document evidencing that this Agreement was deemed void.

[Remainder of page intentionally left blank]

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

Owner:

CC GATEWAY OWNERS LLC,

a Colorado limited liability company

By: 

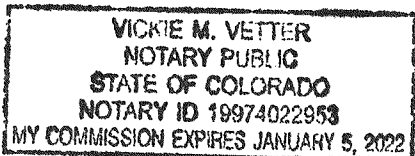
Doug McKinnon, Manager

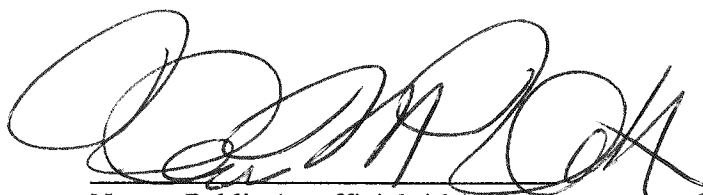
STATE OF COLORADO)
CITY AND) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 8th day of July, 2020, by Doug McKinnon, as Manager of CC GATEWAY OWNERS LLC, a Colorado limited liability company.

Witness my hand and official seal.
My commission expires: 1-5-2022

[S E A L]




Notary Public (or official title)

[SIGNATURE PAGES CONTINUE ON FOLLOWING PAGE]

CCEA

Cherry Creek East Association

By: _____

[Handwritten Signature] John Fredennick

Acting CCEA Board President, on behalf of the CCEA Board and as approved by the CCEA Board by Resolution dated approved and ratified July 16, 2020.

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

The foregoing instrument was acknowledged before me this 13th day of July, 2020, by JOHN FREDENICK, as President of Cherry Creek East Association, a Colorado nonprofit corporation.

Witness my hand and official seal.
My commission expires: June 13 2023

[S E A L]

MIA B BALLENTINE
NOTARY PUBLIC - STATE OF COLORADO
NOTARY ID 19954007922
MY COMMISSION EXPIRES JUN 13, 2023

[Handwritten Signature]

Notary Public (or official title)

[Handwritten mark]

**EXHIBIT A
LEGAL DESCRIPTION OF DEVELOPMENT PROPERTIES**

NW PROPERTY:

Lots 14, 15, 16, 17, 18, 19, and 20, Block 27,
BURLINGTON CAPITOL HILL ADDITION,
City and County of Denver,
State of Colorado.

Containing 16,504 +/- SF

SW PROPERTY:

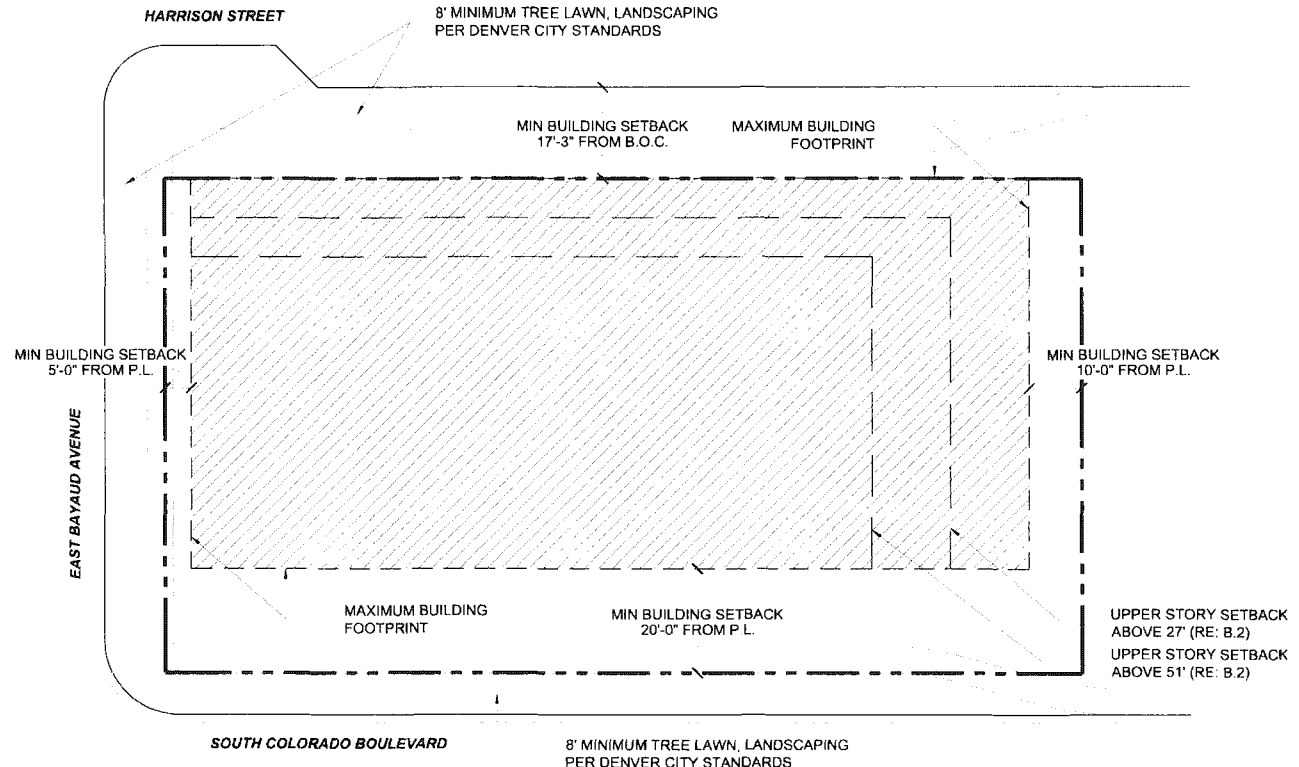
Lots 1, 2, 3 and 4, Block 28,
BURLINGTON CAPITOL HILL ADDITION,
City and County of Denver,
State of Colorado.

Containing 9,527 +/- SF

EXHIBIT B SITE PLAN

EXHIBIT B.1

55-65 SOUTH COLORADO BLVD, DENVER CO
REVISED FEBRUARY 26, 2020



SITE PLAN REQUIREMENTS

DRAWING NTS 

- NOTES
1. ALL NEW SIDEWALKS SHALL BE 5'-0" MINIMUM WIDTH AND TIE INTO EXISTING SIDEWALKS ALONG COLORADO BOULEVARD AND HARRISON STREET.
 2. MINOR ARCHITECTURAL ELEMENTS SHALL BE ALLOWED TO ENCROACH INTO SETBACKS PER THE DENVER ZONING CODE.
 3. IN ALL RESPECTS, THE DETAIL AND FINAL DESIGN OF THE FOREGOING IMPROVEMENTS WILL BE FINALIZED DURING THE SITE DEVELOPMENT REVIEW PROCESS.

OT

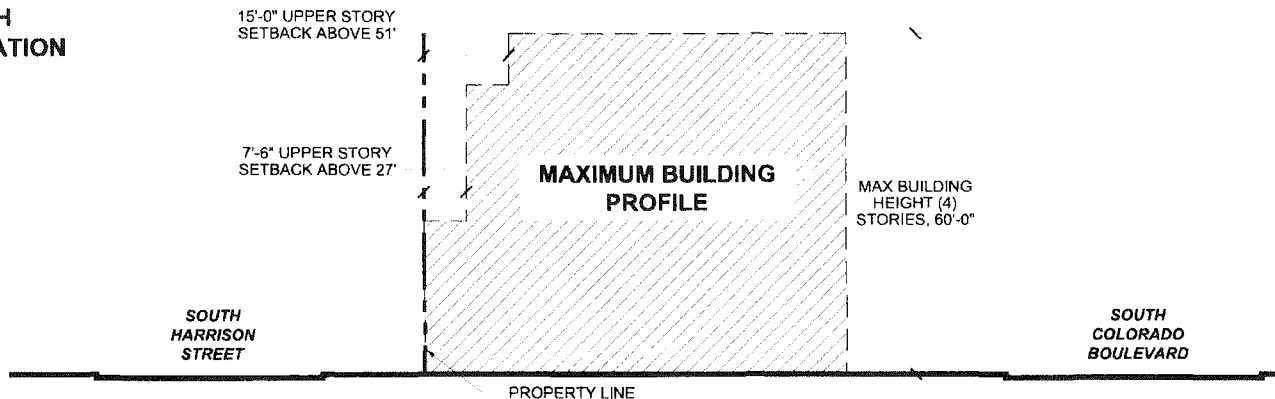
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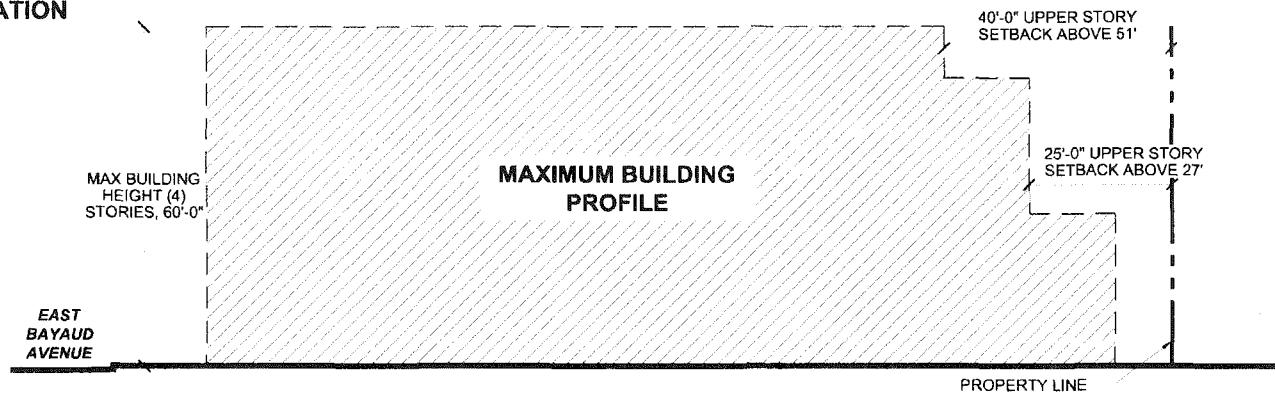
EXHIBIT B.2

55-65 SOUTH COLORADO BLVD, DENVER CO
REVISED FEBRUARY 26, 2020

SOUTH ELEVATION



EAST ELEVATION



ELEVATION REQUIREMENTS

DRAWING NTS 

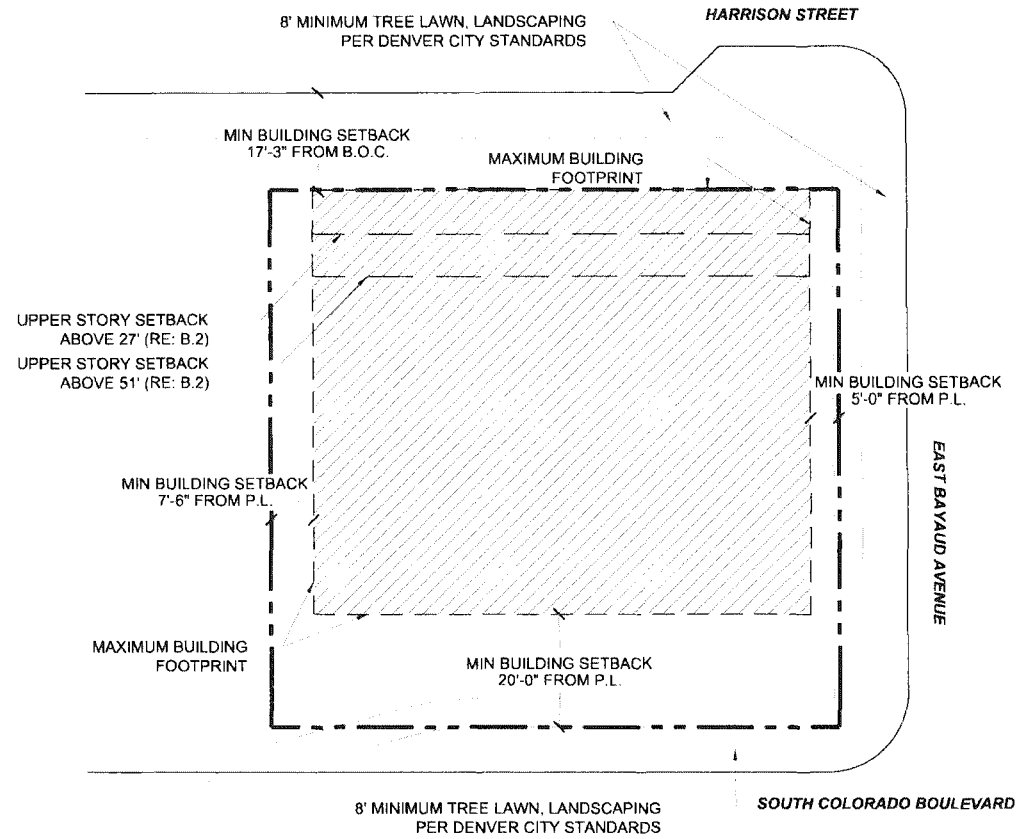
NOTES

1. ALL VERTICAL DIMENSIONS (INCLUDING NUMBER OF STORIES) ARE MEASURED FROM THE 'BASE PLANE' AS DEFINED BY THE DENVER ZONING CODE.
2. ALLOWED HEIGHT EXCEPTIONS PER THE DENVER ZONING CODE SHALL REMAIN PERMISSIBLE.
3. A ROOFTOP AMENITY PENTHOUSE (ABOVE LEVEL 4) BUILT WITHIN THE LIMITS OF THE DENVER ZONING CODE SHALL BE PERMISSIBLE. THIS PENTHOUSE SHALL INCLUDE LIMITED INTERIOR SPACE ANCILLARY TO PRIMARY LIVING SPACES BELOW. NO DWELLING SPACES SHALL BE LOCATED WITHIN THIS PENTHOUSE AND THE PRIMARY FUNCTION OF ALL ENCLOSED SPACE SHALL BE FOR THE PURPOSE OF ACCESS AND USE OF ADJACENT OUTDOOR TERRACES.
4. UPPER STORY SETBACKS ARE MEASURED FROM THE PROPERTY LINE, EXTENDING TO THE SPECIFIED HEIGHT FROM THE BASE PLANE AND THEN HORIZONTALLY TO THE SPECIFIED SETBACK DISTANCE.
5. VERTICAL OR SLOPED WALLS ENCLOSING THE ROOFTOP AMENITY PENTHOUSE SHALL BE SET BACK FROM THE PERIMETER OF THE BUILDING A MINIMUM OF ONE FOOT HORIZONTALLY FOR EVERY ONE FOOT OF VERTICAL HEIGHT, STARTING FROM A POINT 60'-0" ABOVE THE BASE PLANE. THIS RESTRICTION IS MEANT TO BE SIMILAR TO REQUIRED SCREENING FOR ROOFTOP ENCROACHMENTS PER SECTION 7.3.7.1 OF THE ZONING CODE.

EXHIBIT B.1

101 SOUTH COLORADO BLVD, DENVER CO

REVISED FEBRUARY 26, 2020



SITE PLAN REQUIREMENTS

DRAWING NTS 

NOTES

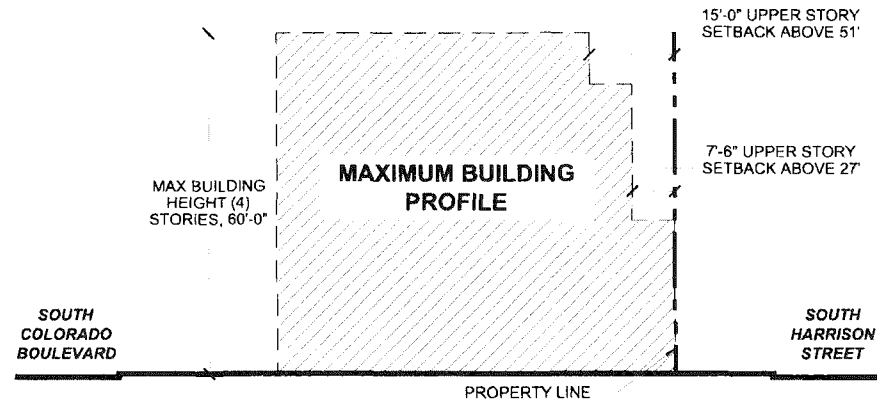
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AT

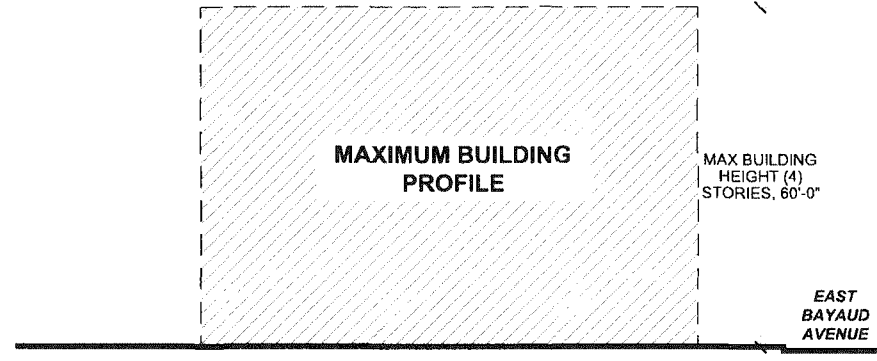
EXHIBIT B.2

101 SOUTH COLORADO BLVD, DENVER CO
REVISED FEBRUARY 26, 2020

**NORTH
ELEVATION**



**EAST
ELEVATION**



ELEVATION REQUIREMENTS

DRAWING NTS

NOTES

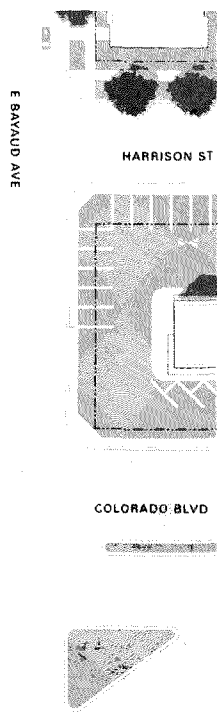
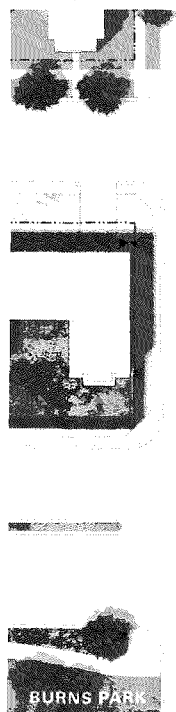
1. ALL VERTICAL DIMENSIONS (INCLUDING NUMBER OF STORIES) ARE MEASURED FROM THE 'BASE PLANE' AS DEFINED BY THE DENVER ZONING CODE.
2. ALLOWED HEIGHT EXCEPT IONS PER THE DENVER ZONING CODE SHALL REMAIN PERMISSIBLE.
3. A ROOFTOP AMENITY PENTHOUSE (ABOVE LEVEL 4) BUILT WITHIN THE LIMITS OF THE DENVER ZONING CODE SHALL BE PERMISSIBLE. THIS PENTHOUSE SHALL INCLUDE LIMITED INTERIOR SPACE ANCILLARY TO PRIMARY LIVING SPACES BELOW. NO DWELLING SPACES SHALL BE LOCATED WITHIN THIS PENTHOUSE AND THE PRIMARY FUNCTION OF ALL ENCLOSED SPACE SHALL BE FOR THE PURPOSE OF ACCESS AND USE OF ADJACENT OUTDOOR TERRACES.
4. UPPER STORY SETBACKS ARE MEASURED FROM THE PROPERTY LINE, EXTENDING TO THE SPECIFIED HEIGHT FROM THE BASE PLANE AND THEN HORIZONTALLY TO THE SPECIFIED SETBACK DISTANCE.
5. VERTICAL OR SLOPED WALLS ENCLOSING THE ROOFTOP AMENITY PENTHOUSE SHALL BE SET BACK FROM THE PERIMETER OF THE BUILDING A MINIMUM OF ONE FOOT HORIZONTALLY FOR EVERY ONE FOOT OF VERTICAL HEIGHT, STARTING FROM A POINT 60'-0" ABOVE THE BASE PLANE. THIS RESTRICTION IS MEANT TO BE SIMILAR TO REQUIRED SCREENING FOR ROOFTOP ENCROACHMENTS PER SECTION 7.3.7.1 OF THE ZONING CODE.

Handwritten initials

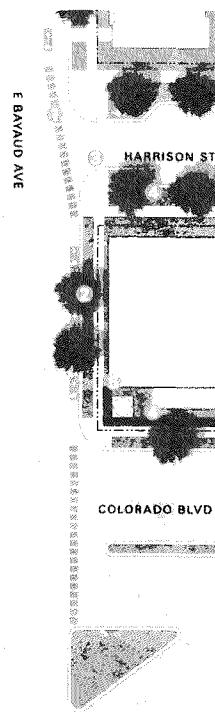
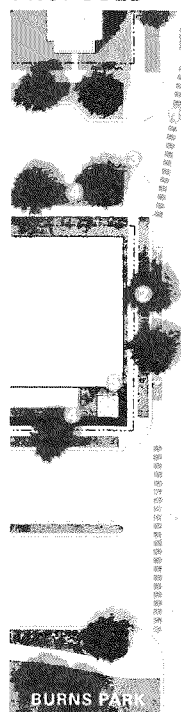
EXHIBIT C RIGHT OF WAY, BIKE LANES AND CROSS WALK DEPICTION

Bayaud Gateway Streetscape Improvements

EXISTING



PROPOSED



- ⊕ Bike lanes extended to connect with Burns Park
- ⊕ Detached sidewalks and tree lawn
- ⊕ Curb bulb-outs and crosswalk striping at Harrison / Bayaud Intersection to calm traffic and improve pedestrian safety
- ⊕ Improved public right-of-way along Colorado Boulevard and Harrison Street
- ⊕ Gateway features at primary corners

McKinnon & Associates, LLC
TRYBA ARCHITECTS

OT

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**EXHIBIT D
DEPICTION OF PROJECTS**

Gateways East

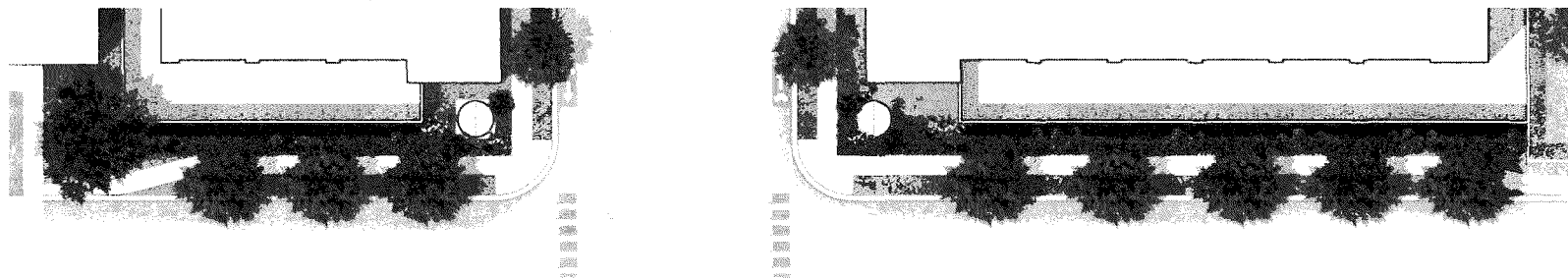
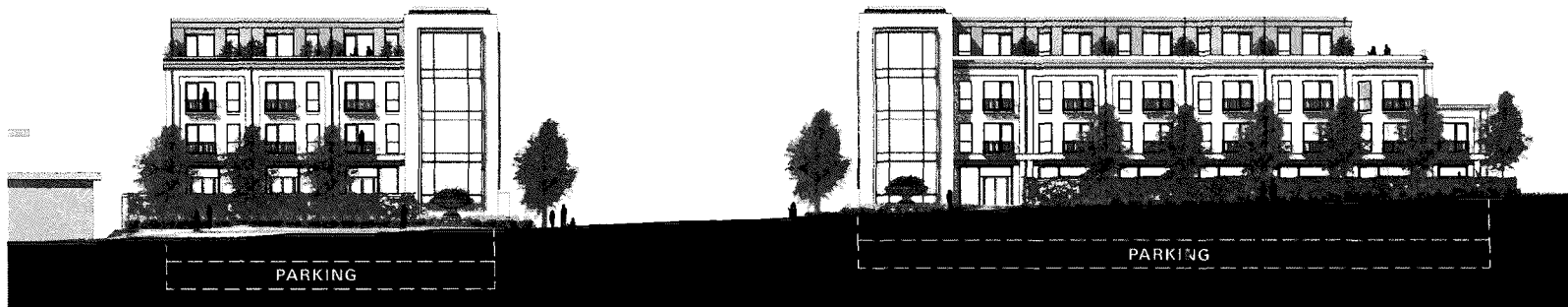
Cherry Creek, Colorado

McKinnon & Associates, LLC
TRYBA ARCHITECTS

Massing Update: 4-Story Building Elevations

February 23, 2020

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ELEVATION AND SITE PLAN

Bayaud Gateway

McKINNON & ASSOCIATES, LLC · TRYBA ARCHITECTS
23 FEBRUARY 2020



JD

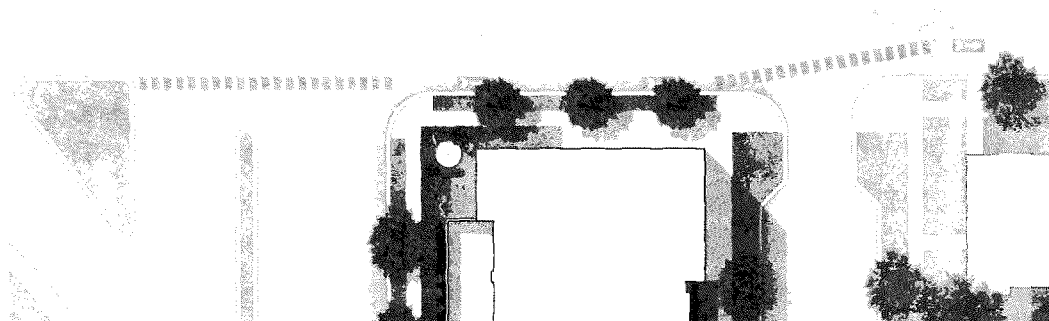
D-2

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106

revised-8.11.20
fee paid - \$1,500



ELEVATION AND SITE PLAN

Bayaud Gateway

McKINNON & ASSOCIATES, LLC · TRYBA ARCHITECTS
23 FEBRUARY 2020



OT

D-3

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19i-00031

107

revised-8.11.20
fee paid - \$1,500

EXHIBIT E GOOD NEIGHBOR CONSTRUCTION POLICY

Owner agree to implement a plan of construction management techniques, including the following:

- Project manager cell phone 24/7
- Address parking for workers (on-site if possible) and agree to apply for parking restrictions if the rest of the block owners so desire, and City allows
- Trash picked up/enclosed port of lets in less visible location
- No trucks and back up beeps before 7 a.m. on weekdays, 8 a.m. on weekends
- Construction weekdays 7a.m. – 7 p.m. / weekends 8 a.m. – 5 p.m.
- Dust mitigation methods, including without limitation, water wagons for construction dust control.
- Use a website for the purpose of updating the Cherry Creek Area Stakeholders of important dates (such as street closures and water interruption) and generally for project updates. Provide an email so that neighborhood concerns are able to be expressed on a timely basis.

Owner will adhere to the “4 C’s”

Communication with Neighbors Can Facilitate Cooperation and Support

The 4-C Solution:

1. Communication: Builders who communicate while attempting to limit the impact that construction invariably causes will win the tolerance of the neighboring residents. A sign on the site, a flyer, a letter to residents in the immediate area explaining the project and the anticipated schedule can alleviate much of the residents’ concerns about the short-term problems commonly generated by construction.
2. Common Sense: While it is the nature of construction to be messy, noisy and paced to meet the pressure of deadlines and budgets, neighborhood sites require special consideration. Neighbors and builders must acknowledge the root of the situation – the area is both a neighborhood, where people retreat from the work-a-day world, and a job site, where time is money and money is the bottom line. Residents’ concerns arise when construction practices continually go beyond the limits of common sense.
3. Courtesy: Builders can work to the limit of the law, which allows construction noise from 7 AM to 9 PM seven days a week. Thoughtful contractors who make the effort to schedule the more disruptive aspects of the project to take place during weekdays between 8 AM and 5 PM should expect few complaints from the surrounding residents. Builders who respect neighbors’

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concerns and take action to remedy or modify a problem will find that that kind of consideration should gain friendly support during the project. By responding with common courtesy, the contractor may attract a future project from another homeowner.

4. **Compromise:** Compromise begins when builders and neighbors consider each other's point of view. Compromise takes place through friendly communication between neighbors, Owner and the contractors.

GUIDELINES FOR BUILDERS

Informing Neighbors: At least two days in advance of construction or demolition, Owner should:

1. Call or meet with as many neighbors as possible
2. Mail letter or flyers describing the project
3. Post a sign at the site with a phone number for questions

During Construction: Considerate site policies and procedures should be specifically outlined for the contractors' employees as well as any sub-contractors on the job.

1. Limit working hours of high noise operations to the middle of the day at least until the structure is fully enclosed
2. Limit and control radio noise
3. Consider neighbor's exposure in siting and screening the project's mechanical equipment
4. Place the dumpster on the lot or on the street in the middle of the site
5. Avoid blowing debris and accumulation of clutter
6. Cover the dumpster with a tarp bound by cord to contain dust and debris and to control unauthorized use of the dumpster, at the end of each construction day
7. Park construction vehicles off-street if possible. Turn off engines unless operating other equipment
8. Place portable toilets away from property lines in less visible locations; arrange for regular service
9. Control dust with water and chutes
10. Avoid damage to trees and landscaping

E-2

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9T

revised-8.11.20
fee paid - \$1,500

**EXHIBIT F
CONSENT OF LIENHOLDER**

The undersigned lienholder (the "**Lienholder**"), holder of a leasehold deed of trust lien on the Development Properties, recorded in the real property records of the City and County of Denver, Colorado ("**Records**") on _____, at Reception No. _____ ("**Deed of Trust**"), hereby consents to and approves the terms, covenants and provisions of the Development Agreement and Declaration of Restrictive Covenants recorded in the Records on _____, 20__, at Reception No. _____ ("**Agreement**") and agrees that the Agreement shall not be extinguished, limited or affected to any extent by any foreclosure of the Deed of Trust.

IN WITNESS WHEREOF, the undersigned has caused this Consent of Lienholder to be signed by its duly authorized officer(s) on its behalf, on this ___ day of _____, 20__.

LIENHOLDER:

a _____

By: _____
Name: _____
Title: Authorized Representative

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____, as _____ of _____, a _____.

Witness my hand and official seal.

My Commission Expires: _____.

Notary Public



March 18, 2020

Doug McKinnon
McKinnon and Associates
730 17th St. #220
Denver, CO 80202

RE: Proposed rezoning of Property at 101 N. Colorado Blvd. and 101 S. Colorado Blvd. to G-MU-5 and proposed rezoning of property at 97 Colorado Blvd, 55-65 Colorado Blvd. 51 Colorado Blvd. and 98 Harrison Street to G-RO-5

To Whom it May Concern:

Upon request of Doug McKinnon (the "Applicant") at the meeting with city staff on February 27, 2020, this letter is provided on behalf of Denver Department of Transportation and Infrastructure (DOTI), City Traffic Engineer, in connection with the proposed rezoning of the above referenced properties. DOTI has reviewed the proposed concept for the "1st Avenue Gateway" that was presented to the Cherry Creek community on September 19, 2019 and subsequently forwarded to our department for review. Presentation attached.

It is DOTI's understanding that the Applicant has in good faith engaged with Registered Neighborhood Organizations (RNO's) in the future project area, and that it is desired by the Cherry Creek North Neighborhood Association (CCNNA) and Cherry Creek East Association (CCEA) registered neighborhood organizations (collectively the "RNO's") that in connection with a future private redevelopment project, the Applicant wishes to reconfigure the intersection at 1st Ave. and Colorado Blvd. such that the right turn bypass islands are removed. Upon initial cursory review, with limited technical information, DOTI staff have not identified any fatal flaws with the high level, proposed concept that would prohibit this concept from moving forward. The concept includes the removal of the right turn bypass islands on the western leg of the intersection and installation of gateway features. Actual development of the site will be required to follow Denver's standardized Site Development Plan Review process, as described at denvergov.org. During this process, removal of the right turn bypass islands on the western leg of the intersection will be subject to technical review and held to transportation engineering standards, rules, regulations, transportation infrastructure needs and best practices.

Similarly, any gateway features will be reviewed and evaluated during that time to ensure compliance with City and County of Denver standards and practices. Any gateway features proposed for the public right-of-way will ultimately need to obtain an encroachment permit as described in Denver's [Rules and Regulations: Encroachments in the Public Right of Way](#) document and will require maintenance from an entity excluding the City and County of Denver.

DOTI has also reviewed the proposed modifications to the Bayaud Ave. and Colorado Blvd. intersection and has not found any fatal flaws with this proposed concept. Currently, the bike lane ends at Harrison Street and there is support for continuing the bicycle lane. Achieving cyclist safety completely across the Colorado Blvd./Bayaud Ave./Leetsdale Dr. intersection will be an important consideration and ensuring cyclists have a safe condition to cross to at E. Bayaud Ave. and Leetsdale Dr. will be critical to moving this concept forward.

City and County of Denver Department of Transportation & Infrastructure
Transportation Design
201 W. Colfax Ave. | Denver, CO 80202
www.denvergov.org/doti

At this time, DOTI does not have identified funding to participate in these conceptual public ROW improvements identified in the letter from CCNA and CCEA dated February 18, 2020.

Finally, Denver staff recommend early and ongoing conversations with the Colorado Department of Transportation (CDOT) as Colorado Boulevard is a CDOT owned road. It is Denver's understanding that CDOT plans to rebuild the 1st Avenue and Colorado Boulevard intersection in 2020. Collaboration around this signal project will result in minimized impacts to the surrounding community.

This letter should not be construed as a position of recommending approval of the rezoning. Through the site development plan and other subsequent processes, we continue to reserve the right to raise other comments and alter positions as new information is provided and further analysis is conducted and submitted. This letter is non-binding, is not a promise or guarantee that DOTI will approve the 1st Avenue Gateway project as presented in concept plans, and should not be construed as a recordable encumbrance.

Sincerely,



City Traffic Engineer | Director of Transportation Design
Department of Transportation and Infrastructure
City and County of Denver

Att

City and County of Denver Department of Transportation & Infrastructure
Transportation Design
201 W. Colfax Ave. | Denver, CO 80202
www.denvergov.org/doti