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TO: Denver City Council
FROM: Ryan Winterberg-Lipp, AICP, Senior City Planner
DATE: April 28, 2016
RE: Official Zoning Map Amendment Application #2015I-00125
4100 and 4050 North Kittredge Street
Rezoning from Gateway with Waivers and Conditions to S-CC-5x

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2015I-00125 for a rezoning from Gateway with Waivers and Conditions ("W/C") to S-CC-5x.

Request for Rezoning

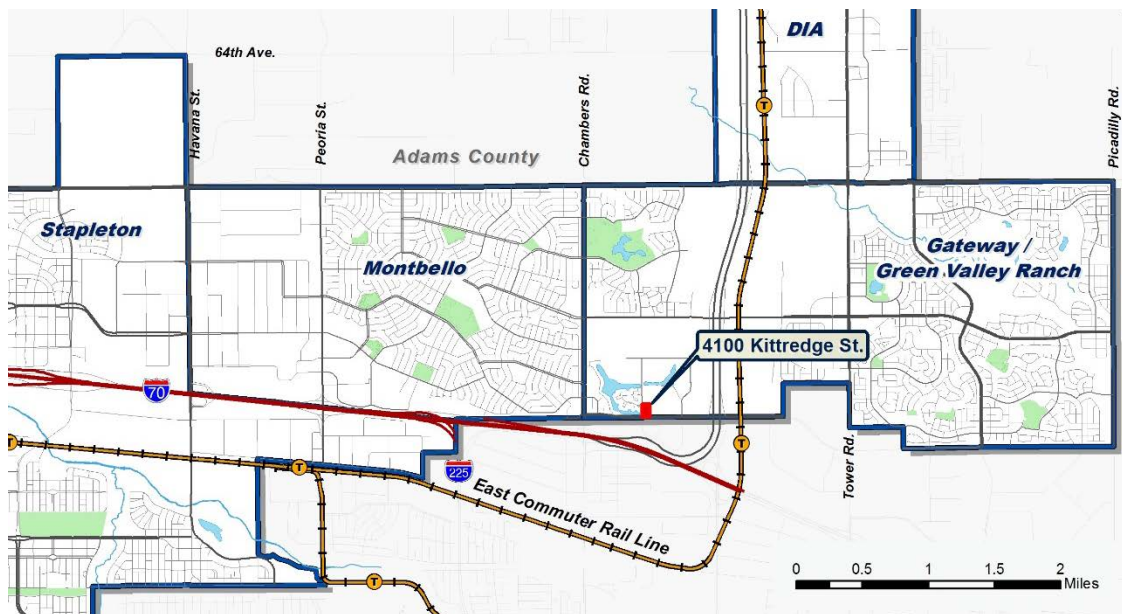
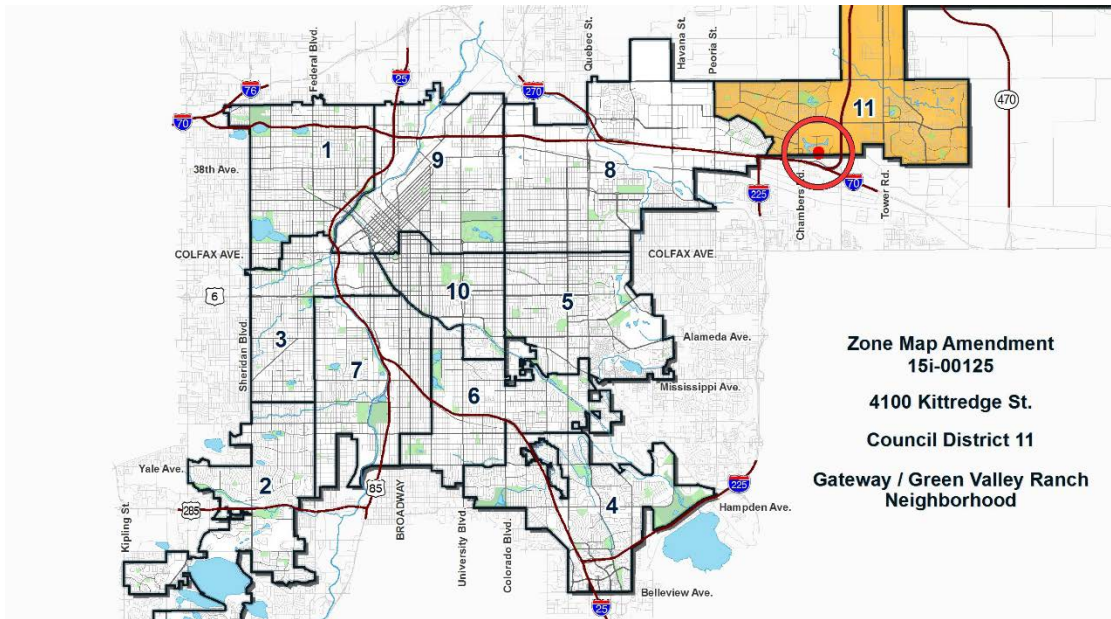
Application:	#2015I-00125
Address:	4100 and 4050 North Kittredge Street
Neighborhood/Council District:	Gateway – Green Valley Ranch / Council District 11
RNOs:	Alliance for Justice; Denver Neighborhood Association, Inc.; Inter-Neighborhood Cooperation; Montbello 20/20; Northern Corridor Coalition
Area of Property:	3.05 acres
Current Zoning:	Gateway with Waivers and Conditions (W/C)
Proposed Zoning:	S-CC-5x
Property Owner(s):	Arapahoe Development LLC and Café Tuscano Colorado LLC
Owner Representative:	Jack E. Reutzel, Esq – Fairfield and Woods

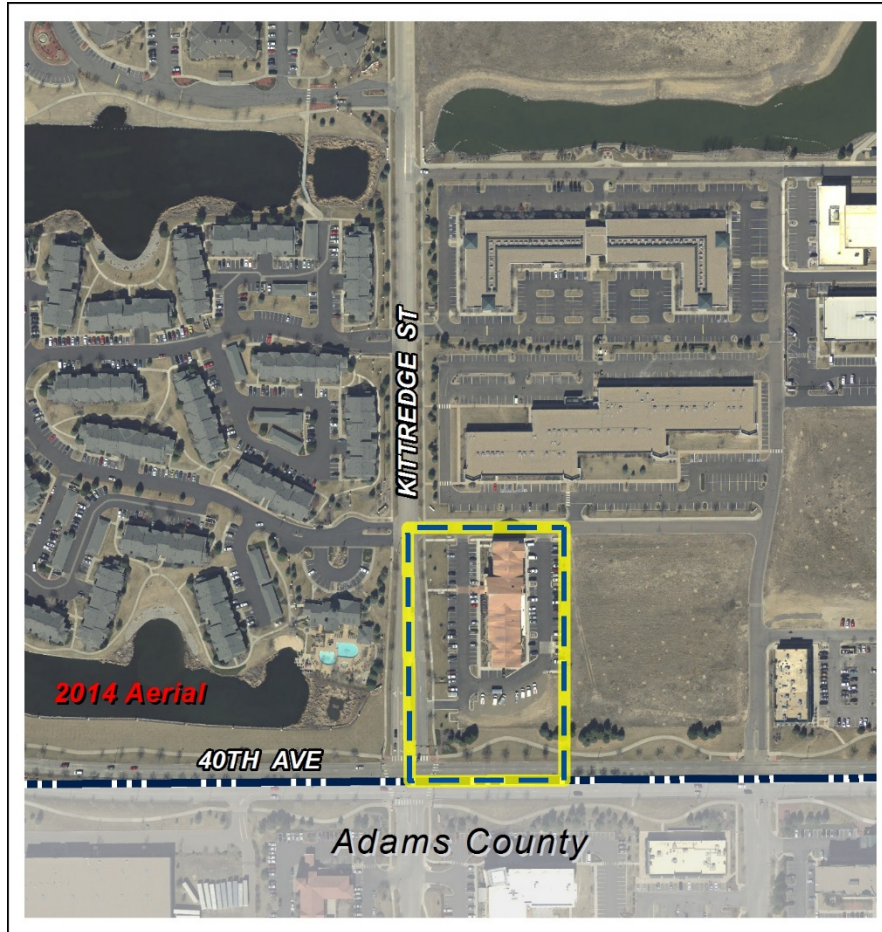
Summary of Rezoning Request

- The subject property is located in the Gateway – Green Valley Ranch statistical neighborhood, at the intersection of N. Kittredge St. and E. 40th Avenue. East 40th Ave. is the boundary with Adams County to the south.
- The site is comprised of two ownership parcels owned by Arapahoe Development LLC and Café Tuscano Colorado LLC. The parcel owned by Arapahoe Development LLC includes a four-story hotel constructed in 2011, and the Café Tuscano Colorado LLC site is vacant. An approved Site Development Plan exists for both properties, and the vacant 4050 Kittredge site is approved for the construction of an eating and drinking establishment.
- The site is currently zoned Gateway W/C. The Gateway zone district is a Former Chapter 59 (FM CH 59) zone district that applies to lands in the Gateway district. More details can be found in Section 59-341 of FM CH 59 and in ordinance 801 of 1999 for specific waivers and conditions.
- The property owners are requesting a rezoning to S-CC-5x in order to bring the existing hotel structure and vacant site into compliance with zoning standards. The Site Development Plan

approved for both the 4100 and 4050 Kittredge sites does not comply with the current Gateway W/C zoning standards as a result of an unintentional error in development review. The rezoning accounts for both the existing condition and current entitlement and will result in a conforming site, if approved.

- The requested S-CC-5x zone district is in the Suburban neighborhood context, allowing Commercial Corridor uses, up to 5 stories in height. The “x” denotes that the S-CC-5x zone district allows less intense uses than the S-CC-5 zone district. Further details of the zone district can be found in Article 3 of the Denver Zoning Code (DZC).





Existing Context

The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	Gateway W/C	Lodging Accommodations and Vacant	Mid-rise structure with surface parking between the building and the street with large landscaped setbacks	Immediate vicinity is suburban and auto-oriented in nature with larger, generally regularly-shaped blocks. Commercial and retail lots are generally large, and alleys are
North	Gateway W/C	Office, vacant, and detention	Generally large, one-story office structures with surface parking in an auto-oriented configuration	

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
South	Adams County	Lodging accommodations, office, restaurant	Low and mid-rise commercial, office, and retail structures with surface parking in an auto-oriented configuration	not present. Some smaller pad sites are oriented to E. 40 th Ave. Interstate 70 and Peña Boulevard intersect to the south and east of the site.
East	Gateway W/C	Office, warehouse, lodging accommodations, restaurant, and vacant	Low and mid-rise lodging, office, warehouse, and retail structures with surface parking in an auto-oriented configuration	
West	Gateway	Multi-family residential, rowhouse and stormwater detention	Low-scale multifamily residential and attached units with interior streets	

1. General Development Plan

The Gateway Park IV West Kittredge East General Development Plan (GDP) currently applies to the subject property. The GDP area is 96 acres, bound by the Peña Blvd. corridor, E. 40th Ave., N Kittredge St., and E. Bolling Dr. The GDP sets forth general use areas, vehicular access points, pedestrian circulation, general locations of future roadways, and residential densities. The GDP also duplicates the waivers and conditions included in the Gateway W/C zoning that apply to the subject site and the larger area rezoned under ordinance 1999-801.

The infrastructure surrounding and accessing the subject site, including regional stormwater detention, has already been constructed in accordance with the GDP. Therefore, if the requested map amendment for the subject site is approved, the General Development Plan will no longer serve a development or planning purpose for the site. Accordingly, the subject site will be removed from the GDP's applicability through the rezoning, and the GDP will not be used in further consistency analysis. The GDP will remain for the remainder of the area within the Gateway W/C zoning.

2. Existing Zoning

The site is currently zoned Gateway with Waivers and Conditions, a custom Former Chapter 59 zone district. The Gateway zone district applies to areas generally within Denver's Gateway area and includes various "use areas" that dictate the appropriate mix and intensity of uses. The subject site is located within the "MU2: Mixed Use 2" use area, described as "a general purpose, lower scale, mixed use area to accommodate office uses, office uses in combination with research, storage, distribution uses, research and development uses, and assembly/light manufacturing uses. [...] Smaller freestanding retail

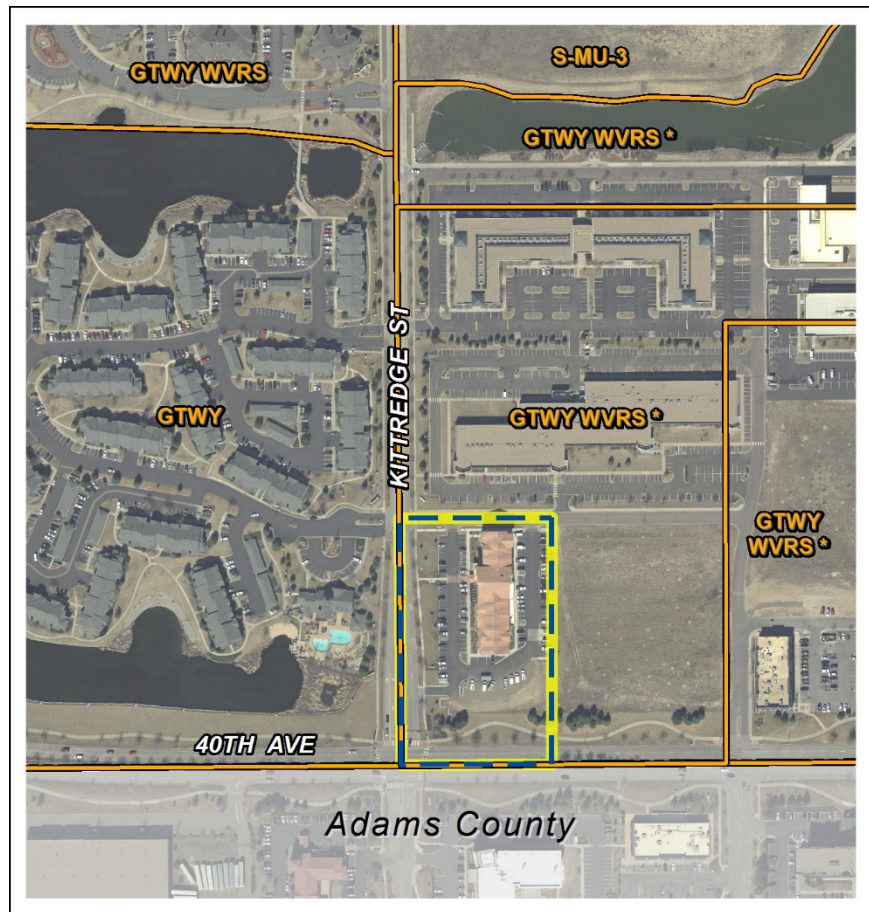
uses are allowed only in specified locations, and accessory retail uses are allowed on the lower floors of some multi-story buildings in some areas to serve on-site uses” (Sec. 59-343 (2)). The MU2 use area includes a maximum Floor Area Ratio (FAR) of 0.6 with the possibility to increase the FAR to a maximum of 1.2 with density bonuses. Building massing and bulk are restricted by bulk planes where contiguous to residential use areas; however, the subject site is not contiguous to a residential use area, so the bulk plane does not apply.

The waivers and conditions approved by ordinance 801 of 1999 were customized for a specific development concept across the 96 acres of property, vacant at the time of approval.

The waivers and conditions specify use areas and building heights as measured in feet without maximum stories. The use area for the subject site is MU2: Mixed Use 2, and the maximum specified building height is 75 feet. The requested S-CC-5x zone district acknowledges and responds to these standards through a mix of permitted uses with a maximum permitted building height of 70 feet. The less intense uses permitted under the S-CC-5x zone district are also contextually sensitive to multi-family development in the area.

The applicable waivers include highly customized use restrictions corresponding to blocks that would be later defined by the construction of the street network. The anticipated street alignment did not materialize as planned, but these use restrictions remain, based upon dimensions that do not align with the constructed streets. The waivers also eliminate certain permitted uses, establish special review processes, limit the number of restaurants fronting on certain streets and impose separation requirements, and limit the gross floor area of restaurants accessory to hotels. Conditions also include building form and site design standards that correlate to the specific development plan.

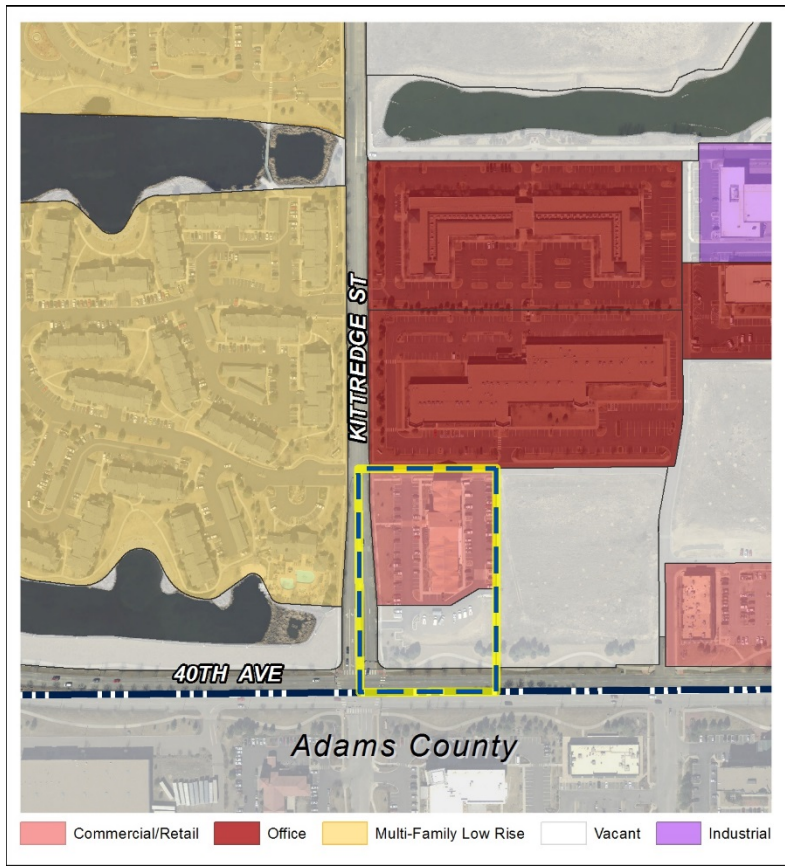
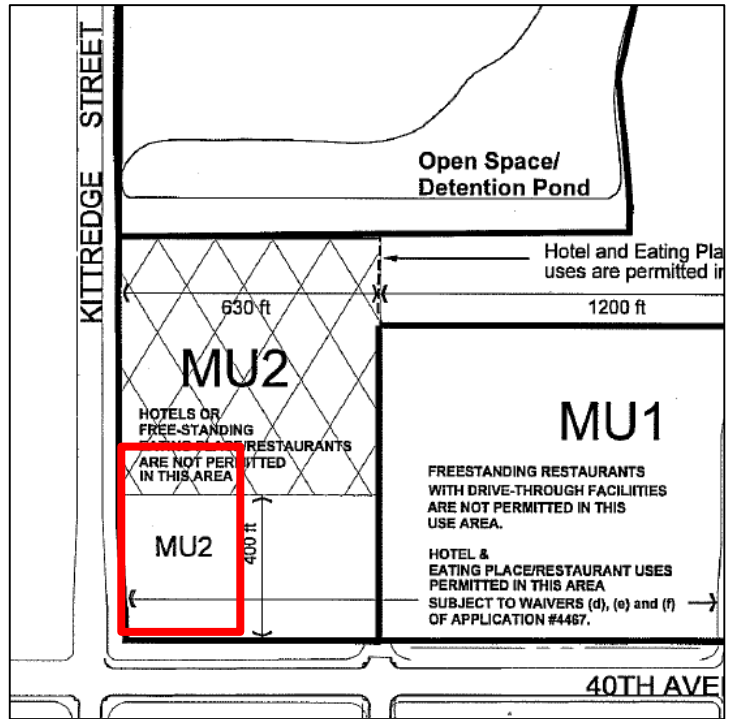
The Site Development Plan approved for 4100 and 4050 Kittredge and the hotel constructed in accordance with it do not comply with these highly customized and inflexible W/C due to unintentional errors in reviewing the development against these standards. Specifically, the existing hotel was permitted and constructed in an area where the lodging accommodation use was not permitted by the



custom zoning as shown in the graphic to the right. Additionally, both the existing hotel structure and permitted eating and drinking establishment do not comply with setback requirements and standards regarding the location of surface parking.

3. Existing Land Use Map

As seen in the Existing Land Use Map below, the area to the north and east includes office, commercial, and warehousing uses with stormwater detention and substantial vacant parcels. The area to the west is a large, internally-oriented multi-family residential area. The area to the south in Adams County is a similar auto-oriented, commercial and office context.



4. Existing Building Form and Scale



Subject site looking east



Subject site looking north



Mid-rise commercial to the south of the site



Low-rise multi-family to the west of the site

Summary of City Agency Referral Comments

As part of the DZC review process, the rezoning application is referred to potentially affected City agencies and departments for comment. A summary of agency referral responses follows:

Asset Management: Approved – No Comments

Development Services – Project Coordination: Approved – No Comments

Denver Fire Department: Approved – No Comments

Development Services – Wastewater: Approved

Wastewater has no objection to the re zoning. Please be advised redevelopment of the listed parcels will be subject to detail wastewater review; which may or may not include a sanitary study, drainage report and construction plans. Owner should be aware of the existing on site drainage facilities and storm easements, along with the development impacts from the neighboring property to the east (16161 East 40th Ave).

Parks and Recreation: Approved – No Comments

Public Works – City Surveyor: Approved – No Comments.

Environmental Health: Approved – No Comments.

Development Services – Transportation: Approved

DS Transportation approves the subject zoning change. The applicant should note that any redevelopment of this site may require additional engineering, ROW dedication to the City, access changes, traffic studies and/or right of way improvements. The extent of the required design and improvements will be determined once this property begins the redevelopment process. The results of any traffic studies may require the construction of off-site mitigation or may limit the proposed density of the project.

Public Review Process

- CPD staff provided Informational notice of receipt of the rezoning application to affected members of City Council and registered neighborhood organizations (RNOs) on December 9, 2015.
- The property was legally posted for a period of 15 days announcing the March 2, 2016, Denver Planning Board public hearing, and written notification of the hearing was sent to all affected registered neighborhood organizations and City Council members.
- **The Planning Board voted unanimously to in favor to recommend approval of the map amendment to City Council on March 2, 2016.**

- The Neighborhoods and Planning Committee (PLAN) of City council met to consider this request and move the bill out of Committee on March 23, 2016. Written notification of the PLAN was sent to all affected registered neighborhood organizations and City Council members on March 9, 2015.
- The property was posted for a period of 21 days announcing the May 2, 2016 Denver City Council public hearing, and written notification of the hearing was sent to all affected registered neighborhood organizations and City Council members on April 11, 2016.
- The RNOs identified on page 1 were notified of this application. At the time of this staff report, one letter of support has been received from Montbello 20/20 dated January 28, 2016.
- At the time of this staff report, no further public comment had been received.

Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7 and 12.4.10.8, as follows:

DZC Section 12.4.10.7

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare

DZC Section 12.4.10.8

1. Justifying Circumstances
2. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

1. Consistency with Adopted Plans

The following adopted plans apply to this property:

- *Denver Comprehensive Plan 2000*
- *Blueprint Denver (2002)*
- *The Gateway Concept Plan (1990)*

Denver Comprehensive Plan 2000

Denver's *Comprehensive Plan 2000* identifies a set of broad guiding principles that unite to form a coherent and compelling vision of a livable city. The S-CC-5x map amendment proposal is consistent with and positively addresses many Denver Comprehensive Plan concepts, including:

Opportunities

Development areas ■ A decade ago, when it was a landlocked center city surrounded by suburbs, Denver's growth opportunities appeared severely limited. In a reversal of fortune, Denver's major new development areas — Lowry, DIA/Gateway, Stapleton and the Central Platte Valley — offer about 12,000 acres, more than 50 years of build-out potential (pg. 127).

Mixed-use development ■ Integration of housing, retail, services, recreation and employment uses is increasing. New development in and around Downtown and at Lowry, Stapleton, Gateway and the Platte Valley will create the potential to live near work and use alternative transportation to reach destinations conveniently (pg. 128).

The subject site is located in the Gateway Park sub-area of the DIA/Gateway Development Area, a substantial redevelopment opportunity integrating both residential and mixed-use development (pg. 52)

The proposal is consistent with many *Denver Comprehensive Plan 2000* strategies, including:

- Neighborhoods, Strategy 1-E: Modify land-use regulations to ensure flexibility to accommodate changing demographics and lifestyles. Allow, and in some places encourage, a diverse mix of housing types and affordable units, essential services, recreation, business and employment, home-based businesses, schools, transportation and open space networks (pg. 150)

Denver Comprehensive Plan 2000 includes specific objectives that encourage the streamlining of the development review process and the improvement of the regulatory climate to reduce delays. The proposed map amendment furthers these goals by rezoning complicated, obsolete waivers and conditions to a more predictable, standard Denver Zoning Code zone district that brings the existing condition into conformance.

- Environmental Sustainability Strategy 2-F – Conserve land by: promoting infill development with Denver at sites where services and infrastructure are already in place (pg. 39)
- Land Use Strategy 3-B – Encourage quality infill development that is consistent with the character of the surrounding neighborhood; that offers opportunities for increased density and more amenities; and that broadens the variety of compatible uses. (pg. 60)
- Mobility Strategy 4-E – Continue to promote mixed-use development, which enables people to live near work, retail and services. (pg. 78)

The proposed map amendment will enable mixed-use development consistent with the character of surrounding areas at an infill location where services and infrastructure are already provided, consistent with *Comprehensive Plan 2000*. The S-CC-5x zone district broadens the variety of uses as compared to the now arbitrary and complex current custom zoning. The rezoning is consistent with these Plan recommendations.

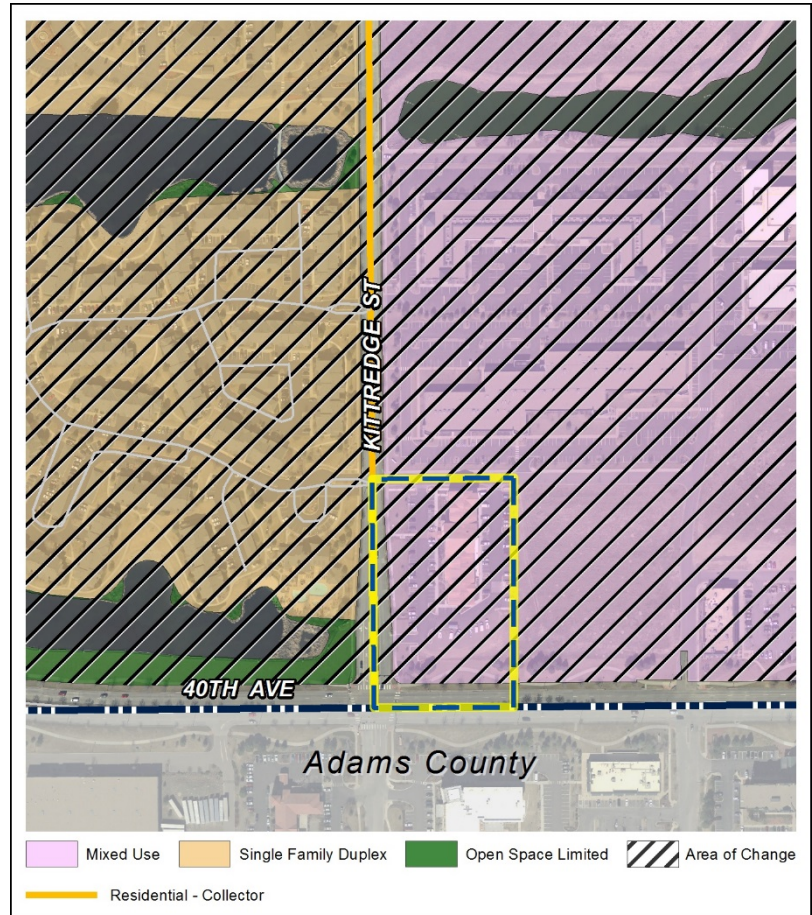
Blueprint Denver

According to the 2002 Plan Map adopted in *Blueprint Denver*, this site has a concept land use of Mixed Use and is located within an Area of Change.

Future Land Use

According to *Blueprint Denver*, the site is designated with a concept land use of Mixed Use. Mixed Use areas “have a sizable employment base as well as housing. Intensity is higher in mixed-use areas than in other residential areas. Land uses are not necessarily mixed in each building or development or even within each block. [...] The proportion of residential to commercial uses varies considerably from one mixed-use district to another” (pg. 41).

The proposed map amendment supports the *Blueprint Denver* Mixed Use concept land use designation by allowing for a mix of uses within a larger mixed-use context, the Gateway area. The current Gateway W/C custom zoning limits the mixed-use potential and does not provide the flexibility to adapt over time.



Area of Change / Area of Stability

The subject site is located within an Area of Change. In general, “the goal for Areas of Change is to channel growth where it will be beneficial and can best improve access to jobs, housing and services with fewer and shorter auto trips.” Areas of Change provide Denver with the opportunity to focus growth in a way that benefits the City as a whole (pg. 127). Specifically, the Gateway is called out as a particular focus for new development as a large Area of Change site. *Blueprint Denver* offers the potential to create new neighborhoods while also recommending a level of trails, services, and jobs to support the needs of residents in this area (pg. 22).

Overall, the rezoning application is consistent with the *Blueprint Denver* Area of Change recommendations by allowing for mixed-use development at an appropriate location, improving access to jobs, housing, and services contemplated in the vision for the Gateway. The redevelopment of the Gateway area is critical in achieving this *Blueprint Denver* vision for appropriate growth.

Street Classifications

Blueprint Denver classifies N. Kittredge St. as a Residential Collector. According to *Blueprint Denver*, “collectors are designed to provide a greater balance between [multimodal] mobility and land access within residential, commercial and industrial areas” (pg. 51). East 40th Ave. is identified as an Undesignated Local; however, it was most likely omitted as the boundary with Adams County. In its built condition, E. 40th Ave. is a divided, four-lane, commercially-oriented street with dedicated turn lanes at intersections. According to the Public Works street classification, E. 40th Ave. is an Arterial, lending insight into the appropriate mix of uses along E. 40th Ave. Arterial streets are “designed to provide a high degree of mobility and generally serve longer vehicle trips to, from, and within urban areas” (pg. 51)

The S-CC-5x zone district proposed for the subject site is an appropriate zone district for this mixed-use, higher-capacity street context through the allowance of a mix of uses. Specifically, the prohibition of more intense uses in the S-CC-5x as opposed to the S-CC-5 district is contextually sensitive to the Residential Collector street classification on N. Kittredge Street.

Small Area Plan: Gateway Concept Plan

The *Gateway Concept Plan* was adopted by City Council in 1990 and applies to the subject property. The Plan sets forth a goal to create a community that exemplifies the best of Denver’s traditions in a number of different ways:

- **Quality, Economically Successful Developments**

Market studies indicate that the best way for the Gateway to succeed in the long run is to emphasize quality. The plan encourages high quality, economically profitable developments in a number of ways:

- Highly flexible planning areas that apply to over half the Gateway allow a wide range of uses, including airport-related businesses, office/Warehouse facilities, research and light industrial, hotel, office, and residential -- thus permitting quick response to changing market conditions (pg. 1).

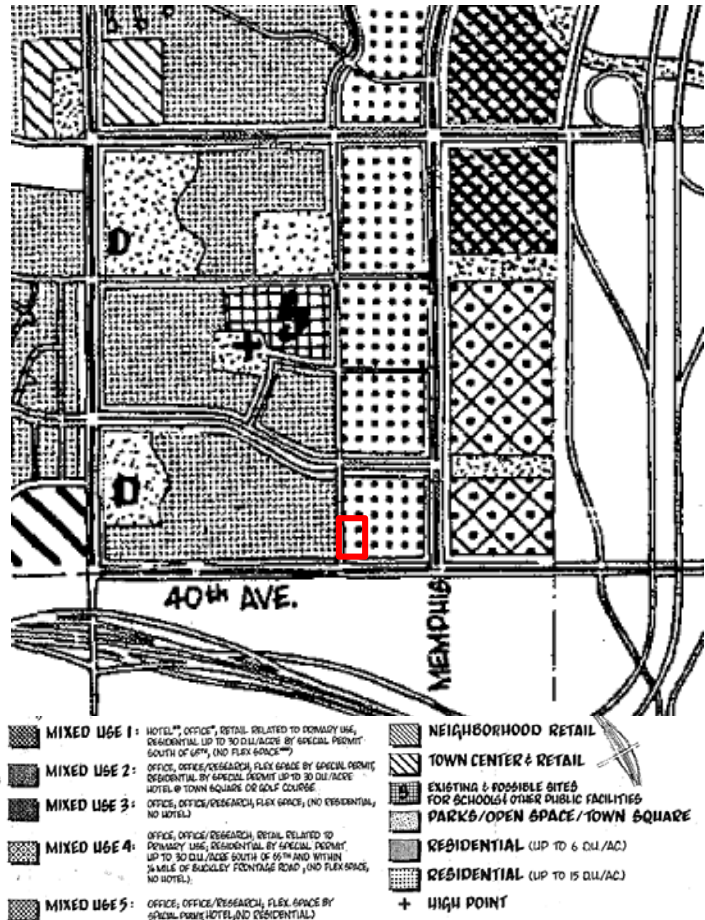
- **Activity Centers**

Each neighborhood and business area will have a focal point to create a sense of liveliness.

- Larger-scale hotel and office developments (no more than 150 feet high) will be clustered around interchanges and major intersections, not spread out along arterials (pg. 2).

The proposed rezoning is consistent with these plan goals through the elimination of inflexible, obsolete waivers and conditions and the introduction of a predictable, standard Denver Zoning Code zone district that can adapt to changing market conditions. The requested S-CC-5x zone district will allow a mix of uses as described in the *Gateway Concept Plan* at an identified appropriate location near the intersection of I-70 and Peña Blvd., a major interchange.

While the Land Use Concept Plan to the right indicates that the subject site is appropriate for medium-density residential, and the building heights map indicates a maximum height of 35 feet, the 1999 rezoning to Gateway W/C included a new land use and building heights map. This land use and building heights map updated the site to Mixed Use 2 with a maximum height of 75 feet, extending the adjacent planned mixed-use area adjacent to Peña Blvd. The requested S-CC-5x zone district permits a consistent mix of uses with lesser intensities in recognition of the remaining adjacent multi-family land use with a maximum building height of 70 feet.



Given the long-term development horizon contemplated in the *Gateway Concept Plan*, the Plan acknowledges the need for flexibility in allocating appropriate land uses. “The lines [...] depicting various land uses have not been drawn with mathematical precision. They are subject to adjustment in future phases of the Gateway development process (pg. 67).” Regarding implementation of the Plan’s vision, “any development and zoning regulations must also recognize the long projected buildout period—40 to 50 years or more. The regulations must be flexible and responsive to market forces. No one can tell what new and desirable land uses will be common fifty years from now” (pg. 76). As the Gateway Concept Plan acknowledges the inherent need for new, flexible zoning standards and future map amendments, the requested map amendment to a Denver Zoning Code zone district is appropriate.

The *Gateway Concept Plan* also calls for “moderate-scale densities and heights [that] do not compete with the high-rise image of downtown” within a suburban context (pg. 27 and 76). The requested S-CC-5x zone district with its Suburban Neighborhood Context and mid-rise scale is consistent with this recommendation. Overall, the map amendment is consistent with the *Gateway Concept Plan*.

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to S-CC-5x will result in the uniform application of zone district building form, use, and design regulations. Additionally, the rezoning request will bring the existing built condition and entitlement into conformance with zoning standards.

3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through implementation of the City's adopted land use plans including *Comprehensive Plan 2000*, *Blueprint Denver*, and the *Gateway Concept Plan*.

4. Justifying Circumstance

The application identifies changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.8.A.4, "the land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area."

Several changed or changing conditions apply to the site and surrounding area. As discussed above, several adopted plan recommendations state that mixed-use development of the area is desired, and the adopted plans recognize that the character of the area is evolving into a mixed-use area. Large office, hotel, and commercial development in the area signals the evolution in the surrounding area into a mixed-use node, the long-term progression envisioned by the *Gateway Concept Plan*.

The adoption of the Denver Zoning Code in 2010 introduced new zoning tools to implement the flexible, responsive regulatory recommendations from the *Gateway Concept Plan* that the current Gateway W/C zoning fails to achieve. Additionally, the S-CC-5x zoning regulations introduced with the adoption of the Gateway Concept Plan in 1990 will bring the existing built condition and entitlement into conformance with zoning standards.

5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

Neighborhood Context Description

The proposed S-CC-5x zone district is within the Suburban Neighborhood Context. The neighborhood context generally consists of multi-unit residential, commercial strips and centers, and office parks. The Suburban Neighborhood Context consists of an irregular pattern of block shapes surrounded by curvilinear streets within a modified or non-existent grid, with cul-de-sacs and typically no alleys. Block shapes and sizes vary. The typical block pattern includes attached sidewalks (though sidewalks may be detached or nonexistent), street and surface parking, and generous landscaping between the street and buildings. Commercial buildings may have varying orientation and typically have deep front and side setbacks to accommodate landscaping and parking. The Suburban Neighborhood Context is characterized by low scale buildings except for some mid- and high-rise multi-unit residential and commercial structures, particularly along arterial streets (DZC, Division 3.1). It is appropriate to apply zoning within the Suburban Neighborhood Context at this location through the recognized built

environment and existing context. The proposed rezoning to S-CC-5x will recognize the existing built character and lead to development that is consistent with the neighborhood context description.

Zone District Purpose and Intent

According to DZC 3.2.3.2.A, the general purpose of the S-CC zone districts is to balance the need for safe, active, and pedestrian-scaled, diverse areas with the need for convenient automobile access. The commercial Corridor building form standards have minimum setbacks to allow flexibility in building, circulation and parking lot layout. The Commercial Corridor district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods. The rezoning to S-CC-5x is consistent with the zone district general purpose, and the applicable zoning standards reflect the existing site-specific and neighborhood development patterns.

S-CC-5x applies primarily to auto-oriented arterial street corridors where a building scale of 1 to 5 stories is desired with less intense uses than S-CC-5. East 40th Ave. is functionally classified as an arterial, and the site is currently identified as appropriate for buildings with a maximum height of 75 feet, corresponding to the 5-story requested building height. Less intense uses are desired given the proximity to multi-family uses and the residential collector street classification along N. Kittredge St. The street classifications and desired building heights in this area are consistent with this intent statement.

Staff Recommendation

Based on the analysis set forth above, CPD staff finds that the application for rezoning the property located at 4100 and 4050 N. Kittredge St. (#2015I-00125) to the S-CC-5x zone districts meets the requisite review criteria. Accordingly, staff recommends approval of the rezoning.

Attachments

1. Application
2. RNO letter of support

Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input checked="" type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name	Arapahoe Development LLC	Representative Name	Jack E. Reutzel, Esq. Fairfield and Woods
Address	199 Inverness Drive West	Address	1801 California Street, Suite 2600
City, State, Zip	Englewood, CO 80112	City, State, Zip	Denver, CO 80202
Telephone	281.851.1873	Telephone	303.894.4455
Email	k3ewald@yahoo.com	Email	jreutzel@fwlaw.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):	4100 N. Kittredge Street Denver, Colorado 80239	AND	4050 N. Kittredge Street Denver, CO 80239
Assessor's Parcel Numbers:	00204-01-020-000//430484000	AND	00204-01-021-0000// 163772296
Area in Acres or Square Feet:	89,444 Sq Ft (2.0534 acres)	AND	43,414 Sq Ft
Current Zone District(s):	Gateway District with Waivers and Conditions		
PROPOSAL			
Proposed Zone District:	S-CC-5x		
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	



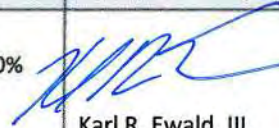
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REVIEW CRITERIA	
<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7</p>	<p><input checked="" type="checkbox"/> Consistency with Adopted Plans: The proposed official map amendment is consistent 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 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"/> 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:	
<p><input checked="" type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format)</p> <p><input checked="" type="checkbox"/> Proof of Ownership Document(s)</p> <p><input checked="" type="checkbox"/> Review Criteria</p>	
ADDITIONAL ATTACHMENTS	
Please identify any additional attachments provided with this application:	
<p><input checked="" type="checkbox"/> Written Authorization to Represent Property Owner(s)</p>	
Please list any additional attachments:	

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 (must sign in the exact same manner as title to the property is held)	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	Property owner representative written authorization? (YES/NO)
EXAMPLE John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	John Alan Smith Josie Q. Smith	01/01/12	(A)	NO
Arapahoe Development, LLC	199 Inverness Drive West Denver, Colorado	100%	 Karl R. Ewald, III, Manager	12/04/2015	(B) Recorded Special Warranty Deed	YES
Cafe Tuscano Colorado LLC	2227 E. Center Street Pocatello, ID 83201	100%	Cafe Tuscano Colorado LLC Billy B Isley Billy B Isley	10/30/2015	(B) Recorded Warranty Deed	YES

Last updated: February 4, 2015

Return completed form to rezoning@denvergov.org

311 | FOR INFORMATION &
CITY SERVICES

201 W. Colfax Ave., Dept. 205

Denver, CO 80202

720-865-2974 • rezoning@denvergov.org

October ____, 2015

Denver Community Planning & Development
201 W. Colfax Avenue, Dept. 205
Denver, Colorado 80202

Re: **Re-Zoning of 4100 N. Kittredge Street, Denver, CO**

Please accept this letter as the undersigned's consent of the re-zoning application on the above referenced property from Gateway District with Waivers and Conditions to Commercial Corridor – 5x(S-CC-5x) to be filed by Jack E. Reutzel of Fairfield and Woods, P.C.

This letter further authorizes Mr. Reutzel to act as our authorized representative for purposes of the Re-Zoning Application and we hereby grant permission for the City and County of Denver's Community Planning & Development representatives to access the subject parcel of land, if necessary for purposes of reviewing and evaluating the re-zoning application.

Sincerely,

ARAPAHOE DEVELOPMENT LLC

By: 

Karl Ewald, III, Manager

Name & Address of Property Owner:

ARAPAHOE DEVELOPMENT LLC
199 Inverness Drive West
Englewood, Colorado 80112

SPECIAL WARRANTY DEED

THIS DEED, dated this 24th day of June, 2011, between BBAD Investments, LLC, an Idaho limited liability company of the County of Bannock and State of Idaho, grantor(s) and Arapahoe Development LLC, a Colorado limited liability company whose legal address is 199 Inverness Drive West, Englewood of the County of Arapahoe and State of Colorado, grantee(s):

WITNESS, that the grantor(s), for and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00), the receipt and sufficiency of which is hereby acknowledged, has/have granted, bargained, sold and conveyed, and by these presents do(es) grant, bargain, sell, convey and confirm unto the grantee(s), its heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Denver and State of Colorado, described as follows:

A PARCEL OF LAND BEING A PORTION OF PLOT 1, BLOCK 1, GATEWAY PARK IV - DENVER FILING NO. 7 RECORDED JANUARY 25, 2002 IN PLAT BOOK 33 AT PAGES 95-96, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID PLOT 1, SAID POINT BEING THE TRUE POINT OF BEGINNING; THENCE NORTH 89°52'06" EAST ALONG THE NORTH LINE OF SAID PLOT 1 A DISTANCE OF 295.63 FEET; THENCE SOUTH 00°07'54" EAST A DISTANCE OF 281.39 FEET; THENCE SOUTH 89°52'06" WEST A DISTANCE OF 43.00 FEET; THENCE SOUTH 59°18'49" WEST A DISTANCE OF 72.58 FEET; THENCE SOUTH 89°52'06" WEST A DISTANCE OF 174.17 FEET TO A POINT ON THE WEST LINE OF SAID PLOT 1, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF KITTREDGE STREET AS DEDICATED BY GATEWAY PARK IV - DENVER FILING NO. 1 RECORDED APRIL 10, 1998 IN PLAT BOOK 32 AT PAGES 14-16 OF SAID CITY AND COUNTY OF DENVER RECORDS; THENCE THE FOLLOWING TWO (2) COURSES ALONG THE WEST LINE OF SAID PLOT 1 AND THE EAST RIGHT-OF-WAY LINE OF SAID KITTREDGE STREET:

- 1) THENCE NORTH 03°56'45" WEST A DISTANCE OF 239.92;
- 2) THENCE NORTH 00°07'54" WEST A DISTANCE OF 78.90 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the grantee(s), its heirs and assigns forever. The grantor(s), for its heirs, personal representatives, successors and assigns, do(es) covenant and agree that it shall and will WARRANT AND FOREVER DEFEND the above bargained premises in the quiet and peaceable possession of the grantee(s), its and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the grantor(s), except:

See Exhibit A, attached hereto and by this reference incorporated herein

IN WITNESS WHEREOF, the grantor(s) has/have executed this deed on the date set forth above.

BBAD Investments, LLC, an Idaho limited liability company

BY: [Signature]
Billy B. Isley, Member

BY: [Signature]
Brad Frasure, Member

STATE OF IDAHO)

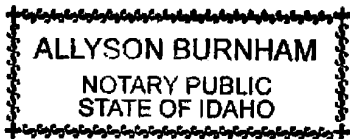
County of Bannock)

On this 24th day of June, 2011, before me, the undersigned Notary Public, in and for said State, personally appeared Billy B. Isley and Brad Frasure, known or identified to me to be Members of the limited liability company of BBAD Investments, LLC, and the members who subscribed said company name to the foregoing instrument, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first written above.

By [Signature]
NOTARY PUBLIC - STATE OF IDAHO

My commission expires: 11/18/2014
(seal)



File No.: F229223
SPECIAL WARRANTY DEED
906076

EXHIBIT A – PERMITTED EXCEPTIONS

- 1 Taxes for the year 2011 and subsequent years a lien not yet due or payable.
- 2 The right of a proprietor of a vein or lode to extract or remove his ore, should the same be found to penetrate or intersect the premises thereby granted and rights-of-way for ditches and canals as reserved in United States Patents recorded November 30, 1889 in Book A25 at Page 225 and March 12, 1892 in Book A24 at Page 172, and any and all assignments thereof or interests therein.
- 3 One-half of all oil and mineral rights as reserved by Anna Richards in Deed recorded June 27, 1945 in Book 307 at Page 469, and any and all assignments thereof or interests therein.
- 4 Reservation by the Union Pacific Land Resources Corporation of all minerals and all mineral rights of every kind and character now known to exist or hereafter discovered, including, without limiting the generality of the foregoing, oil and gas and rights thereto, together with the sole, exclusive and perpetual right to explore for, remove and dispose of, said minerals by any means or methods suitable to said Union Pacific Corporation, but without entering upon or using the surface of the lands, and in such manner as not to damage the surface of the lands or to interfere with the use thereof, as contained in General Warranty Deed recorded December 4, 1986 at Reception No. 58432, and any and all assignments thereof or interests therein.
- 5 Terms, conditions, provisions, agreements and obligations contained in the Non-Drilling Agreement as set forth below:
Recording Date: July 19, 1995
Recording No.: 9500085835
- 6 Reservation by the Union Pacific Land Resources Corporation of all minerals and all mineral rights of every kind and character now known to exist or hereafter discovered, including, without limiting the generality of the foregoing, oil and gas and rights thereto, together with the sole, exclusive and perpetual right to explore for, remove and dispose of, said minerals by any means or methods suitable to said Union Pacific Corporation, but without entering upon or using the surface of the lands, and in such manner as not to damage the surface of the lands or to interfere with the use thereof, as contained in Special Warranty Deed recorded July 19, 1995 at Reception 9500085838, and any and all assignments thereof or interests therein.
- 7 Any tax, lien, fee, or assessment by reason of inclusion of the Land in the Gateway Park Metropolitan District, as evidenced by instrument(s) recorded March 8, 1996 at 9600030501.

- 8 Notice changing the name of the above district to Sand Creek Metropolitan District recorded March 25, 1996 at Reception No. 9600039036. Second Amendment to the Service Plan for said District recorded January 8, 1997 at Reception No. 9700003234. Reuse Agreement recorded August 12, 1997 at Reception No. 97800105655.
- 9 Covenants, conditions, restrictions and lien rights but omitting any covenants or restrictions, if any, including but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, as set forth in the document
- Recording Date: June 4, 1996
Recording No: 9600076399
- Amendment of said covenants recorded March 13, 2002 at Reception No. 2002049550.
- 10 Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
Granted to: Denver Board of Water Commissioners
Purpose: water pipelines and incidental purposes
Recording Date: August 20, 1997
Recording No: 9700109860
- 11 Terms, conditions, provisions, agreements and obligations contained in the Covenant and Permit as set forth below:
- Recording Date: February 6, 1998
Recording No.: 9800018524
- 12 Terms, conditions, provisions, agreements and obligations contained in the Site plan of Gateway Park IV West Streetscape as set forth below:
- Recording Date: April 13, 1998
Recording No.: 9800056144
- 13 Terms, conditions, provisions, agreements and obligations contained in the General Development Plan of Gateway Park IV West Kittredge East as set forth below:
- Recording Date: November 8, 1999
Recording No.: 9900193507
- 14 Terms, conditions, provisions, agreements and obligations contained in the Covenant and Permit as set forth below:

Recording Date: July 31, 2001
Recording No.: 2001125115

- 15 Terms, conditions, provisions, agreements and obligations contained in the Declaration of Easement as set forth below:

Recording Date: October 23, 2001 Recording No.: 2001179891

Amendment recorded November 20, 2001 at Reception No. 2001196014

16. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Denver Board of Water Commissioners

Purpose: water pipelines and incidental purposes

Recording Date: November 16, 2001 Recording No.: 2001194997

- 17 Terms, conditions, provisions, agreements and obligations contained in the Wastewater Easement and Indemnity Agreement as set forth below:

Recording Date: April 2, 2002 Recording No.: 2002061126

NOTE: Amendment recorded:

Recording Date: June 9, 2011 Recording No.: Reception No. 2011062614

- 18 Terms, conditions, provisions, agreements and obligations contained in the Declaration of Easement as set forth below:

Recording Date: April 17, 2002 Recording No.: 2002071341

- 19 Terms, conditions, provisions, agreements and obligations contained in the Declaration of Easement as set forth below:

Recording Date: October 28, 2002 Recording No.: 2002203306

First Amendment recorded March 26, 2009 and Second Amendment recorded May 11, 2009 at Reception No. 2009057989.

- 20 Terms, conditions, provisions, agreements and obligations contained in the Wastewater Easement and Indemnity Agreement as set forth below:

Recording Date: November 19, 2002 Recording No.: 2002219036

- 21 Easements, fees, conditions, restrictions and general notes as shown on the plats of Gateway Park IV-Denver Filing No. 5, recorded April 12, 2000 at Reception No. 2000051305 and Gateway Park IV-Denver Filing No. 7, recorded January 25, 2002 at Reception No. 2002017281.

- 22 Reservations of minerals and water and terms, conditions and stipulations contained in Special Warranty Deed recorded June 15, 2007 at Reception No. 2007093097. Extension of Conditions and Amendment of Deed instruments

recorded June 13, 2008 at Reception No. 2008082363 and May 11, 2009 at Reception No. 2009057988.

- 23 Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
Granted to: City and County of Denver
Purpose: stormwater and sewage facilities
Recording Date: March 9, 2009
Recording No: 2009028771
- 24 Terms, conditions, provisions, agreements and obligations contained in the Declaration of Easement, Covenants, Conditions and Restrictions (to be recorded)
- 25 Terms, conditions, provisions, agreements and obligations contained in the Development Agreement (to be recorded)
- 26 The effect of Zoning Amendment evidenced in instrument recorded April 6, 2011 at Reception No. 37473.
27. Terms, conditions, provisions, agreements and obligations contained in the Easement Agreement as set forth below:
Recording Date: June 9, 2011
Reception No. 2011062615
28. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
Purpose: SCMD Storm Easements
Recording Date: June 9, 2011
Recording No: Reception No. 2011063794
29. Terms, conditions, provisions, agreements and obligations contained in the Gateway Site Plan as set forth below:
Recording Date: June 9, 2011
Recording No.: Reception No. 2011057935



Colorado
Secretary of State
Wayne W. Williams



For this Record...

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

- Business Home
- Business Information
- Business Search

- FAQs, Glossary and Information

Summary

Details			
Name	Arapahoe Development LLC		
Status	Good Standing	Formation date	10/06/2010
ID number	20101550672	Form	Limited Liability Company
Periodic report month	October	Jurisdiction	Colorado
		Term of duration	Perpetual
Principal office street address	199 Inverness Drive West, Englewood, CO 80112, United States		
Principal office mailing address	n/a		

Registered Agent	
Name	Karl R. Ewald III
Street address	199 Inverness Drive West, Englewood, CO 80112, United States
Mailing address	n/a

- [Filing history and documents](#)
- [Trade names](#)
- [Get a certificate of good standing](#)
- [Get certified copies of documents](#)
- [File a form](#)
- [Set up secure business filing](#)
- [Subscribe to email notification](#)
- [Unsubscribe from email notification](#)

ARAPAHOE DEVELOPMENT, LLC

Action by Written Consent of the Members

October ____, 2015

Pursuant to the Colorado Limited Liability Company Act, the undersigned, being all the members of **ARAPAHOE DEVELOPMENT, LLC**, a Colorado limited liability company (the "**COMPANY**"), hereby acknowledges the following statements and consents to taking the following actions:

WHEREAS, the Company is owner of real property located at 4100 N. Kittredge Street, Denver, Colorado (the "**PROPERTY**"), which property has been operating as a hotel, a legally non-conforming use under the current Gateway District with Waivers and Conditions Zone District, since 2011; and

WHEREAS, the City of Denver revised its Zoning Code effective 2010; and

WHEREAS, it is in the best interest of the Company to enter into that certain Zone Map Amendment Application with the City of Denver ("**RE-ZONING APPLICATION**") requesting an amend to the Property's current zone district to Zone District S-CC-5x, permitting a legally conforming use of the Property under of the new zoning code; and

WHEREAS, it is in the best interest of the Company to authorize Karl R. Ewald, III, the manager of the Company (the "**MANAGER**"), for and on behalf of the Company, to execute the Re-Zoning Application, and all other instruments and documents executed and delivered pursuant to or in connection with the Re-Zoning Application, and to appoint Jack E. Reutzel, Esq. of Fairfield and Woods, P.C. to act on the Company's behalf to do or cause to be done any and all other acts and things it deems necessary and advisable in connection with the Re-Zoning Application process through the proper channels of the City of Denver.

NOW, THEREFORE, BE IT:

RESOLVED, that the terms and conditions of the Re-Zoning Application are hereby ratified, approved and confirmed; and

RESOLVED, that the Manager is hereby authorized and empowered, for and on behalf of the Company, to execute and deliver the Re-Zoning Application and to make, execute, acknowledge and deliver all other instruments and documents relating to the Re-Zoning Application, and to appoint Jack E. Reutzel, Esq. of Fairfield and Woods, P.C. to act on the Company's behalf to do or cause to be done any and all other acts and things it deems necessary and advisable in connection with the Re-Zoning Application process through the proper channels of the City of Denver; and

RESOLVED, that the consent and signature of Karl R. Ewald, III as the Manager is sufficient when acting on behalf of the Company for the purposes set forth herein; and

RESOLVED, that any and all actions taken by Karl R. Ewald, III on behalf of the Company before the adoption of these resolutions and that are within the authority conferred hereby, are hereby in all respects authorized, adopted, ratified and confirmed.

L:\Clients\11152\004\01517570.DOC

The undersigned, being all of the members of Arapahoe Development, LLC, hereby consent to, approve, and adopt the foregoing actions as of the date set forth above, notwithstanding the actual date of signing.

**ARAPAHOE DEVELOPMENT, LLC,
a Colorado limited liability company**

By: 

Karl R. Ewald, III, Manager and Member

By: R3 Holdings, a Mississippi general partnership,
Member

By: _____

Emerson Barney Robinson, Jr.,
General Partner

By: PPI INC., a Mississippi corporation,
Member

By: _____

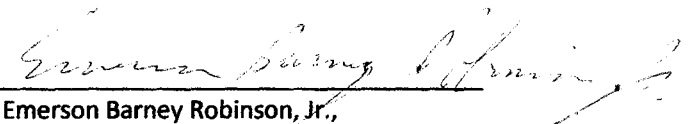
William R. James, President

The undersigned, being all of the members of Arapahoe Development, LLC, hereby consent to, approve, and adopt the foregoing actions as of the date set forth above, notwithstanding the actual date of signing.

**ARAPAHOE DEVELOPMENT, LLC,
a Colorado limited liability company**

By: _____
Karl R. Ewald, III, Manager and Member

By: R3 Holdings, a Mississippi general partnership,
Member

By: 
Emerson Barney Robinson, Jr.,
General Partner

By: PPI INC., a Mississippi corporation,
Member

By: _____
William R. James, President

The undersigned, being all of the members of Arapahoe Development, LLC, hereby consent to, approve, and adopt the foregoing actions as of the date set forth above, notwithstanding the actual date of signing.

**ARAPAHOE DEVELOPMENT, LLC,
a Colorado limited liability company**

By: _____
Karl R. Ewald, III, Manager and Member

By: R3 Holdings, a Mississippi general partnership,
Member

By: _____
Emerson Barney Robinson, Jr.,
General Partner

By: PPI INC., a Mississippi corporation,
Member

By:  _____
William R. James, President



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Page: 4 of 7
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03

WARRANTY DEED

FOR VALUE RECEIVED BBAD Investments, LLC, an Idaho limited liability company qualified to do business in Colorado, hereinafter referred to as "Grantor", does hereby grant, bargain, sell and convey unto Cafe Tuscano Colorado, LLC, a South Dakota Limited Liability Company qualified to do business in Colorado, hereinafter referred to as Grantee whose current address is 2227 East Center Street, Pocatello, Idaho 83201 the following described premises in Denver County, Colorado, to wit:

See attached Exhibit 1

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, and Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that Grantor is the owner in fee simple of said premises; that they are free from all encumbrances, except easements and reservations of record and that certain Development Agreement between Arapahoe Development, LLC and Grantor, the buildings and benefits of which are assumed Grantee herein, and that Grantor will warrant and defend the same from all lawful claims whatsoever.

DATED this 16 day of ~~June~~^{July}, 2013.

BBAD Investments, LLC

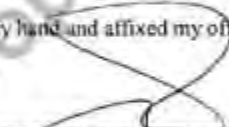
By Billy B. Teley
Billy B. Teley, Member

By Brad Frasure
Brad Frasure, Member

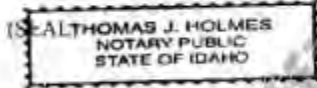
STATE OF IDAHO)
) SS
County of Bannock)

On this ^{July} 16 day of ~~June~~, 2013, before me, the undersigned Notary Public, in and for said State, personally appeared Billy B. Isley and Brad Frasure, known or identified to me to be the Members of the limited liability company of BBAD Investments, LLC, and the Members who subscribed said company name to the foregoing instrument, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first written above.



NOTARY PUBLIC - STATE OF IDAHO
My commission Expires _____



RESIDING AT POCATELLO, ID
MY COMMISSION EXPIRES FEB. 16, 2018

EXHIBIT I

A PARCEL OF LAND BEING A PORTION OF PLOT 1, BLOCK 1, GATEWAY PARK IV - DENVER FILING NO. 7 RECORDED JANUARY 25, 2002 IN PLAT BOOK 33 AT PAGES 95-96, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID PLOT 1, THENCE NORTH 89°32'06" EAST ALONG THE NORTH LINE OF SAID PLOT 1 A DISTANCE OF 295.83 FEET; THENCE SOUTH 90°07'54" EAST A DISTANCE OF 281.38 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 00°07'54" EAST A DISTANCE OF 182.54 FEET TO A POINT ON THE SOUTH LINE OF SAID PLOT 1, SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF 40TH AVENUE AS DEDICATED BY 40TH AVENUE, CHAMBERS ROAD - RENA BOULEVARD SUBDIVISION RECORDED MAY 6, 1997 IN PLAT BOOK 31 AT PAGES 62-64 OF SAID CITY AND COUNTY OF DENVER RECORDS; THENCE SOUTH 89°52'08" WEST ALONG THE SOUTH LINE OF SAID PLOT 1 AND THE NORTH RIGHT-OF-WAY LINE OF SAID 40TH AVENUE A DISTANCE OF 254.63 FEET TO A POINT OF CURVE ON THE EAST RIGHT-OF-WAY LINE OF KITTREDGE STREET AS DEDICATED BY GATEWAY PARK IV - DENVER FILING NO. 1 RECORDED APRIL 16, 1998 IN PLAT BOOK 32 AT PAGES 14-16 OF SAID CITY AND COUNTY OF DENVER RECORDS; THENCE THE FOLLOWING THREE (3) COURSES ALONG THE WEST LINE OF SAID PLOT 1 AND THE EAST RIGHT-OF-WAY LINE OF SAID KITTREDGE STREET:

- 1) THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 90°00'00", A RADIUS OF 25.00 FEET AND AN ARC LENGTH OF 39.27 FEET;
- 2) THENCE NORTH 60°09'54" WEST A DISTANCE OF 120.33 FEET;
- 3) THENCE NORTH 03°50'38" WEST A DISTANCE OF 0.61 FEET;

THENCE NORTH 89°52'08" EAST A DISTANCE OF 174.17 FEET; THENCE NORTH 59°16'48" EAST A DISTANCE OF 72.58 FEET; THENCE NORTH 89°52'08" EAST A DISTANCE OF 43.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 43,414 SQUARE FEET OR 0.9906 ACRES MORE OR LESS.

October 30, 2015

Denver Community Planning & Development
201 W. Colfax Avenue, Dept. 205
Denver, Colorado 80202

Re: Re-Zoning of 4050 N. Kittredge Street, Denver, CO

Please accept this letter as the undersigned's consent of the re-zoning application on the above referenced property from Gateway District with Waivers and Conditions to Commercial Corridor – 5x (S-CC-5x) to be filed by Jack E. Reutzel of Fairfield and Woods, P.C.

This letter further authorizes Mr. Reutzel to act as our authorized representative for purposes of the Re-Zoning Application and we hereby grant permission for the City and County of Denver's Community Planning & Development representatives to access the subject parcel of land, if necessary for purposes of reviewing and evaluating the re-zoning application.

Sincerely,

CAFÉ TUSCANO COLORADO LLC

By: 

Billy B. Isley, Member

Name & Address of Property Owner:

CAFÉ TUSCANO COLORADO LLC
2227 E Center
Pocatello, Id 83201

CAFE TUSCANO COLORADO, LLC

Action by Written Consent

October 30, 2015

Pursuant to the Colorado Limited Liability Company Act, the undersigned, being all the members of **CAFE TUSCANO COLORADO, LLC**, a South Dakota limited liability company (the "**COMPANY**"), hereby acknowledges the following statements and consents to taking the following actions:

WHEREAS, the Company is owner of real property located at 4050 N. Kittredge Street, Denver, Colorado (the "**PROPERTY**"), which property is currently in the Gateway District with Waivers and Conditions Zone District; and

WHEREAS, the City of Denver revised its Zoning Code effective 2010; and

WHEREAS, it is in the best interest of the Company to enter into that certain Zone Map Amendment Application with the City of Denver ("**RE-ZONING APPLICATION**") requesting an amend to the Property's current zone district to Zone District S-CC-5x, under of the new zoning code; and

WHEREAS, it is in the best interest of the Company to authorize Billy B Isley, the manager of the Company (the "**MANAGER**"), for and on behalf of the Company, to execute the Re-Zoning Application, and all other instruments and documents executed and delivered pursuant to or in connection with the Re-Zoning Application, and to appoint Jack E. Reutzal, Esq. of Fairfield and Woods, P.C. to act on the Company's behalf to do or cause to be done any and all other acts and things it deems necessary and advisable in connection with the Re-Zoning Application process through the proper channels of the City of Denver.

NOW, THEREFORE, BE IT:

RESOLVED, that the terms and conditions of the Re-Zoning Application are hereby ratified, approved and confirmed; and

RESOLVED, that the Manager is hereby authorized and empowered, for and on behalf of the Company, to execute and deliver the Re-Zoning Application and to make, execute, acknowledge and deliver all other instruments and documents relating to the Re-Zoning Application, and to appoint Jack E. Reutzal, Esq. of Fairfield and Woods, P.C. to act on the Company's behalf to do or cause to be done any and all other acts and things it deems necessary and advisable in connection with the Re-Zoning Application process through the proper channels of the City of Denver; and

RESOLVED, that the consent and signature of Billy B Isley as the Manager is sufficient when acting on behalf of the Company for the purposes set forth herein; and

RESOLVED, that any and all actions taken by Billy B Isley on behalf of the Company before the adoption of these resolutions and that are within the

authority conferred hereby, are hereby in all respects authorized, adopted, ratified and confirmed.

The undersigned, being all of the members of Cafe Tuscano Colorado, LLC, hereby consent to, approve, and adopt the foregoing actions as of the date set forth above, notwithstanding the actual date of signing.

CAFE TUSCANO COLORADO, LLC,
a South Dakota limited liability company

By: Billy B. Isley
Name: Billy B Isley
Title: Member

Re: **4100 N. Kittredge Street, Denver, Colorado**

The subject property is currently zoned Gateway with Waivers and Conditions. A hotel and has operated on a portion of the property pursuant to City approvals under the current zoning, since 2011. Re-zoning to S-CC-5x will permit the hotel and related restaurant and retail uses use to continue to operate within the new zoning code. There are no proposed exterior modifications to the property or any proposed changes to its use.

General Review Criteria

- ***Consistency with Adopted Plans***
 - Highly flexible planning areas, providing a wide range of uses, including hotels, has been important to the success of the Gateway Concept and development of the area. Mixed-use development under S-CC-5x further enhances the Concept in permitting quick response to changing market conditions
(Gateway Concept Plan, Aug 1990, Page 1)
 - The 1999 re-zoning to Gateway W/C introduced more commercial uses, attractive to hotels, allowing for earlier development than most other properties in the airport area, with lodging among the earliest type of development, expanding the Mixed-Use area to include 4100 Kittredge Street
(Gateway Concept Plan, Aug 1990, Pages 13, 14, 32 & 40)
 - The Plan encourages use of the area as an economic asset to the City of Denver, encouraging a wide range of business uses with flexibility to adapt to changing market demands
(Gateway Concept Plan, Aug 1990, Page 21)
 - Non-residential uses, particularly larger hotels and offices should orient around major intersections and interchanges in the Gateway, as reflected in the cluster of hotels/businesses and restaurants in and around the Pena Boulevard and I-70 intersection
(Gateway Concept Plan, Aug 1990, Page 25)
 - The Gateway area should not compete with the heights and densities of the high-rise image of downtown Denver and the S-CC-5x zone district provides for moderate-scale development
(Gateway Concept Plan, Aug 1990, Page 27)
 - Denver supports the development of Gateway, identifying it as one of the Areas of Change for mixed land uses, providing goods, services and employment for local residents. The existing, operational hotel provides for such services and employment opportunities
(Blueprint Denver, Pages 20-22)
- ***Uniformity of District Regulations and Restrictions***
 - The rezoning to S-CC5x will result in the uniform application of zone district regulations and restrictions across the City and County of Denver.

- **Public Health, Safety and General Welfare**
 - The Plan requires strong design standards to protect residential uses from potential adverse impacts associated with commercial and light industrial developments, as do the limitations imposed under the S-CC-5x zone district
(Gateway Concept Plan, Aug 1990, Page 22)
 - The proposed official map amendment furthers the public health, safety and general welfare of the City

Additional Review Criteria for Non-Legislative ReZonings

- **Justifying Circumstances**
 - The current zoning and approved General Development Plans that led to the issuance of a building permit and certificate of occupancy are at odds. The underlying zoning should have been amended at the time of GDP approval to provide consistency in the approved plans and the underlying zoning
 - The adoption of the new Denver Zoning Code in 2010 introduced new zoning tools to encourage development consistent with the Gateway's existing context that would not have been available at the time of the site's rezoning to Gateway with Waivers and Conditions in 1999.
- ***The proposed official map amendment is consistent with the applicable neighborhood context***
 - The proposed rezoning to S-CC-5x is consistent with the suburban neighborhood context and development pattern prevalent in the Gateway.
- **Zone district purpose and intent**
 - The Commercial Corridor Zone Districts address development opportunities next to the city's most auto-dominated corridors.
 - The Commercial Corridor building form standards have minimum setbacks to allow flexibility in building, circulation and parking lot layout.
 - The Commercial Corridor district standards are also intended to ensure new development contributes positively to established residential neighborhoods and character, and improves the transition between commercial development and adjacent residential neighborhoods.
 - Commercial Corridor – 5x (S-CC-5x) applies primarily to auto-oriented arterial street corridors where a building scale of 1 to 5 stories is desired with less intense uses than S-CC-5."

Montbello 20/20



Vision ~ Montbello is a premier, relationship driven community that takes pride in its beauty, and values education, safety, diversity and inclusiveness.

January 28, 2015

Ms. Ryan Winterberg-Lipp
Community Planning and Development
City and County of Denver
201 W. Colfax Ave., Dept. 205
Denver, CO 80202

RE: Application Number 2015I-00125

Dear Ms. Winterberg-Lipp:

The Montbello 20/20 registered neighborhood association has had the opportunity to review the rezoning application for 4100 Kittredge Street, the Towne Place Suites Marriot Hotel, and are writing to you to provide an important letter of support for the application. This rezoning will bring the property into conformance under the newly established zoning code.

Sincerely,

A handwritten signature in blue ink that reads "Ann White". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Ann White
Co-Chair
Montbello 20/20