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**TO:** Denver City Council  
**FROM:** Theresa Lucero, Senior City Planner  
**DATE:** March 8, 2018  
**RE:** Official Zoning Map Amendment Application #2017I-00123

### Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends **approval** for Application #2017I-00123.

### Request for Rezoning

Address:	30-50 South Colorado Boulevard
Neighborhood/Council District:	Hilltop Neighborhood / City Council District 5
RNOs:	Cherry Creek East Association; Cranmer Park-Hilltop Civic Association, Hilltop Heritage Association; Denver Neighborhood Association, Inc.; Inter-Neighborhood Cooperation
Area of Property:	45,900 square feet or 1.05 acres
Current Zoning:	E-SU-D
Proposed Zoning:	PUD-G17
Property Owner(s):	SMW HILLTOP, LLC
Owner Representative:	Douglas McKinnon

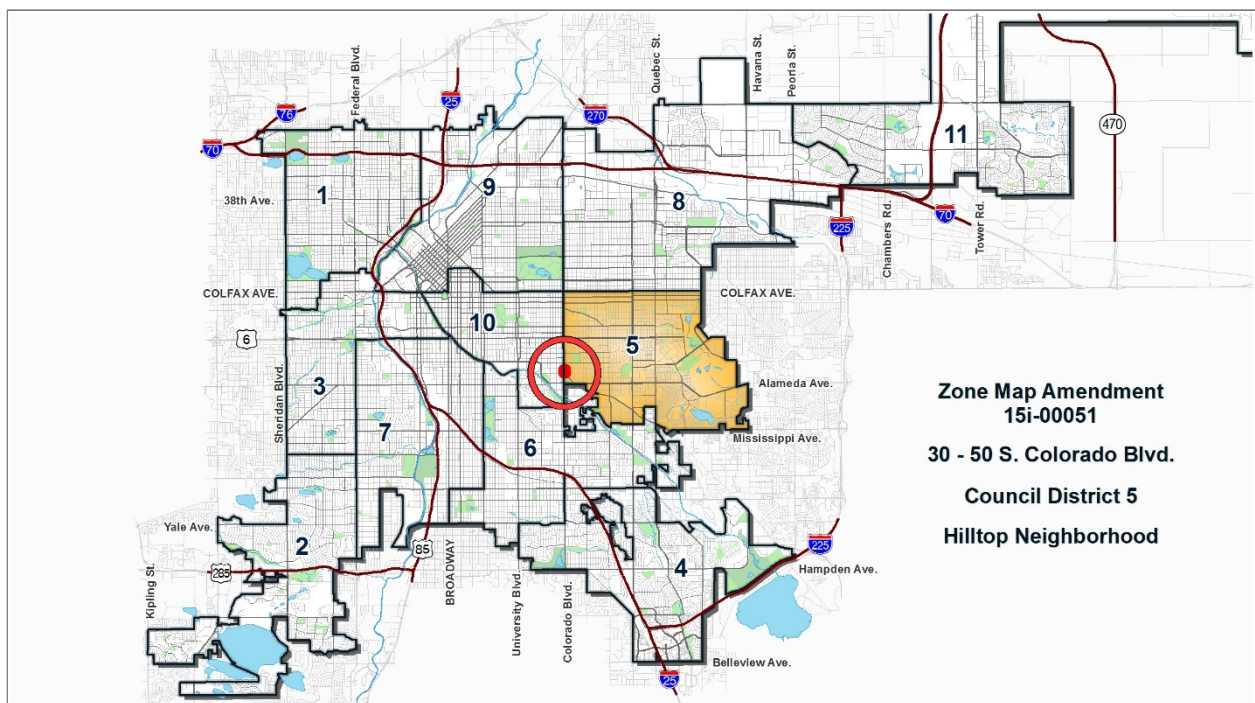
### Summary of Rezoning Request

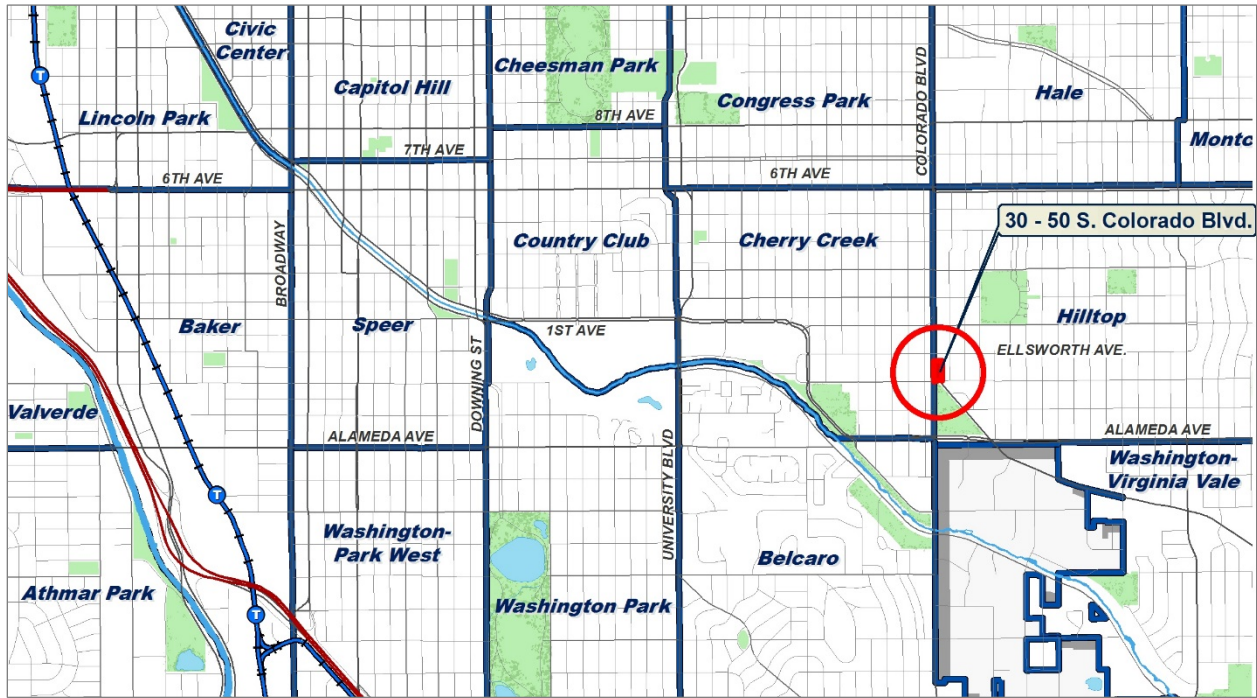
- The property is located at the northeast corner of Colorado Boulevard and Leetsdale Drive and in the southwest corner of the Hilltop Neighborhood.
- The property contains a vacant church structure built in 1961. The property owners propose to rezone the property for redevelopment with multiple duplex structures.
- An application to rezone the property was initially submitted in January 2016, requesting the G-MU-3 zone district, and then revised in March 2016, requesting the G-RH-3 zone district. City Council denied the rezoning request in July 2016, following a contentious public hearing.
- The current application was submitted in August 2017 requesting the G-RH-3 zone district with waivers that prohibit the Garden Court building form and waive the Pedestrian Access standard for residential structures located behind structures that meet the Pedestrian Access standard. After it became apparent that a third deviation would be required if the proposed Slot Home text amendment to the Zoning Code is adopted, the current application was amended to propose a PUD rather than multiple waivers. The third deviation will allow multiple primary duplex structures on the same zone lot

The proposed **PUD-G17** is based upon the **G-RH-3** (General Urban, Row House, 3-story (30 to 35 feet) zone district. The proposed redevelopment of the subject property would be subject to the G-RH-3 zone district standards with three exceptions. The PUD does not allow the use of the Garden Court building form, it allows rear structures to be exempt from Entry Feature requirements when front structures

facing the primary street meet the entry feature requirement and it allows multiple primary structures on the zone lot.

The G-RH-3 standards written into PUD G-17 are intended for use in the General Urban Neighborhood Context which is characterized by multi-unit residential uses in a variety of building forms. Single-unit and two-unit residential uses are also found in a mix of residential forms. Low-scale commercial areas are embedded within residential areas. Residential uses are primarily located along local and residential arterial streets. The building form standards, design standards, and uses work together to promote safe, active, pedestrian-scaled residential areas. The G-RH-3 zone district has the lowest scale of the General Urban zone districts and provides a transition to Urban and Urban Edge neighborhood contexts. The primary building forms typically allowed in G-RH-3 are Urban House, Duplex, Garden Court and Row House. Further details of the G-RH-3 zone district can be found in Article 6 of the Denver Zoning Code (DZC). A copy of PUD G-17 is attached to this report.







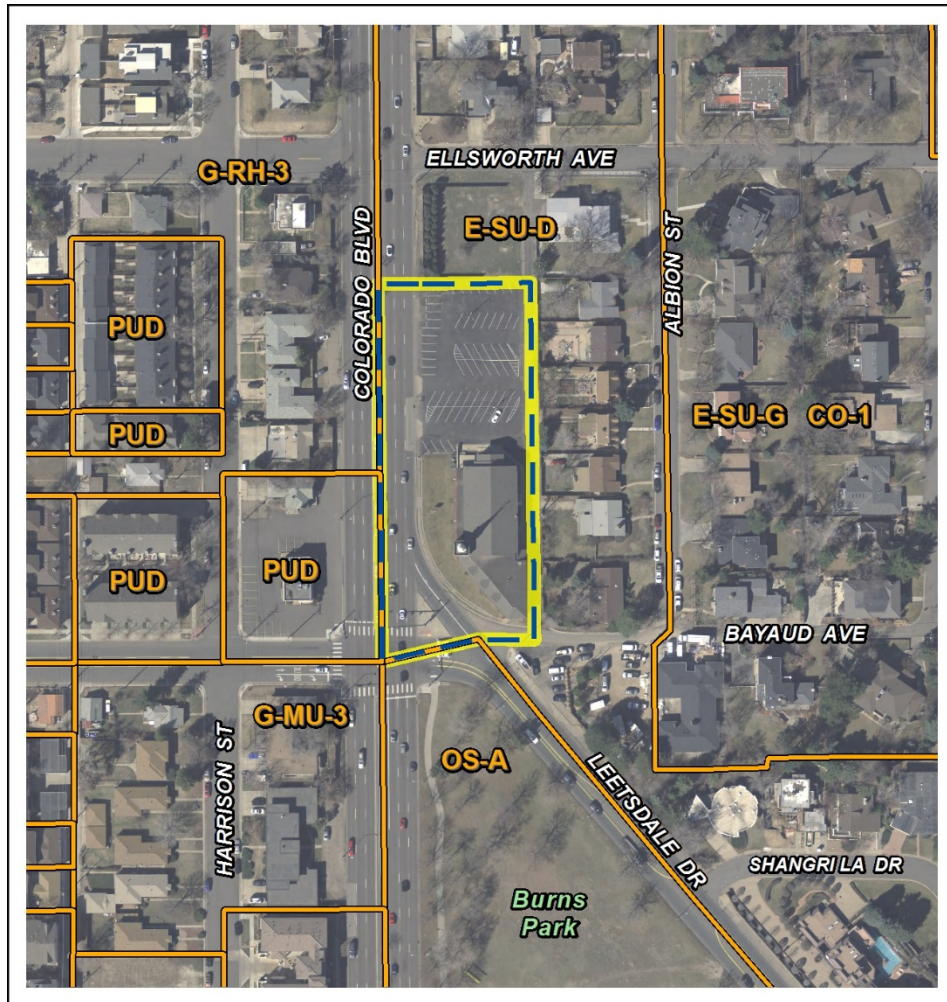
### Existing Context

The subject property is located on the western edge of Hilltop neighborhood at the northeast corner of Colorado Boulevard and Leetsdale Drive, across Colorado Boulevard from the Cherry Creek Neighborhood. The Hilltop neighborhood is generally characterized by single family development, while the Cherry Creek neighborhood is a mixture of multi-unit and commercial land uses. In the general area of the subject property are the Cherry Creek Shopping Center and Cherry Creek North Shopping District 7 blocks to the west, Cranmer Park 3 blocks to the northeast, Burns Park south across Bayaud Avenue, and Cherry Creek 4 blocks to the south. Area schools include Bromwell Elementary School located at 4<sup>th</sup> Avenue and Josephine Street, Graland Country Day School located at 1<sup>st</sup> Avenue and Bellaire Street, Steck Elementary School located at 4<sup>th</sup> Avenue and Albion Street and Hill Campus of Arts and Sciences located at 4th Avenue and Clermont Street.

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	E-SU-D	Vacant Church and Surface Parking	1-2 story church	General regular grid of streets; Leetsdale Drive angles southeast from Colorado Boulevard; intermittent alleys and lack of sidewalks east of Colorado Boulevard; Regular presence of alleys and sidewalks west of Colorado Boulevard; Block sizes and shapes are consistent and rectangular. Vehicle parking to the side or rear of buildings (alley access where alleys exist).
North	E-SU-D	Vacant Land	No Structure	
South	OS-A	Denver Park	No Structure	
East	E-SU-D	Single unit Residential	1-2 story Single unit residential structures	
West	PUD and G-RH-3	Commercial and Residential	1-2 story commercial, multi-family and Single unit residential	

## 1. Existing Zoning



The current E-SU-D zone district allows single unit residential land uses and some duplex and multi-unit uses, if the uses were legally established and continuously maintained. Some civic land uses such as libraries and parks are permitted while other civic uses such as schools, churches and day care are allowed with limitations. The primary building form allowed is Urban House, with a 2.5 story (30 to 35 feet) height limit.

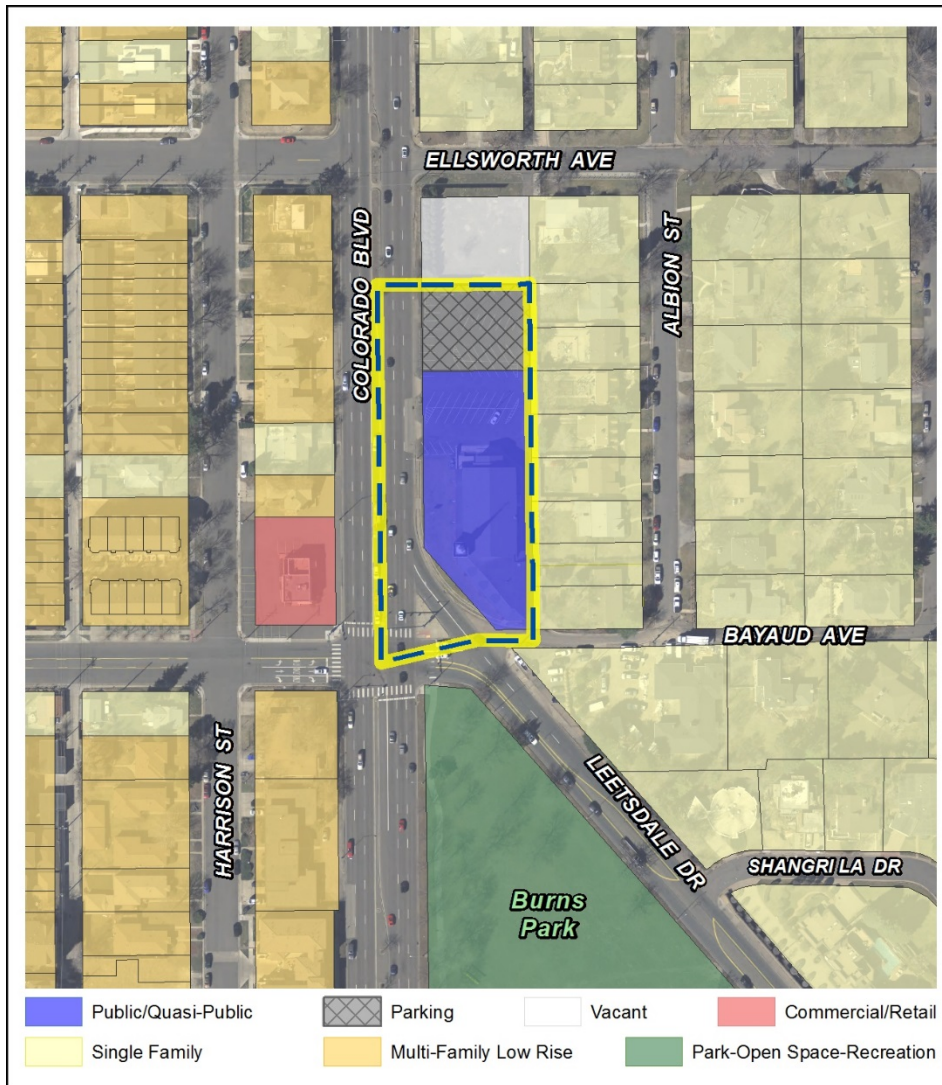
## 2. Cranmer Park Mountain View Plane

The subject property is within the Cranmer Park Mountain View Plane. Under view plane building height limits structures on the property are limited to a height of between 98-100 feet.

### 3. Colorado Boulevard Parkway

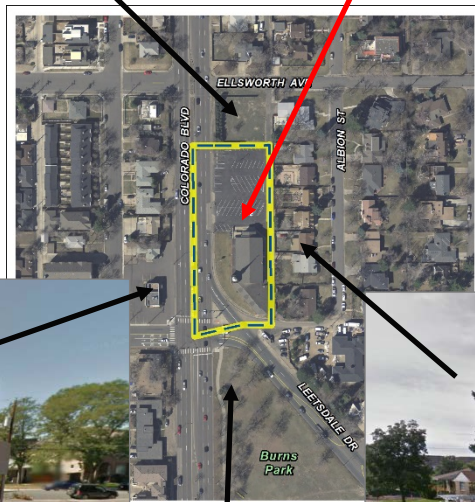
Colorado Boulevard is a designated parkway with a required 20 feet parkway setback for buildings and signs from the Boulevard right-of-way. The Parkway ordinance (D.R.M.C. Section 49-16) sets regulations related to the public right-of-way and the adjacent property within this setback.

### 4. Existing Land Use Map



Existing Land Use

### 5. Existing Building Form and Scale





## 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:

**Public Works – City Surveyor:** Approved.

**Asset Management** – Approved, no comment.

**Development Services, Wastewater** – Approved with the following comments. There is no objection to the rezone, however applicant should be under notice that Public Works will not approve any development of this property without assurance that there is sufficient sanitary and storm sewer capacity. A sanitary study and drainage study may be required. These studies may result in a requirement for the developer to install major infrastructure improvements or a limit to development if current infrastructure is insufficient. Approval of this rezone on behalf of Wastewater does not state, or imply, public storm/sanitary infrastructure can, or cannot, support the proposed zoning.

**Parks and Recreation** – Approved

**Department of Public Health and Environment:** - Approved with the Following comments. Notes. The Denver Department of Public Health and Environment (DDPHE) concurs with the rezoning request.

General Notes: Most of Colorado is high risk for radon, a naturally occurring radioactive gas. Due to concern for potential radon gas intrusion into buildings, DDPHE suggests installation of a radon mitigation system in structures planned for human occupation or frequent use. It may be more cost effective to install a radon system during new construction rather than after construction is complete.

Denver's Noise Ordinance (Chapter 36–Noise Control, Denver Revised Municipal Code) identifies allowable levels of noise. Properties undergoing Re-Zoning may change the acoustic environment, but must maintain compliance with the Noise Ordinance. Compliance with the Noise Ordinance is based on the status of the receptor property (for example, adjacent Residential receptors), and not the status of the noise-generating property. Violations of the Noise Ordinance commonly result from, but are not limited to, the operation or improper placement of HV/AC units, generators, and loading docks. Construction noise is exempted from the Noise Ordinance during the following hours, 7am–9pm (Mon–Fri) and 8am–5pm (Sat & Sun). Variances for nighttime work are allowed, but the variance approval process requires 2 to 3 months. For variance requests or questions related to the Noise Ordinance, please contact Paul Riedesel, Denver Environmental Health (720-865-5410).

Scope & Limitations: DDPHE performed a limited search for information known to DDPHE regarding environmental conditions at the subject site. This review was not intended to conform to ASTM standard practice for Phase I site assessments, nor was it designed to identify all potential environmental conditions. In addition, the review was not intended to assess environmental conditions for any potential right-of-way or easement conveyance process. The

City and County of Denver provides no representations or warranties regarding the accuracy, reliability, or completeness of the information provided.

**Public Review Process**

	<b>Date</b>
CPD informational notice of receipt of the initial rezoning application to all affected members of City Council and Registered Neighborhood Organizations.	<b>08/24/17</b>
CPD informational notice of receipt of the amended rezoning application to all affected members of City Council and Registered Neighborhood Organizations.	<b>12/19/17</b>
Property legally posted for a period of 15 days and CPD written notice of the Planning Board public hearing sent to all affected members of City Council and Registered Neighborhood Organizations.	<b>01/02/18</b>
Planning Board public hearing. By a unanimous vote (9-0) the Board recommended approval.	<b>01/17/18</b>
CPD written notice of the Land Use, Transportation and Infrastructure Committee meeting sent to all affected members of City Council and Registered Neighborhood Organizations.	<b>01/16/18</b>
Land Use, Transportation and Infrastructure Committee of the City Council.	<b>01/30/18</b>
Property legally posted for a period of 21 days and CPD written notice of the City Council public hearing sent to all affected members of City Council and Registered Neighborhood Organizations.	<b>02/18/18</b>
City Council Public Hearing.	<b>03/12/18</b>

**Registered Neighborhood Organizations (RNOs)**

- To date, CPD has received one letter of support for the amended application of PUD-G17 from the Cranmer Park-Hilltop Civic Association, a Registered Neighborhood Organization.

### Other Public Comment

- To date, no other public comments have 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, and 12.4.10.9 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

#### DZC Section 12.4.10.9

1. The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of the Zoning Code;
2. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6;
3. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions; The PUD District and the PUD District Plan establish permitted uses that are compatible with existing land uses adjacent to the subject property; and
4. The PUD District and the PUD District Plan establish permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan (e.g., through decreases in building height; through significant distance or separation by rights-of-way, landscaping or similar features; or through innovative building design.

### 1. Consistency with Adopted Plans

The following adopted plans apply to this property:

- Denver Comprehensive Plan 2000
- Blueprint Denver (2002)
- The Boulevard Plan (1991)

### Comprehensive Plan 2000

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

- Environmental Sustainability Strategy 2-F – *“Conserve land by promoting infill development within Denver at sites where services and infrastructure are already in place”* (p. 37).
- 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”* (p. 60).
- Legacies Strategy 3-A – *“Identify areas in which increased density and new uses are desirable and can be accommodated”* (p. 99).

- Housing Objective 2 – *“Encourage preservation and modernization of Denver’s existing housing stock and established neighborhoods. Support addition of housing in expansion and infill development”* (p. 114).

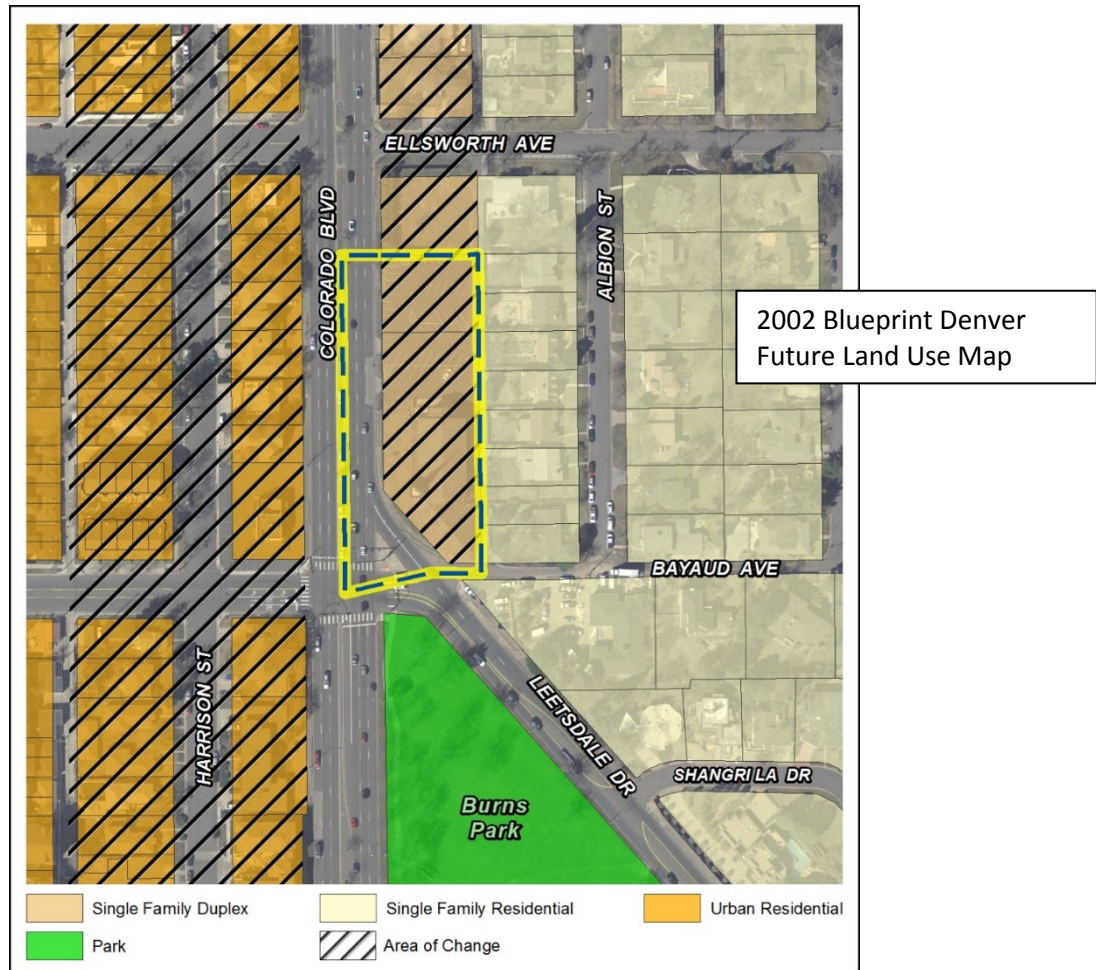
The proposed map amendment will enable the addition of low-scale multi-unit residential development on the edge of the Hilltop neighborhood at an infill location where services and infrastructure are already in place. The proposed zone district matches the same 30 to 35 feet allowed building height in the adjacent neighborhood. The G-RH-3 standards established in the PUD are the lowest scale residential standards in the General Urban Context. The proposal offers an opportunity to add moderate density in a location that serves as a transition to two arterial streets, both Colorado Boulevard and Leetsdale Drive, and to the Cherry Creek neighborhood west of the Boulevard. The PUD’s G-RH-3 district standards also broaden the variety of allowed primary building forms from exclusively Urban House to Urban House, Duplex, and Row House building forms. The PUD does not allow the use of the Garden Court building form. The rezoning is consistent with the Comprehensive Plan policies that encourage infill development where services and infrastructure are already in place, where the infill development is in character with the existing neighborhood, where increased density can be accommodated and where additional housing is supported.

### **Blueprint Denver**

According to the 2002 Plan Map adopted in Blueprint Denver, the subject property has a concept land use of Single Family/Duplex Residential and is in an Area of Change.

### **Future Land Use**

*“Single Family/Duplex Residential areas are moderately dense areas that are primarily residential but with some complementary, small-scale commercial uses...There is a mixture of housing types including single-family houses, duplexes, townhouses and small apartment buildings. Typical densities are between 10 and 20 housing units per acre area-wide, and single family detached structures often predominate”* (p. 42). The G-RH-3 standards with the deviations established in PUD G-17 allow a moderate step up in density on the subject property by allowing a similar mix of building forms named in the description of the Single Family/Duplex Residential land use type, Urban House, Duplex, and Row House, and the district allows the structures at the same allowed height as the adjacent residential neighborhood.



### **Area of Change / Area of Stability**

As noted, the subject property is in an Area of Change. Blueprint Denver cites one type of Area of change as “*areas along corridors with frequent bus service*” (p. 128). The number 40 bus on this section of Colorado Boulevard arrives every 5-7 minutes. The subject property, because it’s on a corridor with frequent bus service, is in an area where land use and transportation are linked. “*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*” (p. 127).

Blueprint Denver provides additional specific strategies for Areas of Change. Applicable strategies include:

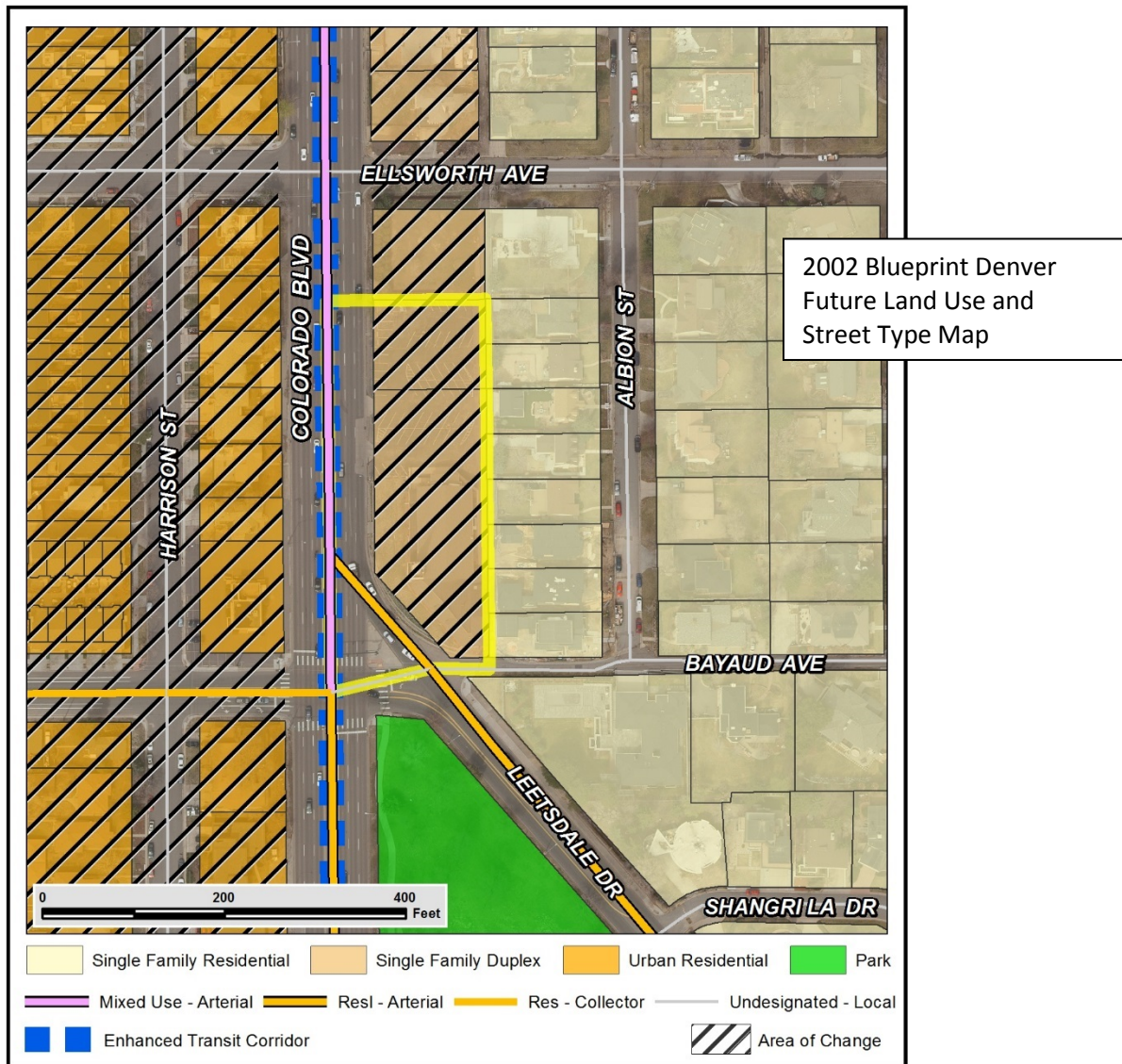
- *“Contribute to urban design vision*
  - *Orientation to the street*
  - *Building scale*
  - *Transition to adjacent areas, especially Areas of Stability*
- *Respect valued attributes of area*
  - *Diversity of housing types and process*
  - *Parks and Parkways*

- *Expand transportation choice*
  - *Pedestrian/bicycle safety and comfort*
  - *Access to transit*
- *Improve environmental quality*
  - *Tree canopy*
  - *Parks and Parkways” (p. 142)*

The rezoning application is consistent with these Blueprint Denver Area of Change strategies. The PUD’s G-RH-3 zoning standards will require orientation to the street for buildings in the west half of the property, and a building scale that is the same as the adjacent Area of Stability. The PUD also creates the opportunity for a more diverse menu of moderately dense building types, while disallowing the incompatible Garden Court building form. And finally, improvements to the Colorado Boulevard parkway will improve pedestrian safety, the tree canopy and transit access.

### **Street Classifications**

Blueprint Denver classifies Colorado Boulevard as a Mixed-Use Arterial and an Enhanced Transit Corridor. Leetsdale Drive is classified as a Residential Arterial, and Bayaud Avenue is classified as an Undesignated Local Street. Mixed Use Arterials provide “*a high degree of mobility*” (p. 51) and “*are located in high-intensity mixed-use commercial retail and residential areas with substantial pedestrian activity*” (p. 57). Blueprint Denver encourages “*evaluating and implementing enhanced bus transit service*” (p. 98) on Enhanced Transit Corridors like Colorado Boulevard, and “*developing transit-supportive incentives like shared or reduced parking, and a mix of transit-supportive land uses*” (p. 100). Residential Arterials balance “*transportation choices with land access, without sacrificing mobility*” (p. 55), and Local Streets are tailored more to providing local access” (p. 51). The proposed map amendment to PUD G-17 based upon G-RH-3 zoning standards will enable a moderate increase in density in an area that Blueprint Denver identifies as appropriate for change. Future residential development will be oriented to the street, will add to the diversity of housing in the area at the same scale as adjacent residential uses, and will improve the Colorado Boulevard parkway with pedestrian and landscaping enhancements.



**Use of PUD (Planned Unit Development)**

Blueprint Denver provides the following policy guidance regarding the use of PUD zoning (p. 82-83):

*“Concerns with PUDs are that their widespread proliferation has increased the complexity of regulating land use, and the conditions they place on development sometimes perform poorly and inflexibly once the PUD has been adopted....to reduce the proliferation of zone districts, the city should reclassify obsolete, unbuilt PUDs into more appropriate general zoning categories. To limit the future excess of PUDs, the city should reserve them for special situations and should provide tighter standards that define what type and scale of development will qualify for this zone definition.”*

Consistent with this adopted plan direction, CPD has, with the 2010 Denver Zoning Code, put into place stricter zoning standards that limit the use of PUDs to unique and extraordinary circumstances. CPD also changed the way PUDs are written. PUDs are now based on the zoning standards in a specific DZC zone district, with any specific exceptions to the zoning standards listed within the PUD. In this way PUD standards are tightened to now conform to existing zoning standards apart from very specific alterations. The proposed PUD is consistent with this Blueprint Denver plan direction.

### **The Boulevard Plan (1991)**

The Boulevard Plan outlines visions, goals and objectives mainly for the commercially zoned property along Colorado Boulevard between 1<sup>st</sup> Avenue on the north and Liff Avenue on the south. The overall vision of the Plan is the *“this portion of Colorado Boulevard is and should continue to be, a regionally distinct transportation, business and residential corridor accommodating a wide range of development types and sizes which serve the shopping, business and entertainment needs of nearby residents, as well as providing destination opportunities for a wider community”* (p. 3). Plan goals to achieve this vision include:

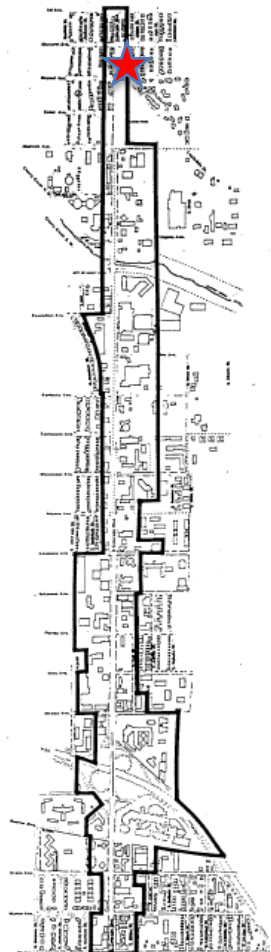
- Improving traffic flow and safety
- Retain a broad mix of land uses
- Define and reinforce the unique image of the corridor and ensure that new development has no adverse impacts on adjacent uses

Three areas of concern identified in the Plan Goals are transportation, land use and urban design. The transportation recommendations in the Plan are mainly oriented to physical improvements within the corridor, improvements to support corridor transit and attempts to manage trip generation. Urban design recommendations in the Plan center mainly on physical improvements in the corridor to improve the public right-of-way, signage, landscaping and the quality of private development on the corridor.

The general land use goals in the Plan include *“Continue an appropriate mix of land uses along the Boulevard”* and *“New development should be compatible with existing development”* (p. 29). Plan land use recommendations include:

- Overall Development Cap – *“While no wholesale increases in overall allowable development seem appropriate, some increase in development intensity may be appropriate for individual projects because of specific site or development proposal issues”* (p. 35).
- Land Use Mix – *“Seek to retain a diversity of land uses in the corridor”* (p. 36).
- On-Site Parking – *“All new development should provide sufficient parking to meet 100% of the projects needs on-site or in shared facilities adjacent to the site”* (p. 36).

The proposed rezoning of the subject property complies with these recommendations because the proposed redevelopment of a vacant church will add to the mix of residential development types on the corridor, will add a moderate





level of development that is in character with the adjacent neighborhoods and will provide 100% of the project's parking needs on-site.

## **2. Uniformity of District Regulations and Restrictions**

The proposed rezoning to a PUD based upon the G-RH-3 zone district will result in the general uniform application of zone district building form, use and design regulations.

## **3. Public Health, Safety and Welfare**

Because the proposed map amendment will enable redevelopment of a run-down site, will activate the site and corridor with residential development and will implement the City's adopted plans, the proposed official map amendment furthers the public health, safety and general welfare of the City.

## **4. Justifying Circumstances**

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.*"

The application identifies changes to the overall locale of the property on Colorado Boulevard and the changes to single family residences in this locale over time. Low density residences located on this portion of Colorado Boulevard generally turn their back on the Boulevard and build tall fences. The applicant cites access challenges, noise, compromised safety among the factors contributing to the changed conditions in the area. On the opposite side of the Boulevard the Cherry Creek neighborhood has seen a large volume of redevelopment and on the Boulevard the area has redeveloped with multi-unit residential uses. In recognizing these changed conditions in the area and acknowledging that a change in zoning is necessary to redevelop the area, the application is in conformance with this criterion. Changed conditions in the area is an appropriate justifying circumstance for the proposed rezoning.

## **5. Consistency with Neighborhoods Context Description, Zone District Purpose and Intent Statements**

The zoning standards in the proposed PUD district are based upon the General Urban Neighborhood context. This context is "*characterized by multi-unit residential uses in a variety of building forms... Low-scale commercial areas are embedded within residential areas. Residential uses area primarily located along local and residential arterial streets*" (DZC p. 6.1-1). The General Urban context consists of a regular pattern of blocks formed by a grid street system. "*Residential buildings typically have consistent, shallow to moderate front setbacks, shallow side setbacks and consistent orientation... Lower scale structures are typically found in areas transitioning to a less dense urban neighborhood*" (DZC p. 6.1-1).

The PUD's G-RH-3 district zoning standards are intended "*to promote and protect higher density residential neighborhoods. The building form standards, design standards and uses work together to promote safe, active, pedestrian-scaled residential areas. The standards accommodate the pattern of urban house, duplex, row house and garden court building forms. The lowest-scale districts with a maximum height of 3 stories provide a transition to Urban and Urban Edge Neighborhood Contexts*" (DZC p. 6.2-1). The 3-story maximum height allowed by the zone district is consistent with the adjacent Urban Edge neighborhood and provides an

acceptable transition to the General Urban context across Colorado Boulevard, which is also zoned G-RH-3.

## 6. Additional review criteria for rezoning to PUD district

- A. The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of the Zoning Code;
- The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of the Zoning Code to respond to “Unique and extraordinary circumstances”.
    - The unique and extraordinary circumstances of the subject site are its location at a 3-way intersection of two major arterial streets and a substandard one-way local street, and the location of the property between a major arterial and a low-density residential neighborhood. Because of the street types and street configuration, safe access to the site is greatly limited. In addition, the location of a private alley on the eastern edge of the property further limits access to the property. The combination of the site’s compromised access and the need for uses on the property to act as a transition between a major arterial and a low-density residential neighborhood requires a customized approach to ensure compatibility with the surrounding character while allowing a reasonable use of the property.
  - According to Section 9.6.1.1.D. in return for the flexibility in site design a PUD District should provide significant public benefit not achievable through application of a standard zone district, including but not limited to diversification in the use of land; innovation in development; more efficient use of land and energy; exemplary pedestrian connections, amenities, and considerations; and ***development patterns compatible in character and design with nearby areas and with the goals and objectives of the Comprehensive Plan.*** The PUD District provides significant public benefit not achievable through application of a standard Zone District, including:
    - The PUD District precludes the use of the Garden Court building form, a problematic building form that is under review for change by a citywide task force and which is currently the subject of a partial moratorium enacted by City Council.
    - The PUD standards which exempt rear structures from “Entry Feature” requirements will allow structures on the site to be aligned in two rows of duplexes. This is a more efficient use of the land and is still in character with the adjacent low-density neighborhood.
    - The G-RH-3 zoning standards written into PUD-G17 will allow low-density multi-unit development that is compatible in scale with existing building heights of the adjacent single-family neighborhood and will serve as a transition in intensity of land use from a major arterial street to the adjacent low-density residential neighborhood.
    - The PUD regulations will ensure that any development restores the Colorado Boulevard Parkway, provides a safe landscaped pedestrian

walkway on the Boulevard to access transit and the adjacent Burns Park, and activates the Boulevard with new low-scale residential land uses.

- The PUD is in conformance with Comprehensive Plan, Blueprint Denver and the Boulevard Plan objectives. The proposal offers an opportunity to add moderate density in a location that serves as a transition from a low-density residential neighborhood to two arterial streets, both Colorado Boulevard and Leetsdale Drive, and to the Cherry Creek neighborhood west of the Boulevard. The PUD's G-RH-3 district standards also broaden the variety of allowed primary building forms from exclusively Urban House to Urban House, Duplex, and Row House building forms. The rezoning is consistent with the Comprehensive Plan policies that encourage infill development where services and infrastructure are already in place, where the infill development is in character with the existing neighborhood, where increased density can be accommodated and where additional housing is supported. Blueprint Denver further supports the Comprehensive Plan strategies for the property by designating the area as an Area of Change and an Enhanced Transit Corridor with a proposed land use of Single Family/Duplex. And finally, the proposed redevelopment conforms with the Boulevard Plan recommendations to add to the mix of residential development types on the corridor, to add a moderate level of development that is in character with the adjacent neighborhoods and to provide 100% of the projects parking needs on-site.

- B. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6;
- As stated in item A above, the PUD District complies with standards and criteria stated in Division 9.6.
- C. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions;
- The PUD District is necessary because there is no zone district available that precludes the Garden Court building form, and allows entry feature requirements to apply only to structures fronting the Primary Street and allows multiple duplexes on a single zone lot.
- D. The PUD District establishes permitted uses that are compatible with existing land uses adjacent to the subject property;
- The PUD District limits uses to low-scale multi-unit residential uses and other uses allowed in similar zone districts that are compatible with the adjacent residential neighborhoods.
- E. The PUD District establishes permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan.

- The PUD District allows building heights that are the same as those allowed on adjacent properties and limits building forms to low-density forms that are compatible with adjacent single-unit residential zone districts.

#### **Attachments**

1. Application
2. PUD-G17
3. Approved Legal Description
4. Comment Letters (1)


## 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	SMW HILLTOP LLC	Representative Name	DOUGLAS MCKINNON
Address	730 17th Street, Suite 220	Address	730 17TH STREET, SUITE 220
City, State, Zip	Denver, CO 80206	City, State, Zip	Denver, CO 80202
Telephone	303-629-6700	Telephone	303-629-6700
Email	dm@mckinnonre.com	Email	dm@mckinnonre.com
<p><b>*If More Than One Property Owner:</b>            All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p><b>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</b></p>	
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.			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):	30-50 S. Colorado Boulevard: THE EASTERN CAPITOL HILL SUB B53 PLOT 3 & 4 & THAT PT OF PLOT 5 DAF BEG SE COR PLOT 5 W 43.04FT NWLY TO NW COR PLOT 5 E TO NE COR PLOT 5 S 100FT / THE EASTERN CAPITOL HILL SUB		
Assessor's Parcel Numbers:	0607309017000 / 0607309018000		
Area in Acres or Square Feet:	46,118 SF/ 1.05 AC		
Current Zone District(s):	E-SU-D		
PROPOSAL			
Proposed Zone District:	PUD-G17		
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 Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.8</p>	<p><b>Justifying Circumstances - One of the following circumstances exists:</b></p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.</p> <p><input checked="" type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.</p> <p>Please provide an attachment describing the justifying circumstance.</p>
	<p><input checked="" type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.</p> <p>Please provide an attachment describing how the above criterion is met.</p>
	<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:	
Survey	

**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)
<b>EXAMPLE</b> John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith Josie Q. Smith</i>	01/01/12	(A)	NO
SMW HILLTOP LLC	30 S-50 S Colorado Boulevard, Denver CO 80246	100%		08/14/17	B	yes
					B	yes
					B	
					B	
					B	



05/31/2017 04:08 PM  
City & County of Denver  
Electronically Recorded

R \$38.00

WD

D \$0.00

*Recording requested by  
and after recording return to:*  
Otten, Johnson, Robinson,  
Neff and Ragonetti, P.C.  
Attn: Kimberly Martin  
950 17<sup>th</sup> Street, Suite 1600  
Denver, Colorado 80202

**SPECIAL WARRANTY DEED**

[Statutory Form – C.R.S. § 38-30-115]

**SHERIDAN VENTURE CAPITAL, LLC**, a Colorado limited liability company, whose street address is 240 Milwaukee Street, Suite 200, Denver, Colorado 80206; **MCKINNON & ASSOCIATES, LLC**, a Colorado limited liability company, whose street address is 730 17th Street, Suite 220, Denver, Colorado 80202; and **WELLS SPRINGS, INC.**, a Colorado corporation, whose street address is 240 Milwaukee Street, Suite 2, Denver, Colorado 80206 (collectively, “**Grantor**”), for the consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, in hand paid, hereby sells and conveys to **SMW HILLTOP, LLC**, a Colorado limited liability company, whose street address is 730 17th Street, Suite 220, Denver, Colorado 80202, the real property located in the City and County of Denver, State of Colorado, described on Exhibit A attached hereto and made a part hereof, with all its appurtenances (the “**Property**”). Grantor warrants the title to the Property against all persons claiming under Grantor, subject to the matters set forth on Exhibit B attached hereto and made a part hereof.

*[ signature pages follow this page ]*



Signed the 31st day of May, 2017, but made effective as of 1st day of January, 2017.

**GRANTOR:**

**SHERIDAN VENTURE CAPITAL, LLC,** a Colorado limited liability company

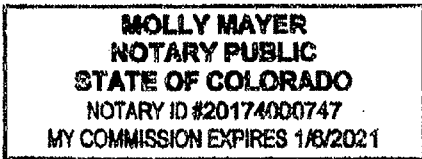
By: *John F. Sheridan*  
Name: JOHN F. SHERIDAN  
Title: MANAGER

STATE OF COLORADO )  
[CITY AND] COUNTY OF Denver ) ss.

The foregoing instrument was acknowledged before me this 31 day of May, 2017, by John Sheridan as manager of **SHERIDAN VENTURE CAPITAL, LLC**, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 1/16/2021



*Molly Mayer*  
Notary Public

[ signature pages follow this page ]

WELLS SPRINGS, INC., a Colorado corporation

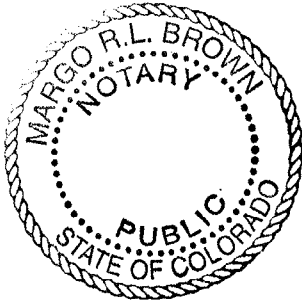
By: DAVID WELLS  
Name: DAVID WELLS  
Title: MANAGER

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

The foregoing instrument was acknowledged before me this 3<sup>1st</sup> day of May, 2017, by David Wells as Manager of **WELLS SPRINGS, INC.**, a Colorado corporation.

Witness my hand and official seal.

My commission expires: 1/8/2021  
[Signature]  
Notary Public



[ signature page follows this page ]

MCKINNON & ASSOCIATES, LLC, a Colorado limited liability company

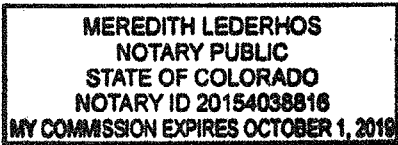
By: [Signature]  
Name: Douglas C. McKinnon  
Title: Manager/Member

STATE OF COLORADO )  
 ) ss.  
[CITY AND] COUNTY OF Denver )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of May, 2017, by Douglas McKinnon as Manager/member of MCKINNON & ASSOCIATES, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 10/1/19  
[Signature]  
Notary Public



**EXHIBIT A****Legal Description**PARCEL 1:

PLOT 2, BLOCK 53, THE EASTERN CAPITOL HILL SUBDIVISION, THE PLAT OF WHICH WAS RECORDED IN PLAT BOOK 4 AT PAGE 12, CITY AND COUNTY OF DENVER, STATE OF COLORADO; and

PARCEL 2:

PLOTS 3, 4 AND 5, BLOCK 53, THE EASTERN CAPITAL HILL SUBDIVISION, THE PLAT OF WHICH WAS RECORDED IN PLAT BOOK 4 AT PAGE 12, EXCEPT ANY PORTION OF LOT 5 LYING WITHIN LEETSDALE DRIVE, CITY AND COUNTY OF DENVER, STATE OF COLORADO

**EXHIBIT B****Permitted Exceptions**

1. Taxes and assessments for the year 2017 and subsequent years, a lien, not yet due or payable.
2. Water rights, claims of title to water, whether or not these matters are shown by the Public Records.
3. Terms, conditions, provisions, agreements and obligations contained in the Ordinances regarding Mountain View Preservation recorded March 14, 1968 in Book 9854 Page 231, January 6, 1969 in Book 9975 Page 351 and Recorded July 30, 1973 in Book 738 Page 127
4. Terms, conditions, provisions, agreements and obligations contained in the Memorandum of Lease as set forth below:

Recording Date: March 19, 2004

Recording No.: Reception No. 20040319000124520  
(Adams County Records)

5. Terms, conditions, provisions, agreements and obligations contained in the Memorandum of Lease with Option to Purchase, excepting any provisions set forth therein with respect to any option or right of first refusal to purchase the subject property exercisable by tenant, as set forth below:

Recording Date: January 8, 2013

Recording No.: Reception No. 2013003174

6. Matters disclosed by the ALTA/ACSM Land Title Survey by Chessnoe and Associates, dated December 11, 2014, to wit:
  - a. The fact that the overhead utility line is not located within a recorded easement.
  - b. The fact that the mason retaining wall encroaches into South Colorado Boulevard and the Leetsdale Drive rights of way.



# 30 S COLORADO BLVD

**Owner** SMW HILLTOP LLC  
240 MILWAUKEE ST  
DENVER, CO 80206-5006

**Schedule Number** 0607309018000

**Legal Description** THE EASTERN CAPITOL HILL SUB B53 PLOT 2

**Property Type** COMMERCIAL - MISC IMPROVEMENTS

**Tax District** DENV

**Error**  
Map information not available. Try refreshing the page.

**30 S COLORADO BLVD**  
DENVER, CO  
Schedule Number: 0607309018000  
Owner: SMW HILLTOP LLC  
240 MILWAUKEE ST  
DENVER, CO  
Property Value  
Directions | Street View | Parcel Map

Map data ©2017 Google

# 50 S COLORADO BLVD

**Owner** SMW HILLTOP LLC  
730 17TH ST 220  
DENVER , CO 80202

**Schedule Number** 0607309017000

**Legal Description** THE EASTERN CAPITOL HILL SUB B53 PLOT 3 & 4 & THAT PT OF PLOT 5 DAF BEG SE COR PLOT 5 W 43.04FT NWLY TO NW COR PLOT 5 E TO NE COR PLOT 5 S 100FT TO POB

**Property Type** INDUSTRIAL - SCHOOL

**Tax District** DENV

Additional Property Information				
<b>Zoning</b>	<p><b>50 S COLORADO BLVD</b> DENVER, CO 80246-1041 Schedule Number: 0607309017000</p> <p><b>Owner:</b> SMW HILLTOP LLC 730 17TH ST 220 DENVER, CO</p> <p><b>Property Value</b>  <a href="#">Directions</a>   <a href="#">Street View</a>   <a href="#">Parcel Map</a></p>			
<b>Zone District:</b> E-SU-D				
<b>Code Version:</b> Zoning Map				
<b>Neighborhood</b>	Hilltop			
<b>Subdivision</b>	The Eastern Capitol Hill Sub-Division			
<b>Historic Landmark District</b>	No			
<b>Historic Landmark</b>	No			
<b>Enterprise Zone</b>	Not in enterprise zone.			
<b>Floodplain Designation</b>	Click Details button for floodplain information			
<b>Downloadable Maps</b>	<a href="#">Parcel Map</a>			



**SMW Hilltop, LLC**  
**730 17<sup>th</sup> Street, Suite 220**  
**Denver, CO 80202**

August 14, 2017

*Amended December 18, 2017*

Theresa Lucero  
Planning Services – City and County of Denver  
201 W Colfax Avenue, Dept. 203  
Denver, CO 80202

**Re: Rezoning Initiation – 30 and 50 S. Colorado Boulevard**

Dear Theresa:

On behalf of SMW Hilltop, LLC (collectively the “Applicant”), please accept this Amended Rezoning Application submittal to start the rezoning review for the property located at 30-50 S. Colorado Boulevard.

After intensive work over the past year with local neighborhood representatives and leadership, we have reached a mutually acceptable concept plan for the redevelopment of the property in accordance with the requested re-zoning. Attached please find a Letter of Support from the Cranmer Park Hilltop Civic Association (the “RNO”) for this re-zoning. As part of our agreement with the neighborhood we have executed a Declaration of Restrictive Covenant between SMW Hilltop, LLC and the Cranmer Park – Hilltop Civic Association recorded with the City and County of Denver 7/27/2017. This private agreement is also attached for your reference.

The Applicant is requesting a PUD-G17 based on the G-RH-3 zone district.

**Property Location:**

The subject property is located along Colorado Boulevard between E. Ellsworth Avenue and E. Bayaud Avenue in Denver and is owned by the Applicant.

**Property and Legal:**

Following are the legal descriptions for the properties.

**30 S. Colorado Boulevard:**

PLOT 2, BLOCK 53, THE EASTERN CAPITOL HILL SUBDIVISION, THE PLAT OF WHICH WAS RECORDED IN PLAT BOOK 4 AT PAGE 12, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

**50 S. Colorado Boulevard:**

PLOTS 3, 4, AND 5, BLOCK 53, THE EASTERN CAPITOL HILL SUBDIVISION, THE PLAT OF WHICH WAS RECORDED IN PLAT BOOK 4 AT PAGE 12, EXCEPT ANY PORTION OF PLOT 5 LYING WITHIN LEETSDALE DRIVE, CITY AND COUNTY OF DENVER, STATE OF COLORADO.

**Site Description:**

This approx. one acre property fronting S. Colorado Boulevard contains a dilapidated and unoccupied former church building of non-historic status, surface parking, and vehicle curb cuts from Colorado Blvd. Leetsdale Drive forms a portion of the property boundary to the southwest and E. Bayaud Avenue forms a small portion of the southern property boundary. The current property zoning is E-SU-D and the property immediately to the north and east is zoned the same. To the south is Burns Park and to the west, across Colorado Blvd. is a mix of different residential and commercial zone districts, with a predominance of G-RH-3. The site is located within the Cranmer Park View Plane area and Colorado Blvd. is a designated Denver Parkway.

**Purpose & Intent:**

The purpose of this rezoning is to create the opportunity for reasonable and appropriate residential development on this almost half city block fronting Colorado Blvd. The current E-SU-D zoning is not appropriate in this location because it only allows for the development of single family homes with minimum lot sizes of 6,000 SF. As a major arterial in this part of Denver, Colorado Blvd. brings high visibility to this property along with many development challenges. These challenges include virtually non-stop traffic noise, congestion, and vehicle access limitations not supportive of single family residential home development. Because of these negative influences, the current aesthetic character of this property presents an unattractive and non-contributing edge to the Colorado Blvd. corridor and a visually compromised gateway to the established Hilltop neighborhood.

We intend to establish a zoning designation that will encourage sustainable residential development more appropriate for this commercial corridor. We believe that the single unit development limitations of the current zoning make this specific property very difficult to develop as a residential use for the reasons previously stated. There is a fundamental incongruence between the current challenges of this location and the viability of single family homes at this site. As proposed, a PUD based upon G-RH-3 zone would offer flexibility for a variety of residential unit types that would be viable in this location along the Colorado Blvd. corridor. In addition, the 3-story limitation of this zone is in scale with, and complimentary to, the surrounding zoning and development. Finally, new residential development on this property has the opportunity to greatly improve the aesthetic character of this property, provide an important noise and safety barrier for the neighborhood and create a fresh and attractive edge for the community and gateway to the established Hilltop neighborhood.

**Public Outreach & City of Denver Coordination:**

Immediately after acquiring the 30-50 S. Colorado Blvd. parcel in late 2014, the Applicant reached out to both Councilman Susman and the Hilltop RNO Leadership/Zoning Committee (and staff too) to discuss a potential property rezoning. This outreach has continued from the first quarter of 2015 to the present, through numerous meetings with stakeholders, including immediate neighbors, RNO's and their subcommittees, and other individual neighbors. In addition, The Applicant has initiated several meetings with Councilman Susman and City staff to

share intent and obtain feedback and direction and worked with a City-hired facilitator for several months to further the public outreach efforts.

It is important to note that while public outreach is not required as part of the rezoning process prior to making an official application, the Applicant has taken the initiative to organize and attend these meetings in an effort of conveying rezoning intent and to encourage a collaborative dialogue. As a result of specific feedback from both the neighborhoods and the City representatives, the applicant has reached agreement with the RNO and is seeking a PUD based on G-RH-3 zone district.

As noted earlier and attached to this request, a critical component of this rezoning includes the Owner's private Declaration of Restrictive Covenant in favor of the neighborhood association detailing certain specifics of our agreement including a limitation on density to no more than twenty-two (22) residential units. Further information on the terms of our agreement with the RNO can be found in the document.

**Review Criteria:**

*General Review Criteria - The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.7.*

***A. Consistent with Adopted Plans***

Consistent with objectives of the Denver Comprehensive Plan 2000:

- From 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."
- Mobility Strategy 4-E: "Continue to promote mixed-use development, which enables people to live near work, retail and services."
- Legacies Strategy 3-A: "Identify areas in which increased density and new uses are desirable and can be accommodated."
- Compact development: "...improved neighborhood cohesion, reduced urban sprawl and residents more directly connected to services and amenities within their immediate living environment."

The proposed 30-50 S. Colorado Blvd. rezoning is consistent with Blueprint Denver in that this property is located within an identified Area of Change. This rezoning would support the objectives of an Area of Change as follows:

- Development / redevelopment that focuses growth in a way that benefits the city as a whole.
- New development that enhances the visual quality of buildings, streets and neighborhoods, thereby affecting the quality of life in the Areas of Change and surrounding neighborhoods.
- Improving the City's economic base and providing jobs.

Colorado Boulevard is identified in Blueprint Denver as a Mixed Use Arterial. Allowing a slightly higher residential density (vs. only single unit residential) is appropriate along this arterial.

***B. Uniformity of District Regulations and Restrictions***

The PUD based upon G-RH-3 zone for this 30-50 S Colorado Blvd. property will adhere to developed regulations that are consistent on all contiguous parcels (half block) and complementary to the surrounding neighborhood. The proposed use as residential and the form of three stories is consistent with surrounding land uses and appropriate in this location fronting Colorado Blvd.

### ***C. Public Health, Safety and General Welfare***

The proposed rezoning of the 30-50 S Colorado Blvd. properties will improve the health, safety and welfare of the city by allowing this property to be developed with viable and sustainable residential units. The current vacant and run-down property can be replaced with occupied residences where activity can serve as a deterrent to vandals and vagrants. The complete lack of sidewalks and pedestrian corridors currently on and around the property will be replaced with safe pedestrian corridors that are developed to City standards and that link to other local and regional pedestrian and bikeways serving the community. The current unattractive, run-down appearance will be improved through the development of attractive and well-maintained residences and landscape.

#### **Justifying Circumstances:**

***The land or its surroundings has changed or is changing to such a degree that rezoning that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area.***

The 30-50 S Colorado Blvd. properties are located in an area of the City that has changed significantly since it was originally developed as single unit residential many decades ago. The growth of Colorado Boulevard over time into one of Denver's major arterials has caused the decay of many established single family residences and small commercial businesses fronting this corridor. Access challenges, noise, compromised safety, among other factors all contribute to this changed condition. This condition is evident in the many residences facing Colorado Blvd. in this area that have turned their back/walled themselves off from this arterial, essentially turning away from what has historically been their front yard and door. The current E-SU-D zone, allowing only single unit residential use, is no longer viable and sustainable in this location; single unit residences facing S. Colorado Blvd. are neither appropriate nor marketable. The G-RH-3 zone allows for some flexibility in the type of residential units that are more appropriate for the location of the property.

Redevelopment of this property provides an opportunity to achieve other objectives identified in Blueprint Denver and other City regulating documents (in addition to those identified earlier in this document). Where no pedestrian corridors currently exist, pedestrian activity can be increased through the creation of safe corridors that support walkability for residents. The current pedestrian infrastructure in this area supports limited to no pedestrian activity while the designation of Colorado Blvd. as a mixed-use arterial encourages a variety of travel choices and substantial pedestrian activity. A rezoning can facilitate redevelopment of this property thereby achieving these objectives.

***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.***

The proposed PUD based upon G-RH-3 zone is a residential district allowing urban house, duplex and row house building forms. The tallest building form has a maximum height of three stories. This proposed zone consists of housing types that are compatible with the surrounding neighborhood,

including along S. Colorado Boulevard. The development will provide a much needed buffer between a heavily traveled, congested corridor and the urban house form to the east.

In addition to this letter that includes the required Review Criteria, please find the following required documents:

- Zone Map Amendment Application
- Property Legal Descriptions
- 30-50 S. Colorado Blvd. Survey
- Proof of Ownership Map & Assessors Information

**Article 12, Division 12.4.10.9 Additional Review Criteria for Rezoning to PUD District**

**This PUD-G 17 meets the additional review criteria as noted below:**

***A. The PUD District is consistent with the intent and purpose of such districts stated in Article 9, Division 9.6 (Planned Unit Development) of this Code;***

The proposed PUD District is needed to assist in the appropriate redevelopment of this unique site shape at the irregular intersection of Colorado Blvd., Leetsdale Drive and Bayaud Avenue. The surrounding streets consist of the intersection of 3 streets, 2 major arterials and a substandard local street. The site is also adjacent to a lower density residential neighborhood. We have successfully negotiated a 22-unit development with the neighborhood RNO. The proposed development will serve as a transition between the major arterials and the low-density neighborhood. To implement the agreed upon limitations to development of the site waivers would be required. The PUD is necessary to avoid a number of waivers.

The public benefit of the proposal is to redevelop a currently non-conforming and blighted property, and replace it with occupied residences where activity can serve as a deterrent to vandals and vagrants. The complete lack of sidewalks and pedestrian corridors currently on and around the property will be replaced with safe pedestrian corridors that are developed to City standards and that link to other local and regional pedestrian and bikeways serving the community. The Colorado Boulevard Parkway will be restored. The site will be improved through the development of attractive and well-maintained residences and landscaping. The new development will be an extreme public benefit to the neighborhood.

***B. The PUD District and the PUD District Plan comply with all applicable standards and criteria stated in Division 9.6;***

The PUD District complies with the applicable standards and criteria as stated.

***C. The development proposed on the subject property is not feasible under any other zone districts, and would require an unreasonable number of variances or waivers and conditions;***

The proposed development has been intensively negotiated with the adjacent Neighborhood to include specific self-imposed limitations by the developer in terms of building forms, unit density, parking and other arrangements that would, in the absence of a PUD require several separate Waivers and Conditions to be effective.

***D. The PUD District and the PUD District Plan establish permitted uses that are compatible with existing land uses adjacent to the subject property; and***

The PUD confirms permitted uses that are entirely consistent with the existing adjacent Residential neighborhood and offers a smooth transition from Colorado Blvd to Hilltop and single-family homes.

***E. The PUD District and the PUD District Plan establish permitted building forms that are compatible with adjacent existing building forms, or which are made compatible through appropriate transitions at the boundaries of the PUD District Plan (e.g., through decreases in building height; through significant distance or separation by rights-of-way, landscaping or similar features; or through innovative building design).***

The PUD establishes permitted building forms that are fully compatible with adjacent building forms in height, and prohibits the Garden Court building form, to make the future development more compatible with the building forms found in the adjacent established Residential neighborhood. By prohibiting Garden Court building form and building with the duplex form, the future residential development will be the same height and context as single family homes in Hilltop.

Thank you in advance for reviewing this request for Zone Map Amendment and please contact me if you need additional material or have any questions.

Sincerely,

**Douglas C. McKinnon  
Managing Partner  
SMW HILLTOP, LLC**



**For this Record...**

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

- Business Home
- Business Information
- Business Search

FAQs, Glossary and Information

## Summary

Details			
<b>Name</b>	SMW Hilltop, LLC		
<b>Status</b>	Good Standing	<b>Formation date</b>	11/25/2014
<b>ID number</b>	20141720510	<b>Form</b>	Limited Liability Company
<b>Periodic report month</b>	November	<b>Jurisdiction</b>	Colorado
<b>Principal office street address</b>	730 17th Street, Suite 220, Denver, CO 80202, United States		
<b>Principal office mailing address</b>	n/a		

Registered Agent	
<b>Name</b>	Douglas McKinnon
<b>Street address</b>	730 17th Street, Suite 220, Denver, CO 80202, United States
<b>Mailing address</b>	n/a

- [Filing history and documents](#)
- [Get a certificate of good standing](#)
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*The*  
*Cranmer Park / Hilltop*  
CIVIC ASSOCIATION

June 4, 2017

Doug McKinnon  
SMW Hilltop, LLC  
730 17<sup>th</sup> Street, Suite 220  
Denver, CO 80202

Re: 30-50 S. Colorado Blvd., rezoning

Dear Doug,:

This letter is submitted on behalf of the Cranmer Park-Hilltop Civic Association ("CPHCA") in connection with the proposed re-zoning of 30-50 South Colorado Boulevard, and the most recent plans you have shown to CPHCA and close-in neighbors for the development, and the executed Declaration of Restrictive Covenant for the property. *attached*

After discussion with CPHCA board members and neighbors who live close to the proposed development, we agree that it appears you are heading in the right direction for the project and we very much appreciate that you have substantially re-thought your earlier plans.

Based on the revised concept you have submitted to the City and proposed to us, CPHCA is supportive of revising the Zoning of the Property from S-SU-D to G-RH-3 with waivers (i.e. waiving the Garden Court form).

The following points as agreed between you as Owner and CPHCA form the basis of our support of your revised concept and should be confirmed through the actual formal Site Plan submittal to the City and County of Denver once the re-zoning to G-RH-3 with waivers is confirmed.

1. Limitation of 22 total residential units on the property.
2. Compliance with G-RH-3 zoning requirements, including a 35' height limitation.
3. The building form for the site shall be duplex, row house or single family home form.
4. Each unit shall have an enclosed 2-car garage.



5. Vehicular access shall only be from the private alley between Ellsworth and Bayaud and an internal drive-lane in the project will be provided to assist both internal access and visitor parking.
6. Alley improvements, such as safety bumps and safety mirrors will be provided by the Developer. Developer will repave the private alley upon completion of construction. Maintenance and upkeep of the private alley will be the responsibility of the Developer and the subsequent owners.
7. CPHCA is supportive of requesting a variance to increase the height of a future privacy wall along Colorado Blvd. above current code limitations.
8. Developer will provide adequate temporary parking for at least six (6) visitor vehicles.
9. A Restrictive Covenant has been negotiated between the Parties.

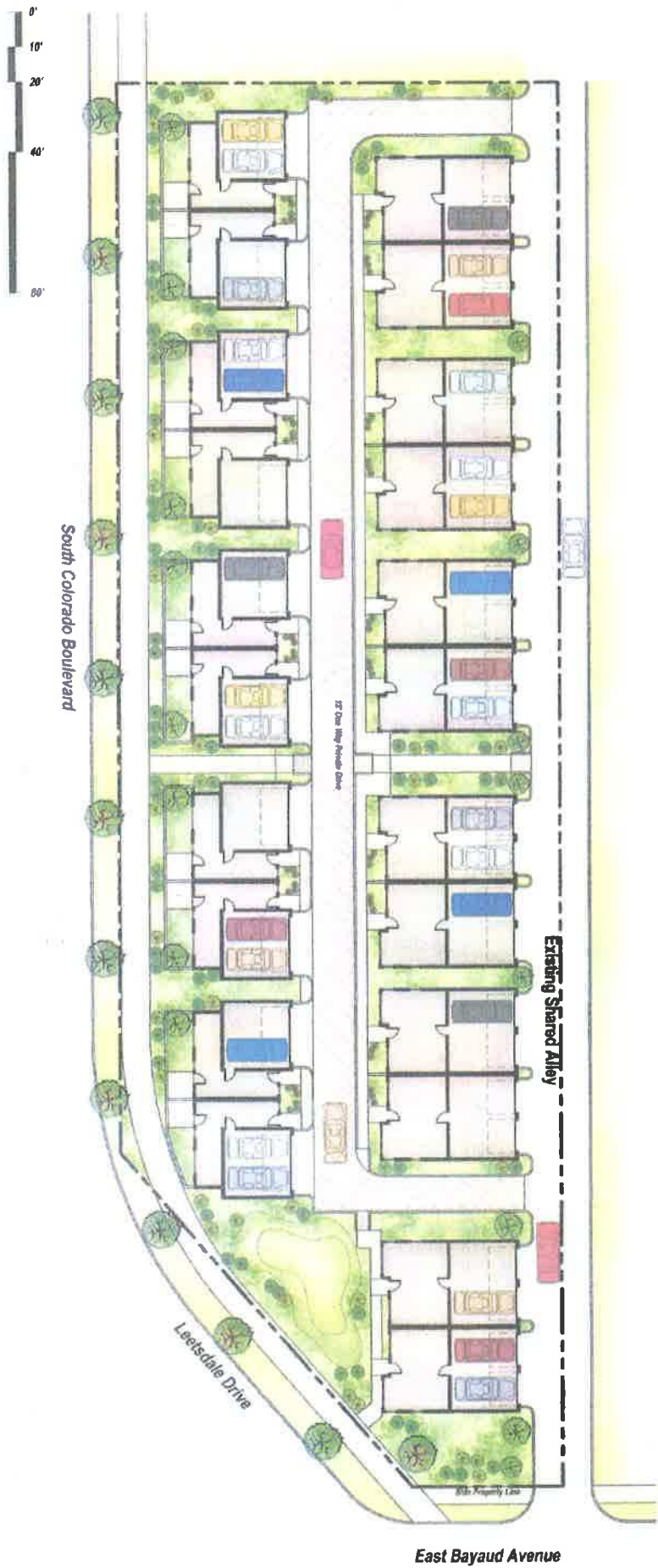
Please feel free to share this letter of support with both City Staff and City Council members as you move forward in the re-zoning process.

Very truly yours,  
CRANMER PARK-HILLTOP CIVIC ASSOCIATION



Jay A. McCormick  
*President*

50 South Colorado Blvd



CONCEPT PLAN





### DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT (this “**Declaration**”) is made as of the Effective Date (as defined in Section 4 below) by SMW HILLTOP, LLC, a Colorado limited liability company, whose street address is 730 17th Street, Suite 220, Denver, Colorado 80202 (together with its successors and assigns, “**Declarant**”), for the benefit of the CRANMER PARK - HILLTOP CIVIC ASSOCIATION, a Colorado nonprofit corporation (together with its successors and assigns, “**Association**”) and/or its members as constituted from time to time (“**Members**”).

#### Recitals

This Declaration is made with respect to the following facts:

A. Declarant is the fee simple owner of certain real property located in the City and County of Denver, Colorado (“**City**”), as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the “**Property**”), and development of the Property as desired by Declarant necessitates City approval of a rezoning of the Property to the G-RH-3 zone district (with waivers) under the City Zoning Code (the “**Rezoning**”).

B. The Association, is a registered neighborhood organization with the City, and the Property is included within the area served by the Association.

C. As consideration for such Association support of the Rezoning, subject to and in accordance with the terms and provisions of this Declaration, Declarant desires to impose a restrictive covenant on the Property for the benefit of the Association and/or its Members as set forth herein.

#### Declaration

In consideration of the facts set forth in the Recitals and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Declarant, Declarant hereby declares as follows:

1. Covenants Run with Land. Declarant, as owner of the Property, for itself and its successors and assigns, hereby declares that the Property will, from and after the Effective Date, be owned, held, conveyed, encumbered, leased, improved, used, occupied and enjoyed subject to the covenants, reservations and other provisions set forth in this Declaration. This Declaration will: (a) run with the Declarant Property at law and as an equitable servitude; (b) bind any person having or acquiring any right, title or interest in any portion of the Property; and (c) inure to the benefit of, and be enforceable by, the Association and/or its Members.

2. Restrictive Covenants. Any development of the Property will comply with the following restrictive covenants:

(a) The maximum permitted residential density is twenty-two (22) “dwellings.” For purposes of this Declaration, “dwelling” is as defined by Article 13 of the City Zoning Code, as amended.

(b) The maximum permitted height for each building situated on the Property shall be 35 feet, irrespective of the base plane.

(c) The building form of any dwellings constructed on the Property is limited to duplex, row house and single family residential. No other residential building forms are permitted.

(d) Each dwelling constructed on the Property will include an enclosed garage containing a minimum of two parking spaces.

(e) Vehicular ingress to and egress from the Property via Colorado Boulevard is prohibited, subject to the City’s approval of sufficient alternative access to permit development of the Property for no more than 22 dwellings.

(f) If ingress to and egress from the Property as contemplated by Section 2(e) above utilizes a private or public alley or drive lane along with easterly boundary of the Property which width includes adjacent property owned by third-parties, (i) Declarant will install safety bumps and safety mirrors in connection with such access, subject to the City’s approval and the approval of such third-party property owners; (ii) Declarant will provide for an internal drive lane on the Property to assist with internal vehicular circulation and will provide adequate temporary parking for at least six (6) visitor vehicles. Declarant, its successors and assigns, which may include, without limitation, an owner’s association, will maintain any private alley and drive lane on the easternmost portion of the Property.

3. Amendment. Declarant may not, without the prior written consent of the Association, amend or otherwise modify the terms, obligations, covenants and requirements of this Declaration, which consent will be attached to any such amendment or modification. Any amendment or modification so consented to by Association will be recorded in the real property records of the Clerk and Recorder for the City (“**Records**”). Upon such recording, the amendment or modification will be a covenant running with the land and burdening the Property for the benefit of the Association and/or its Members.

4. Effectiveness; Association Covenant Not to Oppose Development.

(a) The “**Effective Date**” and effectiveness of this Declaration will commence upon the City’s approval of the Rezoning. This Declaration and the declarations, covenants, reservations and other provisions contained herein will automatically terminate and will be void and of no further force or effect upon and after any “successful legal challenge;” provided, however, Declarant may, upon any such termination pursuant to this section and at its option and expense, record a notice of termination of this Declaration in the Records. For purposes of this Declaration, “successful legal challenge” means the Association, the Members and/or any third party commences any legal proceeding or other action that challenges the City’s approval of

the Rezoning and/or the City's ordinances approving the Rezoning and such legal challenge results in the reversal or nullification of the City's approval of the Rezoning such that the Rezoning is not legally effective with respect to the Property.

(b) In consideration of the Declarations and the covenants set forth herein, the Association hereby covenants that it will not oppose, object to and/or appeal Declarant's applications for Rezoning, building permits and/or other approvals necessary to develop the Property as permitted by the Rezoning, as restricted pursuant to the terms and conditions of this Declaration.

5. Captions. The captions and headings on this Declaration are for convenience only and will not be considered in construing any provisions of this Declaration.

6. Severability. Invalidation of any of the provisions contained in this Declaration, or of the application thereof to any person or entity, by judgment or court order, will in no way affect any of the other provisions of this Declaration or the application thereof to any other person, entity or circumstance, and the remainder of this Declaration will remain in effect.

7. Governing Laws. This Declaration will be governed by, and enforced in accordance with, the laws of the State of Colorado.

8. Represent and Warrant. The undersigned Declarant represents and warrants that it has full authority to encumber the Property and enter into this Declaration.

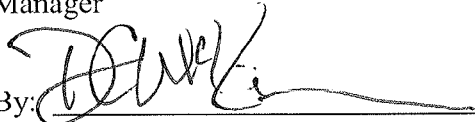
*[Signature Pages Follow This Page]*

IN WITNESS WHEREOF, Declarant and the Association have executed this Declaration as of the date first set forth above.

**DECLARANT:**

SMW HILLTOP, LLC, a Colorado limited liability company

By: MCKINNON & ASSOCIATES, LLC, a Colorado limited liability company, its Manager

By: 

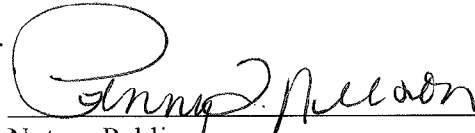
Name: Douglas C. McKinnon

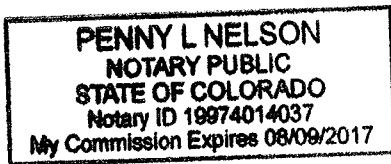
Title: Manager

STATE OF COLORADO )  
 ) ss:  
CITY AND COUNTY OF Denver )

The foregoing instrument was acknowledged before me as of the 7th day of July, 2017, by Douglas C. McKinnon, as Manager of MCKINNON & ASSOCIATES, LLC, a Colorado limited liability company, as Manager of SMW HILLTOP, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

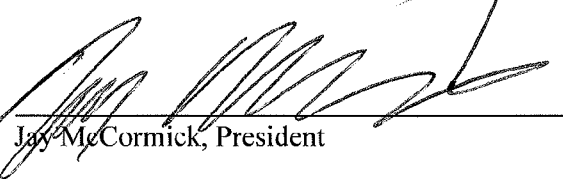
  
Notary Public



My Commission Expires: 8/9/2017

**ASSOCIATION:**


CRANMER PARK - HILLTOP CIVIC ASSOCIATION, a Colorado nonprofit corporation

By:   
Jay McCormick, President

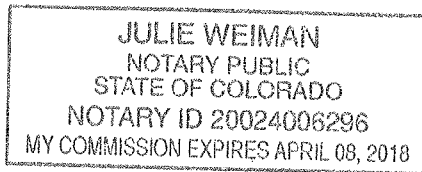
STATE OF COLORADO )  
 ) ss:  
[CITY AND] COUNTY OF Denver )

The foregoing instrument was acknowledged before me as of the 26 day of July, 2017, by Jay McCormick, as President of the CRANMER PARK - HILLTOP CIVIC ASSOCIATION, a Colorado nonprofit corporation.

WITNESS my hand and official seal.

  
Notary Public

My Commission Expires: April 8, 2018



# PUD-G 17

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30 - 50 S. Colorado Blvd.

2017I-00123

March 12, 2018



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## PUD-G 17

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## **CHAPTER 1. ESTABLISHMENT AND INTENT**

### **SECTION 1.1 PUD-G 17 ESTABLISHED**

The provisions of this PUD-G 17 apply to the land depicted on the Official Zoning Map with the label PUD-G 17, and more generally described as approximately 1.06 acres of land within Block 53 of the Eastern Capitol Hill subdivision, City and County of Denver, State of Colorado. The PUD-G 17 is a single area with no subareas established.

### **SECTION 1.2 PUD-G 17 GENERAL PURPOSE**

The general purpose of PUD-G 17 is to facilitate redevelopment of the site in a manner that is compatible with the established residential character of the Hilltop Neighborhood and contributes to the vitality of Hilltop and the Colorado Boulevard parkway.

### **SECTION 1.3 PUD-G 17 SPECIFIC INTENT**

More specifically, PUD-G 17 is intended to:

- 1.3.1 Allow multi-unit dwelling redevelopment that transitions from the single unit residential character of the Hilltop neighborhood to the higher intensity Colorado Boulevard arterial in response to unique transportation infrastructure and site configuration.
- 1.3.2 Allow uses and building forms at a scale that is compatible with the surrounding residential neighborhood.
- 1.3.3 Allow multiple duplexes and other residential building forms on the same zone lot.

## **CHAPTER 2. GENERAL URBAN NEIGHBORHOOD CONTEXT DESCRIPTION**

All development within this PUD-G 17 shall conform to the Denver Zoning Code, Division 6.1, Neighborhood Context Description, as amended from time to time.

## **CHAPTER 3. DISTRICTS**

Development in this PUD-G 17 shall conform to the Denver Zoning Code, Division 6.2, Districts, as specifically applicable to the G-RH-3 Zone District, as amended from time to time, except as modified in this PUD-G 17.

Uses and Required Minimum Parking in this PUD-G 17 shall conform to the Denver Zoning Code, Division 6.4, Districts, as specifically applicable to the G-RH-3 Zone District, as amended from time to time, except as modified in this PUD-G 17.

## CHAPTER 4. DESIGN STANDARDS

Development in this PUD-G 17 shall comply with the Denver Zoning Code, Division 6.3, Design Standards, as specifically applicable to the G-RH-3 Zone District, as amended from time to time, with the following modifications and exceptions:

### SECTION 4.1 PRIMARY BUILDING FORM STANDARDS

Development in this PUD-G 17 shall comply with the Primary Building form standards in Section 6.3.3 of the Denver Zoning Code, with the following exceptions, additions and modifications:

#### 4.1.1 Building Forms Allowed - Garden Court Excepted

- A. Building forms allowed shall comply with Division 6.3.3 Primary Building Form Standards, as specifically applicable to the G-RH-3 Zone District, except use of the Garden Court primary building form, as referenced in Section 6.3.3.4.C of the Denver Zoning Code, is prohibited in this PUD-G17.

#### 4.1.2 Siting

##### A. Maximum Number of Primary Structures per Zone Lot

There shall be no maximum number of primary structures per zone lot in this PUD-G 17.

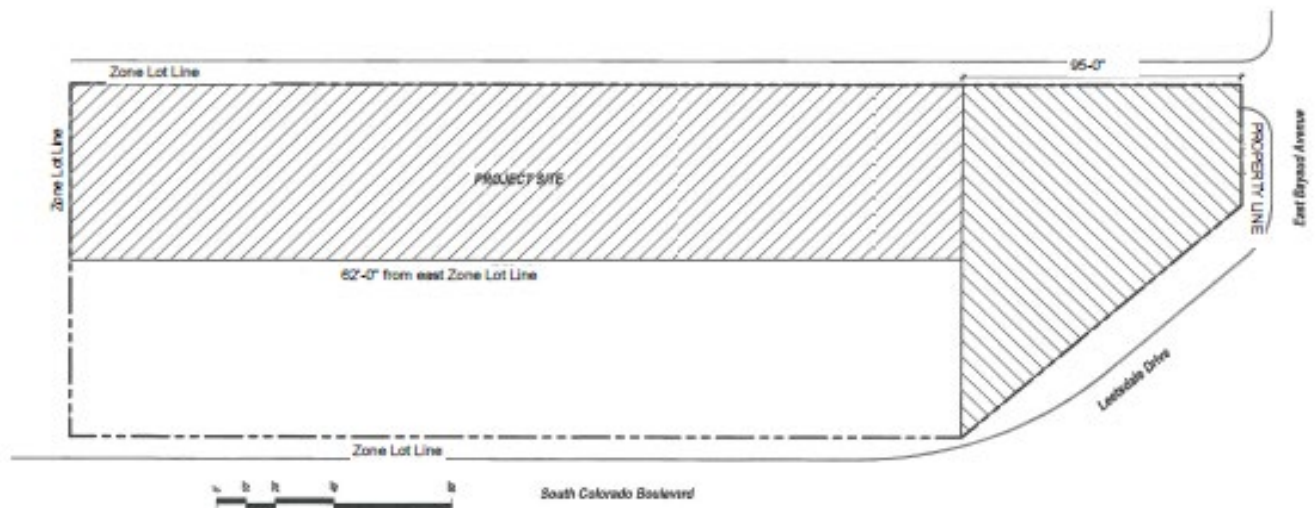
#### 4.1.3 Design Elements

##### A. Street Level Activation

The Entry Feature/Street-Facing Entrance standard in the Urban House, Duplex and Row House building form standards, as referenced in Denver Zoning Code Sections 6.3.3.4.A, B and D, respectively, shall not apply to:

1. Any structure located entirely within 95 feet of East Bayaud Avenue; or
2. Any structure located entirely within 62 feet of the east Zone Lot line when there is another primary structure meeting such standard on the Zone Lot generally located west of the subject structure.

See Figure 1.



## **CHAPTER 5. USES AND REQUIRED MINIMUM PARKING**

### **SECTION 5.1 USES**

5.1.1 Primary, accessory and temporary uses allowed in this PUD-G 17 shall be those same uses allowed in the G-RH-3 Zone District, as stated in the Denver Zoning Code, Section 6.4, Uses and Required Minimum Parking, as amended from time to time.

### **SECTION 5.2 REQUIRED MINIMUM PARKING**

5.2.1 All uses established in this PUD-G 17 shall comply with the Denver Zoning Code, Section 6.4, Uses and Required Minimum Parking, as specifically applicable to uses allowed in the G-RH-3 Zone District, as amended from time to time.

## **CHAPTER 6. ADDITIONAL STANDARDS**

### **SECTION 6.1 ARTICLE 1 OF THE DENVER ZONING CODE**

#### **6.1.1 Applicability**

Development in this PUD-G 17 shall conform to Article 1, General Provisions of the Denver Zoning Code, as amended from time to time, with the following exceptions, additions, and modifications:

##### **A. Number of Uses and Structures Allowed Per Zone Lot**

1. Instead of the maximum number of primary uses set forth in Denver Zoning Code section 1.2.3.5, there shall be no limit to the maximum number of primary uses per Zone Lot in this PUD-G 17.
2. Instead of the maximum number of primary structures set forth in Denver Zoning Code section 1.2.3.5, there shall be no limit to the maximum number of primary structures per Zone Lot in this PUD-G 17.

### **SECTION 6.2 ARTICLE 10 OF THE DENVER ZONING CODE**

#### **6.2.1 Applicability**

Development in this PUD-G 17 shall comply with the Denver Zoning Code, Article 10, General Design Standards, as specifically applicable to the G-RH-3 Zone District, as amended from time to time.

### **SECTION 6.3 ARTICLE 11 OF THE DENVER ZONING CODE**

#### **6.3.1 Applicability**

Establishment of uses in this PUD-G 17 shall comply with the Denver Zoning Code, Article 11, Use Limitations and Definitions, as specifically applicable to the G-RH-3 Zone District, as amended from time to time.

### **SECTION 6.4 ARTICLE 12 OF THE DENVER ZONING CODE**

#### **6.4.1 Applicability**

All development in this PUD-G 17 shall comply with the Denver Zoning Code, Article 12, Procedures and Enforcement, as amended from time to time, with the following exceptions/additions:

##### **A. Official Map Amendment**

This PUD-G 17 may be amended by subarea, platted lots, or metes and bounds parcels, as allowed in the Denver Zoning Code, Section 9.6.1.4, Amendment to Approved PUD District Plans.

### **SECTION 6.5 ARTICLE 13 OF THE DENVER ZONING CODE**

#### **6.5.1 Applicability**

Development in this PUD-G 17 shall comply with the Denver Zoning Code, Article 13, Rules of Measurement and Definitions, as amended from time to time.

## **CHAPTER 7. RULES OF INTERPRETATION**

Subject to Chapter 8 of this PUD G-17, whenever a section of the Denver Zoning Code is referred to in this PUD-G 17, that reference shall extend and apply to the section referred to as subsequently amended, recodified, or renumbered; provided, however, if a section of the Denver Zoning Code, as subsequently amended, recodified, or renumbered conflicts with a provision of this PUD-G 17, this PUD-G 17 shall control.



## **CHAPTER 8. VESTED RIGHTS**

This PUD-G 17 shall be established in accordance with Denver Zoning Code sections 9.6.1.2.C and 9.6.1.5, and vested property rights shall be created 90 days after the effective date of the ordinance approving this PUD-G 17. The property rights vested through approval of this PUD-G 17 shall remain vested for a period of 3 years and shall include the right to commence and complete development of and the right to use the site in accordance with the intent, standards, and uses set forth in the Denver Zoning Code, as amended from time to time, except as modified by this PUD-G 17.

**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

PLOT 2, BLOCK 53, THE EASTERN CAPITOL HILL SUBDIVISION, THE PLAT OF WHICH WAS RECORDED IN PLAT BOOK 4 AT PAGE 12, CITY AND COUNTY OF DENVER, STATE OF COLORADO;

and

PLOTS 3, 4 AND 5, BLOCK 53, THE EASTERN CAPITAL HILL SUBDIVISION, THE PLAT OF WHICH WAS RECORDED IN PLAT BOOK 4 AT PAGE 12, EXCEPT ANY PORTION OF LOT 5 LYING WITHIN LEETSDALE DRIVE, CITY AND COUNTY OF DENVER, STATE OF COLORADO

A-1

1366428.17

*The*  
*Cranmer Park / Hilltop*  
CIVIC ASSOCIATION

January 16, 2018

Doug McKinnon  
SMW Hilltop, LLC  
730 17<sup>th</sup> Street, Suite 220  
Denver, CO 80202

Re: 30-50 S. Colorado Blvd., rezoning

Dear Doug:

This letter is submitted on behalf of the Cranmer Park-Hilltop Civic Association ("CPHCA") in connection with the proposed re-zoning of 30-50 South Colorado Boulevard, and the most recent plans you have shown to CPHCA and close-in neighbors for the development (attached), and the executed Declaration of Restrictive Covenant for the property.

After discussion with CPHCA board members and neighbors who live close to the proposed development, we agree that it appears you are heading in the right direction for the project and we very much appreciate that you have substantially re-thought your earlier plans.

Based on the revised concept you have submitted to the City and proposed to us, CPHCA is supportive of revising the Zoning of the Property from S-SU-D to G-RH-3 with waivers (i.e. waiving the Garden Court form) or a PUD Zone District based on G-RH-3 with equivalent restrictions.

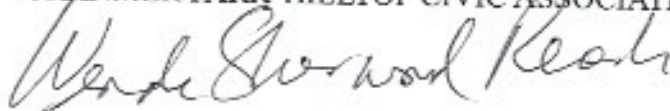
The following points as agreed between you as Owner and CPHCA form the basis of our support of your revised concept and should be confirmed through the actual formal Site Plan submittal to the City and County of Denver once the re-zoning to G-RH-3 with waivers or a PUD Zone District based on G-RH-3 with equivalent restrictions is confirmed.

1. Maximum permitted residential density is (22) twenty-two dwellings.
2. The maximum permitted height for each building situated on the property shall be 35 feet, irrespective of the base plane.

3. The building form for the site shall be duplex, row house or single family home form.
4. Each unit shall have an enclosed 2-car garage.
5. Vehicular access shall only be from the private alley between Ellsworth and Bayaud and an internal drive-lane in the project will be provided to assist both internal access and visitor parking.
6. Alley improvements, such as safety bumps and safety mirrors will be provided by the Developer. Developer will repave the private alley upon completion of construction. Maintenance and upkeep of the private alley will be the responsibility of the Developer and the subsequent owners.
7. CPHCA is supportive of requesting a variance to increase the height of a future privacy wall along Colorado Blvd. above current code limitations.
8. Developer will provide adequate temporary parking for at least six (6) visitor vehicles.
9. A Restrictive Covenant has been negotiated between the Parties.

Please feel free to share this letter of support with both City Staff and City Council members as you move forward in the re-zoning process.

Very truly yours,  
CRANMER PARK-HILLTOP CIVIC ASSOCIATION



Wende Sherwood Reoch  
*Acting President*