



## Zone Map Amendment (Rezoning) - Application

<b>PROPERTY OWNER INFORMATION*</b>		<b>PROPERTY OWNER(S) REPRESENTATIVE**</b>	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR FEE PAYMENT***		<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR FEE PAYMENT***	
Property Owner Name		Representative Name	
Address		Address	
City, State, Zip		City, State, Zip	
Telephone		Telephone	
Email		Email	
*All standard zone map amendment applications must be initiated by owners (or authorized representatives) of at least 51% of the total area of the zone lots subject to the rezoning. See page 4.		**Property owner shall provide a written letter authorizing the representative to act on his/her behalf. ***If contact for fee payment is other than above, please provide contact name and contact information on an attachment.	
<b>SUBJECT PROPERTY INFORMATION</b>			
Location (address):			
Assessor's Parcel Numbers:			
Area in Acres or Square Feet:			
Current Zone District(s):			
<b>PROPOSAL</b>			
Proposed Zone District:			
<b>PRE-APPLICATION INFORMATION</b>			
In addition to the required pre-application meeting with Planning Services, did you have a concept or a pre-application meeting with Development Services?		<input type="checkbox"/> <b>Yes - State the contact name &amp; meeting date</b> _____ <input type="checkbox"/> <b>No - Describe why not (in outreach attachment, see bottom of p. 3)</b>	
Did you contact the City Council District Office regarding this application ?		<input type="checkbox"/> <b>Yes - if yes, state date and method</b> _____ <input type="checkbox"/> <b>No - if no, describe why not (in outreach attachment, see bottom of p. 3)</b>	

REZONING REVIEW CRITERIA (ACKNOWLEDGE EACH SECTION)	
<p>General Review Criteria DZC Sec. 12.4.10.7.A</p> <p>Check box to affirm <b>and</b> include sections in the review criteria narrative attachment</p>	<p><input type="checkbox"/> <b>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.</b></p> <p>Please provide a review criteria narrative attachment describing <b>how</b> the requested zone district is consistent with the policies and recommendations found in <b>each</b> of the adopted plans below. Each plan should have its' own subsection.</p> <p><b>1. Denver Comprehensive Plan 2040</b></p> <p>In this section of the attachment, describe <b>how</b> the proposed map amendment is consistent with <i>Denver Comprehensive Plan 2040's</i> a) equity goals, b) climate goals, and c) any other applicable goals/strategies.</p> <p><b>2. Blueprint Denver</b></p> <p>In this section of the attachment, describe <b>how</b> the proposed map amendment is consistent with: a) the neighborhood context, b) the future place type, c) the growth strategy, d) adjacent street types, e) plan policies and strategies, and f) equity concepts contained in <i>Blueprint Denver</i>.</p> <p><b>3. Neighborhood/ Small Area Plan and Other Plans (List all from pre-application meeting, if applicable):</b></p> <hr/>
<p>General Review Criteria: DZC Sec. 12.4.10.7. B &amp; C</p> <p>Check boxes to the right to affirm <b>and</b> include a section in the review criteria for Public Health, Safety and General Welfare narrative attachment.</p>	<p><input type="checkbox"/> <b>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.</b></p> <p><input type="checkbox"/> <b>Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</b></p> <p>In the review criteria narrative attachment, please provide an additional section describing <b>how</b> the requested rezoning furthers the public health, safety and general welfare of the City.</p>
<p>Review Criteria for Non-Legislative Rezoning: DZC Sec. 12.4.10.8</p> <p>For Justifying Circumstances, check box and include a section in the review criteria narrative attachment.</p> <p>For Neighborhood Context, Purpose and Intent, check box <b>and</b> include a section in the review criteria narrative attachment.</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 of 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 type="checkbox"/> Since the date of the approval of the existing Zone District, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include:</p> <p style="padding-left: 20px;">a. Changed or changing conditions in a particular area, or in the city generally; or,</p> <p style="padding-left: 20px;">b. A City adopted plan; or</p> <p style="padding-left: 20px;">c. That the City adopted the Denver Zoning Code and the property retained Former Chapter 59 zoning.</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (overlay Zone Districts) of this Code.</p> <p>In the review criteria narrative attachment, please provide an additional section describing the selected justifying circumstance. If the changing conditions circumstance is selected, describe changes since the site was last zoned. Contact your pre-application case manager if you have questions.</p> <p><input type="checkbox"/> <b>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.</b></p> <p>In the review criteria narrative attachment, please provide a separate section describing <b>how</b> the rezoning aligns with a) the proposed district neighborhood context description, b) the general purpose statement, and c) the specific intent statement found in the Denver Zoning Code.</p>

**REQUIRED ATTACHMENTS**

Please check boxes below to affirm the following **required** attachments are submitted with this rezoning application:

- Legal Description of subject property(s). **Submit as a separate Microsoft Word document.** View guidelines at: <https://www.denvergov.org/content/denvergov/en/transportation-infrastructure/programs-services/right-of-way-survey/guidelines-for-land-descriptions.html>
- Proof of ownership document for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed, or (c) Title policy or commitment dated no earlier than 60 days prior to application date. If the owner is a corporate entity, proof of authorization for an individual to sign on behalf of the organization is required. This can include board resolutions authorizing the signer, bylaws, a Statement of Authority, or other legal documents as approved by the City Attorney's Office.
- Review Criteria Narratives. See page 2 for details.

**ADDITIONAL ATTACHMENTS (IF APPLICABLE)**

Additional information may be needed and/or required. Please check boxes below identifying additional attachments provided with this application.

- Written narrative explaining reason for the request** (optional)
- Outreach documentation attachment(s).** Please describe any community outreach to City Council district office(s), Registered Neighborhood Organizations (RNOs) and surrounding neighbors. If outreach was via email- please include email chain. If the outreach was conducted by telephone or meeting, please include contact date(s), names and a description of feedback received. If you have not reached out to the City Council district office, please explain why not. (optional - encouraged )
- Letters of Support.** If surrounding neighbors or community members have provided letters in support of the rezoning request, please include them with the application as an attachment (optional).
- Written Authorization to Represent Property Owner(s)** (if applicable)
- Individual Authorization to Sign on Behalf of a Corporate Entity** (e.g. if the deed of the subject property lists a corporate entity such as an LLC as the owner, this document is required.)
- Other Attachments.** Please describe below.

## PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION

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

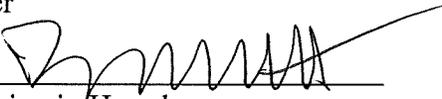
Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed, (C) title policy or commitment, or (D) other as approved	Has the owner authorized a representative in writing? (YES/NO)
<b>EXAMPLE</b> John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith</i> <i>Josie Q. Smith</i>	01/12/20	(A)	YES
			<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: auto;">See attached signature page</div>			

**SIGNATURE PAGE  
TO REZONING APPLICATION**

**4100 E. ARKANSAS AVENUE**

**ICP-FLYWHEEL ARKANSAS, LLC,**  
a Colorado limited liability company

By: FW Arkansas Manager, LLC,  
a Colorado limited liability company,  
its Manager

By:   
Name: Benjamin Hrouda  
Title: Manager

# 4100 E ARKANSAS AVE

<b>Owner</b>	ICP-FLYWHEEL ARKANSAS LLC 724 S PEARL ST DENVER, CO 80209-4213
<b>Schedule Number</b>	06192-17-005-000
<b>Legal Description</b>	CHERRY CREEK GARDENS B26 DIF BOOK 7870-012
<b>Property Type</b>	COMMERCIAL-OFFICE
<b>Tax District</b>	DENVER

**Print Summary**

Property Description			
<b>Style:</b>	OTHER	<b>Building Sqr. Foot:</b>	64170
<b>Bedrooms:</b>		<b>Baths Full/Half:</b>	0/0
<b>Effective Year Built:</b>	1965	<b>Basement/Finish:</b>	0/0
<b>Lot Size:</b>	82,100	<b>Zoned As:</b>	S-MX-3

**Note:** Valuation zoning may be different from City's new zoning code.

Current Year			
	Actual	Assessed	Exempt
Land		\$5,336,500	\$1,480,510 \$0
Improvements		\$1,737,400	\$484,730
<b>Total</b>		<b>\$7,073,900</b>	<b>\$1,965,240</b>

Prior Year			
	Actual	Assessed	Exempt
Land		\$5,336,500	\$1,547,590 \$0
Improvements		\$730,700	\$211,900
<b>Total</b>		<b>\$6,067,200</b>	<b>\$1,759,490</b>

## Real Estates Property Taxes for current tax year

### System Upgrade Underway:

Due to a system upgrade, payment information is taking longer to update and may not reflect the current status of your account.

Mill Levy \* 79..525 \*

Please click on additional information below to check for any delinquencies on this property/schedule number and for tax sale information.

	Installment 1 (Feb 28 Feb 29 in Leap Years)	Installment 2 (Jun 15)	Full Payment (Due Apr 30)
Date Paid	2/28/2023	2/28/2023	2/28/2023
Original Tax Levy	\$69,961.72	\$69,961.72	\$139,923.44
Liens/Fees	\$0.00	\$0.00	\$0.00
Interest	\$0.00	\$0.00	\$0.00
Paid	\$69,961.72	\$69,961.72	\$139,923.44
Due	\$0.00	\$0.00	\$0.00

## Additional Information

Note: If "Y" is shown below, there is a special situation pertaining to this parcel. For additional information about this, click on the name to take you to an explanation.

Additional Assessment ⓘ	N	Prior Year Delinquency ⓘ	N
Additional Owner(s) ⓘ	N		
Adjustments ⓘ	N	Sewer/Storm Drainage Liens ⓘ	N
Local Improvement Assessment ⓘ	N	Tax Lien Sale ⓘ	N
Maintenance District ⓘ	N	Treasurer's Deed ⓘ	N
Pending Local Improvement ⓘ	N		

Real estate property taxes paid for prior tax year: **\$131,289.66**

## Assessed Value for the current tax year

Assessed Land	\$1,547,590.00	Assessed Improvements	\$211,900.00
Exemption	\$0.00	Total Assessed Value	\$1,759,490.00



# 1451 S ASH ST

<b>Owner</b>	ICP-FLYWHEEL ARKANSAS LLC 724 S PEARL ST DENVER, CO 80209-4213
<b>Schedule Number</b>	06192-17-006-000
<b>Legal Description</b>	PT OF BLK 26 CHERRY CREEK GARDENS BEG 330.65FT S & 30FT W OFNE COR BLK 26 TH S 100FT TH W 172.56FT TH N 100FT TH E172.56FT TO POB
<b>Property Type</b>	COMMERCIAL-MISC IMPS
<b>Tax District</b>	DENVER

**Print Summary**

Property Description			
<b>Style:</b>	OTHER	<b>Building Sqr. Foot:</b>	0
<b>Bedrooms:</b>		<b>Baths Full/Half:</b>	0/0
<b>Effective Year Built:</b>	0000	<b>Basement/Finish:</b>	0/0
<b>Lot Size:</b>	17,256	<b>Zoned As:</b>	S-MX-3

**Note:** Valuation zoning may be different from City's new zoning code.

Current Year			
	Actual	Assessed	Exempt
Land		\$1,121,600	\$312,930 \$0
Improvements		\$23,000	\$6,420
<b>Total</b>		<b>\$1,144,600</b>	<b>\$319,350</b>

Prior Year			
	Actual	Assessed	Exempt
Land		\$1,121,600	\$325,260 \$0
Improvements		\$18,400	\$5,340
<b>Total</b>		<b>\$1,140,000</b>	<b>\$330,600</b>

### Real Estates Property Taxes for current tax year

**System Upgrade Underway:**

Due to a system upgrade, payment information is taking longer to update and may not reflect the current status of your account.

Mill Levy \* 79..525 \*

Please click on additional information below to check for any delinquencies on this property/schedule number and for tax sale information.

	<b>Installment 1 (Feb 28 Feb 29 in Leap Years)</b>	<b>Installment 2 (Jun 15)</b>	<b>Full Payment (Due Apr 30)</b>
<b>Date Paid</b>	2/28/2023	2/28/2023	2/28/2023
<b>Original Tax Levy</b>	\$13,145.48	\$13,145.48	\$26,290.96
<b>Liens/Fees</b>	\$0.00	\$0.00	\$0.00
<b>Interest</b>	\$0.00	\$0.00	\$0.00
<b>Paid</b>	\$13,145.48	\$13,145.48	\$26,290.96
<b>Due</b>	\$0.00	\$0.00	\$0.00

### Additional Information

Note: If "Y" is shown below, there is a special situation pertaining to this parcel. For additional information about this, click on the name to take you to an explanation.

<b>Additional Assessment ⓘ</b>	N	<b>Prior Year Delinquency ⓘ</b>	N
<b>Additional Owner(s) ⓘ</b>	N		
<b>Adjustments ⓘ</b>	N	<b>Sewer/Storm Drainage Liens ⓘ</b>	N
<b>Local Improvement Assessment ⓘ</b>	N	<b>Tax Lien Sale ⓘ</b>	N
<b>Maintenance District ⓘ</b>	N	<b>Treasurer's Deed ⓘ</b>	N
<b>Pending Local Improvement ⓘ</b>	N		

Real estate property taxes paid for prior tax year: **\$24,668.72**

### Assessed Value for the current tax year

<b>Assessed Land</b>	\$325,260.00	<b>Assessed Improvements</b>	\$5,340.00
<b>Exemption</b>	\$0.00	<b>Total Assessed Value</b>	\$330,600.00



**WRITTEN CONSENT OF THE SOLE MANAGER  
OF  
FW ARKANSAS MANAGER, LLC**

July \_\_, 2023

The undersigned, being the sole manager of FW Arkansas Manager, LLC, a Colorado limited liability company (the “Company”), in lieu of holding a special meeting, hereby adopts, approves, and consents to the following preambles and resolutions by written consent pursuant to the Operating Agreement of the Company (the “Operating Agreement”), and the Colorado Limited Liability Company Act (Colo. Rev. Stat. §§ 7-80-101, *et seq.*) (the “Law”):

WHEREAS, the Company is the sole manager of ICP-Flywheel Arkansas, LLC, a Colorado limited liability company (“Flywheel Arkansas”);

WHEREAS, pursuant to the Operating Agreement, a manager of the Company, acting individually, has the full and complete authority, power, and discretion to direct, manage and control the business of the Company, without the consent or concurrence of any other manager or member;

WHEREAS, Benjamin Hrouda is the sole manager of the Company;

WHEREAS, the Company desires to cause Flywheel Arkansas to rezone (the “Rezoning”) certain real property owned by Flywheel Arkansas, which is generally located at 4100 E. Arkansas Avenue, Denver, Colorado;

WHEREAS, in connection with the Rezoning, Flywheel Arkansas will execute and deliver certain documents necessary to effectuate the Rezoning (collectively, the “Rezoning Documents”); and

WHEREAS, the undersigned deems that the Rezoning, and the execution and delivery of the Rezoning Documents, are each reasonably expected to benefit the Company and Flywheel Arkansas, and are in the best interest of the Company and Flywheel Arkansas.

NOW, THEREFORE, BE IT RESOLVED, the undersigned, being the sole manager of the Company, hereby approves, in all respects, the Rezoning and the execution and delivery of the Rezoning Documents;

FURTHER RESOLVED, that Benjamin Hrouda, in his capacity as the sole manager of the Company, in the Company’s capacity as the sole manager of and on behalf of Flywheel Arkansas, be, and hereby is, authorized and directed to execute and deliver the Rezoning Documents, each containing such terms, provisions, modifications, and changes as such person deems appropriate, and to take such other and further actions and to execute and deliver such other and further documents as may be reasonably necessary to effectuate the Rezoning, as Benjamin Hrouda shall determine in his reasonable discretion;

FURTHER RESOLVED, that any and all actions taken on behalf of the Company prior to the date hereof and in connection with the Rezoning are hereby ratified, confirmed, and approved in all respects;

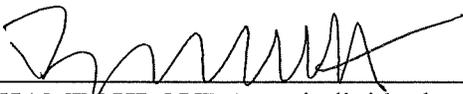
FURTHER RESOLVED, that this consent may be executed in counterparts, including DocuSign or other electronic signatures, each of which shall be deemed an original for all purposes and all of which will constitute one and the same instrument; and

FURTHER RESOLVED, that the actions taken by this consent shall have the same force and effect as if taken by the undersigned at a special meeting of the manager of the Company, duly called and constituted pursuant to the Law and the Operating Agreement.

*[Remainder of Page Intentionally Left Blank; Signature Page Follows]*

IN WITNESS WHEREOF, the undersigned, being the sole manager of the Company, hereby consents to, approves, and adopts the foregoing preambles and resolutions effective as of the date first above written.

**MANAGER:**

  
\_\_\_\_\_  
BENJAMIN HROUDA, an individual

ICP-Flywheel Arkansas, LLC  
c/o Flywheel Capital  
724 S. Pearl Street  
Denver, Colorado 80209

July 31, 2023

Community Planning and Development  
City and County of Denver  
201 W. Colfax Avenue  
Denver, Colorado 80202

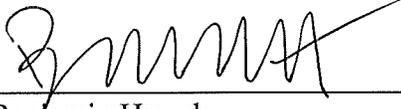
Re: Authorization with respect to the proposed land use application for certain real property located at 4100 E. Arkansas Avenue (“**Property**”) in the City and County of Denver (“**City**”).

Ladies and Gentlemen:

The undersigned (“**Owner**”), as owner of the Property, hereby designates Otten Johnson Robinson Neff & Ragonetti, P.C., a Colorado professional corporation (“**Representative**”), as authorized representative of Owner to submit on behalf of Owner all applications and supporting materials required or requested by the City in connection with the proposed Zone Map Amendment for the Property and any related development approvals in connection therewith. In furtherance of the foregoing, Owner request that any verbal or written communication regarding this application be given to Representative pursuant to such contact information provided by Representative to the City.

**ICP-FLYWHEEL ARKANSAS, LLC,**  
a Colorado limited liability company

By: FW Arkansas Manager, LLC,  
a Colorado limited liability company,  
its Manager

By:   
Name: Benjamin Hrouda  
Title: Manager

January 3, 2024

Via E-Mail

Community Planning & Development  
City and County of Denver  
201 W. Colfax Avenue  
Denver, Colorado 80202

Re: Rezoning Application for 4100 E. Arkansas and 1451 S. Ash Street

Dear Community Planning & Development:

This firm represents ICP-Flywheel Arkansas, LLC, a Colorado limited liability company, together with its affiliates (the “**Applicant**”), with respect to certain real property located at 4100 East Arkansas Avenue and 1451 S. Ash Street (the “**Property**”) in the City and County of Denver (the “**City**”). This letter is submitted in support of the Applicant’s application for rezoning of the Property (the “**Rezoning**”) from Suburban-Mixed Use – 3 (S-MX-3) to Suburban-Mixed Use – 5A (S-MX-5A) under the Denver Zoning Code (“**Code**”), as discussed at the pre-application meeting for the Rezoning on June 23, 2023.

Prior to submitting this application, the Applicant has met with various registered neighborhood organizations (“**RNOs**”), other community groups, and Councilman Kashmann to discuss the proposed Rezoning; Applicant will continue to engage with RNOs and applicable community groups throughout the Rezoning process. The East Evans Business Association has provided the letter of support enclosed with the application.<sup>1</sup>

### **Property Background and Context**

The Property consists of an approximately 82,100 square foot parcel plus a 17,256 square foot parcel located on East Arkansas Avenue, just east of South Colorado Boulevard and within the Virginia Village neighborhood of the City. The Property is currently used as a multi-story commercial office building with associated parking.

The area surrounding the Property comprises a broad mix of Urban and Suburban Uses. To the west of the Property, along East Arkansas Avenue and South Colorado Boulevard, there are retail stores, office buildings and

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<sup>1</sup> We note that since the initial application, based on the guidance from City staff, we have revised our request for the Rezoning from S-MX-5 to S-MX-5A, for reasons more fully set forth in this letter. However, the letter received from the East Evans Business Association was provided in support of the initial application and still references S-MX-5. The Applicant intends to reach out to the East Evans Business Association to confirm their continued support for the S-MX-5A zoning.

restaurants. To the south of the Property there are medical facilities and apartment buildings. Further north of the Property, along the South Colorado Boulevard corridor, there are larger scale commercial office, multi-unit residential, restaurant, and retail buildings. Finally, to the east of the Property is a large single- and multi-unit residential neighborhood. This broad mix of uses continues up and down South Colorado Boulevard and extends beyond the eastern corridor along East Mississippi, Louisiana, Arkansas, and Florida Avenue.

### **Criteria for Rezoning**

Pursuant to the Code, applications for rezoning must meet all of the “general review criteria” set forth in Section 12.4.10.7 as well as (i) at least one of the “justifying circumstances” of the first group of “additional review criteria” set forth in Section 12.4.10.8.A, and (ii) the general additional review standard set forth in Section 12.4.10.8.B. The Rezoning to S-MX-5A meets these review criteria as follows:

General Review Criteria: Consistency with Adopted Plans. The proposed official map amendment is consistent with the City’s adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of the adoption of the City’s plan. Code § 12.4.10.7.A.

The City has adopted several plans that guide the use and development of the Property, including Blueprint Denver, the Denver Comprehensive Plan 2040 and the Near Southeast Area Plan. While the Virginia Village Neighborhood Plan also includes the Property, its adoption in 1973 is significantly before the more recent plans, and as such, we have not discussed it in detail in this narrative (and, moreover, recommendations specific to Virginia Village are also addressed in the Near Southeast Area Plan). Similarly, both the University-Colorado Multi-Station Plan and Mobility Study, as well as the “next steps” analysis, technically include the Property within the study area, but because those plans focus more on mobility improvements, they’re not directly addressed in this memorandum.

Blueprint Denver and the Denver Comprehensive Plan 2040 describe the Property as appropriate for present and future land uses consistent with a Community Corridor within the Suburban Neighborhood Context. This means that while the typical property in the larger neighborhood context is residential, the Community Corridor provides a mix of commercial and residential spaces with building heights of up to 5 stories. Within the Community Corridor, building scales “are typically mid- to large-scale” with scale being “dependent upon context and surrounding character.” The Rezoning will embrace this plan guidance because the sites immediately adjacent to the Property are all zoned S-MX-5; therefore, based on context and surrounding character, a larger building scale consistent with what is allowed in the S-MX-5A district is appropriate. Further, as noted in more detail below, the Rezoning will not impact the Property’s compliance with the Suburban Neighborhood Context. Blueprint Denver also labels the Community Corridor as a future growth area that should anticipate an increase in new jobs by 20 percent by 2040 and new households by 25 percent by 2040. As such, to approve the Rezoning will help ensure future developments of the Property positively and uniformly serve community growth in a way that encourages a complete neighborhood and enhances the character and quality of the ever-growing community.

In addition, Comprehensive Plan 2040 sets forth a number of goals and strategies to assist the City in fostering sustainable and comprehensive growth; a number of which are supported by the Rezoning. Goal number 1, strategy D, for building a strong and authentic neighborhood encourages “quality infill development that is

consistent with the surrounding neighborhood and offers opportunities for increased amenities.” The Rezoning will help advance this strategy for two reasons. First, it will allow the Property to be in better uniformity with the immediately surrounding commercial sites, which, as mentioned, are nearly all zoned S-MX-5. Second, by being in better uniformity with the surrounding area, future developments of the Property will be able to offer more consistent support and amenities to not only the Blueprint’s anticipated neighborhood growth, but also the likely robust infill-development to take place on the nearby former CDOT site. Both of these, in turn, will help ensure such infill-development is of quality and that the neighborhood’s growth is strong and authentic.

Goal 8, strategy B, for building an environmentally resilient community encourages mixed-use communities where residents can live, work and play in their own neighborhoods. Of course, the Rezoning supports this goal because it will help the Property develop into a more enhanced commercial area and, in turn, allow the Property to better contribute to the mixed-use character of the Community Corridor and its ability to serve the nearby residents.

The Rezoning also furthers a number of policies, strategies and elements of the Near Southeast Area Plan. First, recommendation LU-1 to elements of a complete neighborhood and height, encourages “...direct growth to regional centers, community centers and community corridors with improved infrastructure and design and incorporat[ion of] elements of complete neighborhoods in areas where additional height beyond existing entitlements is recommended.” In order to meet this recommendation, the Near Southeast Area Plan’s Future Base Height Guidance Map designates the Property as being in a 5 story future base height. As such, the Rezoning is not just consistent with the plan, it is encouraged.

In addition, the Property is within a well-established street grid that is improved with sufficient pedestrian, vehicular, and bicycle mobility infrastructure. Such infrastructure includes, among other things, sidewalks and other areas that allow for easy pedestrian and some bicycle access between the Property and the nearby residential neighborhoods. Further, there is Pedestrian access along South Colorado Boulevard, which allows access between the Property and the larger commercial developments to the north. As such, there is ample mobility infrastructure to help foster pedestrian-centered developments on the Property and enable residents to accomplish everyday tasks more efficiently while decreasing single-occupancy vehicle trips. Of note here, Blueprint Denver’s mobility goal number three encourages prioritizing “people walking and rolling over other modes of transportation.” In addition, the Future Mobility Priority Map of Blueprint Denver and the Mobility Opportunities Map of the Near Southeast Area Plan indicate that pedestrians are the focus for the area. As such, while there may be fewer public transit or bicycling opportunities around the Property than there are in other parts of the City, the relatively dense pedestrian-favorable mobility infrastructure is supportive of Blueprint Denver and the Near Southeast Area Plan’s vision.

The Property is also accessible to vehicles via several direct points of access on both East Arkansas Avenue and South Ash Street, both of which are closely connected to the neighborhood’s main arterial street, South Colorado Boulevard. This mobility infrastructure has been sufficient to support the developments and growth that have already taken place in the area. Further, if nothing else, the mobility is no less than that of the neighboring properties, which have already been zoned to S-MX-5, nor the former CDOT facility which, as noted below, was recently rezoning to S-MX-8.

The Near Southeast Area Plan's Virginia Village Recommendations are also supported by the Rezoning. Specifically, Recommendation V-LU-5 encourages maintained focus on the long-term development of the former CDOT site at Arkansas Avenue and Birch Street to ensure what is built will integrate well with the neighborhood. In 2018, the former CDOT site was granted a rezoning to S-MX-8; presumably to allow for new developments on the site to integrate with and more positively serve the changing community. This rezoning of the former CDOT site, combined with the neighboring properties being zoned S-MX-5 and the adopted plan's predictions and visions for the Property, indicates that the step-up from S-MX-3 requested by the Rezoning will similarly help the Property more positively serve and integrate with the neighborhood.

With respect to rezonings, the Near Southeast Area Plan also includes Mixed-Use Design Recommendations, including "Goal B" to "require high-quality design for new construction and renovation in centers and corridors," suggesting that appropriate zone districts include S-MS, S-MS-A, S-MX, and S-MX-A. That goal goes on to suggest that prohibiting "auto-oriented building forms, such as drive-thrus, car washes, and gas stations" would further this recommendation. Because the S-MX-5A district does not permit any such auto-oriented building forms, the Rezoning would further these specific recommendations set forth in the Near Southeast Area Plan.

General Review Criteria: Uniformity of District Regulations and Restrictions. The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts. Code § 12.4.10.7.B.

Approval of the Rezoning will result in the uniform application of building form, use, and design regulations. In fact, without the Rezoning, the Property's building form, use, and design regulation will be largely varied from the immediately surrounding commercial buildings. The Applicant seeks no further variance from these regulations.

General Review Criteria: Public Health, Safety, and Welfare. The proposed official map amendment furthers the public health, safety and general welfare of the City. Code § 12.4.10.7.C.

Approval of the Rezoning will further the public health, safety, and welfare by implementing the City's adopted land use policies. As set forth above, the Rezoning will help to facilitate the development of the Property in a manner that is uniform with the surrounding properties and supportive of growth expectations.

Additional Review Criteria: Justifying Circumstances. Since the date of the approval of the existing zone district, there has been a change to such a degree that the proposed rezoning is in the public interest. Such change may include: (a) changed or changing conditions in a particular area, or in the City generally; or (b) a City adopted plan; or (c) that the City adopted the Code and the property retained Former Chapter 59 zoning. Code § 12.4.10.8.A.

The Rezoning satisfies the criteria in clause (a) because there have been a few significant changes over the years to the area surrounding the Property; including the recent rezoning of the former CDOT site as well as the adoption of the Near Southeast Area Plan in May of 2023. Both of these changes are likely to catalyze development and community involvement in this area. In fact, the Near Southeast Area Plan specifically calls out the corridors of Virginia Village as areas that will change and evolve to be more mixed-use oriented and community-friendly.

The Rezoning will be vital to ensuring future developments of the Property are able to keep up with these changes and the Near Southeast Neighborhood Plan's height recommendations for the Property and aspirations for the neighborhood.

Additional Review Criteria: Consistency with Neighborhood Context Description, Zone District Purpose, and Intent Statements. 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. Code § 12.4.10.8.B.

The S-MX-5A zone district is within the suburban context description set forth in the Code; meaning that the approval of the Rezoning will not impact consistency with the applicable neighborhood context. In any event, it is important to note that the suburban context specifically contemplates "safe, active, pedestrian-scaled, diverse areas" and intends to ensure that "new development contributes positively to established residential neighborhoods" with improved "transition[s] between commercial development and adjacent residential neighborhoods." As already detailed above, with the Rezoning, the Property will be able to assist in establishing a diverse area by: first, developing in a way that is more compatible with the actively changing community and the neighborhood height goals; second, capitalizing on the Property's pedestrian-centered location and mobility infrastructure; and therefore contributing more positively to the established residential neighborhoods. Further, the Rezoning will result in a more uniform transition from the generally higher buildings in the S-MX-8 districts north of East Arkansas Avenue into the residential areas south of East Arkansas Avenue. Therefore, the Rezoning is not only compatible with the suburban context's purpose, this purpose may in fact be best achieved with the Rezoning.

The suburban district's purpose statement goes on to provide that the district is appropriate "along corridors" and at "larger sites." As discussed above, the Property is located in a Community Corridor and is amongst the largest sites in the area between East Arkansas Avenue and East Florida Avenue. As such, the Property is also consistent with this portion of the suburban neighborhood's purpose.

Specific to the S-MX-5A district, the purpose statement provides that the district is appropriate for "areas or intersections served primarily by collector or arterial streets where a building scale of 1 to 5 stories is desired." East Arkansas Avenue is designated as a local / mixed-use collector street. Additionally, the Property is less than a block from South Colorado Boulevard, a commercial-arterial street. The purpose statement goes on to provide that the "Design standards provide flexibility in building siting while supporting a consistent pattern of buildings placed closer to the street to offer an active street front. Sites are limited to the General building form to encourage a more pedestrian oriented environment." As noted above, the pedestrian-oriented nature of the S-MX-5A district is encouraged by the adopted plans and furthers the intent and purpose for the Rezoning.

Community Planning & Development  
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For the foregoing reasons, the Rezoning meets and complies with the applicable rezoning criteria. As such, on behalf of the Applicant, we respectfully request that the City approve the Rezoning.

Sincerely,



Cory M. Rutz  
For the Firm

cc: ICP-Flywheel Arkansas, LLC (by e-mail)

August 16, 2023

CORY M. RUTZ  
303 575 7531  
CRUTZ@OTTENJOHNSON.COM

**VIA E-MAIL**

Community Planning & Development  
City and County of Denver  
201 W. Colfax Avenue  
Denver, Colorado 80202

Re: Rezoning Application for 4100 E. Arkansas and 1451 S. Ash Street  
Outreach Documentation Attachments

Dear Community Planning & Development:

As you may recall, this firm represents ICP-Flywheel Arkansas, LLC, a Colorado limited liability company, together with its affiliates (the “**Applicant**”), with respect to certain real property located generally at 4100 East Arkansas Avenue (the “**Property**”) in the City and County of Denver. This cover letter and the attachments hereto are submitted in connection with the Applicant’s application for rezoning of the Property (the “**Rezoning**”).

Prior to submitting this application, the Applicant has done some preliminary community outreach. This outreach included: (1) a meeting with the East Evans Business Association, who, on May 3, 2023, voted unanimously to supply the letter of support attached hereto as Exhibit A, (2) a meeting with the Virginia Village Ellis Community association, who, in the May 29, 2023 email attached hereto as Exhibit B, stated that while they have no substantive concerns, they are not able to formally support or oppose the Rezoning until more concrete plans for changes to the Property are made, and (3) an in-person meeting with Councilman Kashmann on June 27, 2022.

In addition, and as requested by the application, the Applicant did not have a concept or pre-application meeting with Development Services because there are no current plans for re-development on the Property.

Sincerely,



Cory M. Rutz  
For the Firm

Enclosures

cc: ICP-Flywheel Arkansas, LLC (by e-mail)

**Exhibit A**

**East Evans Business Association Letter of Support**



June 1, 2023

To whom it may concern:

The East Evans Business Association (EEBA) is writing this letter of support for the upzoning of the property at 4100 E. Arkansas Avenue within the Virginia Village Neighborhood at the southwest corner of the intersection at East Arkansas Avenue and South Ash Street by ICP-Flywheel Arkansas, LLC from S-MX-3 to S-MX-5.

On May 3, 2023 at our regular and public monthly BOD meeting of the East Evans Business Association, members of the association discussed the proposal regarding the proposed upzoning of the above property. After a discussion by the members, a vote was taken to approve a motion to write a letter of support for upzoning the property from S-MX-3 to S-MX-5 which passed with 6-For, 0-Against, 0-Abstained.

We are happy to support this upzoning effort on this site. This application will offer future zoning optionality of residential affordability and pedestrian friendly urban design that is needed in our neighborhood and the Denver community at large. Lastly, this application is in line with and consistent with the Blueprint Denver guidance adopted in 2019. Please feel free to contact us with any questions.

Sincerely,

Nancy Barlow  
EEBA President  
[nb@barlowadvertising.com](mailto:nb@barlowadvertising.com)  
720-635-5956

**Exhibit B**  
**Virginia Village Ellis Community Association Email Chain**

 Mon 5/29/2023 7:50 AM  
Matt Charley <macharle@gmail.com>  
Re: Upzoning of Flywheel Capital 4100 E. Arkansas Site

To: Rob Hamm  
Cc: Joshua Ratliff; Ben Hrouda

Hello Rob & Ben,

The VVECA appreciates your outreach and for coordinating the meeting we had earlier this year to discuss the upcoming plans at the Arkansas commercial property. Josh and I enjoyed our discussion and the gesture of meeting was not lost on us.

That being said - the VVECA is not comfortable taking a position of support or opposition to your planned rezoning, but based on what you presented to us verbally, we have no issue with the plan (or lack thereof) to the property in question.

We cannot sign off on the provided template of approval in the interest of protecting our future position of support or opposing - based on actual plans for changes to the property itself. At any such time that Flywheel Capital has legitimate and specified plans for changes to the property and any impact that may have to the neighborhood - we would be happy to meet again and discuss, perhaps even sign off on any aforementioned documents of approval.

We hope you appreciate the position the RNO must take in a situation like this to avoid implicating ourselves on approving any commercial zoning changes when we have little-to-no awareness on how those changes may materialize.

Regards,  
Matt Charley  
VVECA Chairperson for Zoning and Development

On May 18, 2023, at 8:21 AM, Rob Hamm <rob.hamm@flywheelcap.com> wrote:

Joshua and Matt-

We hope the start of your spring is going well. As a follow up to our meeting, I've attached a sample Letter Of Support from the Virginia Village Ellis Community Association communicating your review for the upzoning of 4100 E. Arkansas. Ben and I are happy to attend the next VVECA meeting to answer any questions that association members have on the upzoning effort.

Let us know if either of you have any additional questions. We look forward to hearing what the AAECA decides about this application and the upzoning effort.

Thanks,

**Rob Hamm** | Director of Capital Development and Acquisitions  
**Flywheel Capital**  
724 S. Pearl St | Denver, CO 80209  
M 503.351.7202  
[rob.hamm@flywheelcap.com](mailto:rob.hamm@flywheelcap.com)  
[www.flywheelcap.com](http://www.flywheelcap.com)

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