BY AUTHORITY

ORDINANCE NO. 949

COUNCIL BILL NO. 842

SERIES OF 2005

COMMITTEE OF REFERENCE: Blueprint Denver

A BILL

For an ordinance changing the zoning classification for an area, generally bounded by I-25, Belleview Avenue and Quincy Avenue, reciting certain waivers proposed by the owner, reciting certain reasonable conditions approved by the owner and providing for a recordation of this ordinance.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That upon consideration for a change in the zoning classification of the land hereinafter described, council finds:

1. That the land hereinafter described is presently classified as B-4 with waivers;

2. That the owner proposes that the zoning classification of the land hereinafter described be changed to B-4 with waivers and conditions;

3. That in its application, the owner has represented that if the zoning classification is changed pursuant to its application, the owner will and hereby does:

(i) Waive the right to use or occupy the subject property or to use, occupy or erect thereon any structure or structures designed, erected, altered, used, or occupied the following uses identified in D.R.M.C. §59-182 of the Denver Revised Municipal Code ("D.R.M.C.")

1. Ambulance
2. Automobile, motorcycle, light truck, sales, leasing, rental; except automobile rental is not waived.
3. Service, repair, commercial
4. Wholesale trade, light and/or storage of non-toxic hazardous material
5. Contractor, special trades and general
6. Food locker plant use within the allowed use of Food sales or market, small
7. Manufacturing, fabrication, and assembly heavy (including koshering of poultry)
8. Mortuary
9. Communications service
10. Selling monuments and tombstones use within the allowed use of Retail, service, repair consumer, special
11. Manufacturing, fabrication and assembly, (heavy) or (custom); except craftswork and electronic components are not waived.
12. Adult amusement or entertainment
13. Book store, adult
14. Eating place with adult amusement

15. Photo studio, adult

16. Sexually oriented commercial enterprise

17. Theater, adult

(ii) Waive the right to use or occupy the subject property or to use, occupy or erect thereon any structure or structures designed, erected, altered, used, or occupied for outdoor general advertising device defined in Section 59-2(185) of the D.R.M.C.

(iii) For Subarea1 described in Section 3, herein waive the right to use or occupy the land or erect thereon any structure or structures designed, erected, altered, used or occupied for hotel and motel.

(iv) For Subarea 1 described in Section 3 herein, waive the right to develop the maximum gross floor area as permitted D.R.M.C. §59-186(f), and instead the maximum gross floor area in Subarea 1 shall be 1,050,000 square feet, exclusive of publicly owned buildings, and that within that 1,050,000 square foot limit, not more than 700,000 square feet of office, not more than 775,000 square feet of residential, and not more than 50,000 square feet of retail shall be constructed.

(v) For Subarea 3 described in Section 3 herein, waive the right to develop the maximum gross floor area as permitted in D.R.M.C. §59-186(f), and instead the maximum gross floor area in Subarea 3, exclusive of publicly owned buildings shall be 1,600,000 square feet and that within that 1,600,000 square foot limit, not more than 1,000,000 square feet of office, not more than 1,475,000 square feet of residential, not more than 150,000 square feet of retail, and not more than 500,000 square feet of hotel and motel shall be constructed.

4. That the owner approves and agrees, as reasonable conditions to the requested change in zoning classifications the following:

(i) Within Subarea 1, no building shall be constructed having a height in excess of 80 feet.

(ii) Within Subarea 3, no building shall be constructed having a height in excess of 210 feet.

Section 2. That the following procedures will be used for tracking the gross floor area for this Ordinance:

1. Ordinance No. 655, Series of 1981 and this Ordinance, are collectively referred to as the "DTC West Rezoning Ordinances." The terms of this Ordinance shall govern in the event of any conflict between Ordinance 655, Series of 1981 and this Ordinance.

2. Upon approval of the DTC West Rezoning Ordinances, the gross floor area availability and allocation for all of the properties described in the DTC West Rezoning Ordinances shall be:

GROSS FLOOR AREA ALLOCATION

Use		Zoning Sub Area 1	2	3	4	Total per Use
Office	Max. Allowed	700,000	200,000	1,000,000	1,200,000	3,100,000
	Used	275,000	129,247	25,000	607,325	1,036,572
	Available	425,000	70,753	975,000	592,675	2,063,428
Retail	Max. Allowed	50,000	50,000	150,000	100,000	350,000
	Used	0	0	0	20,000	20,000
	Available	50,000	50,000	150,000	80,000	330,000
Hotel	Max. Allowed	0	0	500,000	500,000	1,000,000
	Used	0	0	0	0	0
	Available	0	0	500,000	500,000	1,000,000
Residential	Max. Allowed	775,000	650,000	1,475,000	225,000	3,125,000
	Used	150,000	430,000	625,000	225,000	1,430,000
	Available	625,000	220,000	850,000	0	1,695,000
Total Per Sub Area	Max. Allowed	1,050,000	650,000	1,600,000	1,200,000	4,500,000
	Used	425,000	559,247	650,000	852,325	2,486,572
	Available	625,000	90,753	950,000	347,675	2,013,428

3. Prior to development of any parcel within any Subarea, a Zone Lot Application will be submitted for that parcel which shall include the allocation of gross floor area by Subarea and by use category as set forth in the DTC West Rezoning Ordinances.

4. Accompanying each Zone Lot Application shall be a gross floor area allocation chart showing by Subarea the allocation of available gross floor area.

5. The available gross floor area that exists in Subarea 4, as described in Ordinance No. 655, Series of 1981, and any available gross floor area that may exist after full development in Subareas 1, 2 and 3, as described in Ordinance No. 655, Series of 1981, is presently owned by DTC West Land Venture for allocation and future zone lot amendments.

Section 3. That the zoning classification of the land area in the City and County of Denver included within the following boundaries shall be and hereby is changed from B-4 with waivers to B-4 with waivers which waivers are set forth in Subsection 3 of Section 1 hereof and with reasonable conditions, which conditions are set forth in Subsection 4 of Section 1:

SUB AREA 1

A PARCEL OF LAND SITUATED WITHIN THE EAST ONE HALF (½) OF SECTION 8, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH ONE QUARTER (S¼) CORNER OF SAID SECTION 8, THENCE NORTH 00°39'23" EAST, 50.00 FEET TO A POINT AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF EAST BELLEVIEW AVENUE WITH THE WEST LINE OF THE EAST ONE HALF (½) OF SAID SECTION 8; THENCE CONTINUING NORTH 00°39'23"" EAST ALONG SAID WEST LINE 5227.77 FEET TO A POINT AT THE INTERSECTION OF SAID WEST LINE WITH THE SOUTH RIGHT-OF-WAY LINE OF EAST QUINCY AVENUE; THENCE ALONG SAID RIGHT-OF-WAY SOUTH 82°35'53" EAST, 372.95 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY SOUTH 82°35'53" EAST, 431.35 FEET TO A POINT AT THE INTERSECTION OF SAID SOUTH RIGHT-OF-WAY LINE WITH THE WEST RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 25; THENCE LEAVING SAID SOUTH RIGHT-OF-WAY LINE AND ALONG SAID WEST RIGHT-OF-WAY LINE SOUTH 24°03'07" EAST, 1207.46 FEET TO THE EAST ONE-SIXTEENTH LINE OF SAID SECTION 8, THENCE ALONG SAID ONE SIXTEENTH LINE SOUTH 00°25'30" WEST, 58.18 FEET; THENCE LEAVING SAID ONE-SIXTEENTH LINE AND CONTINUING ALONG SAID WEST RIGHT-OF-WAY SOUTH 24°03'07" EAST, 381.32 FEET; THENCE LEAVING SAID WEST RIGHT-OF-WAY LINE SOUTH 65°56'53" WEST, 667.02 FEET TO A POINT ON A CURVE, THENCE 276.36 FEET ALONG AN ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 561.00 FEET, CENTRAL ANGLE OF 28°13'23" AND WHOSE CHORD BEARS NORTH 20°52'18" WEST, 273.57 FEET TO A POINT OF TANGENCY, THENCE NORTH 34°59'03" WEST, 946.60 FEET TO A POINT OF CURVATURE; THENCE 925.11 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 561.40 FEET, A CENTRAL ANGLE OF 94°24'56" AND WHOSE CHORD BEARS NORTH 12°13'25"" EAST, 823.93 FEET TO THE TRUE POINT OF BEGINNING; SAID PARCEL CONTAINING 31.06 ACRES, MORE OR LESS.

SUB AREA 3

A PARCEL OF LAND SITUATED WITHIN THE EAST ONE-HALF (½) OF SECTION 8, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, COLORADO. SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT WHICH IS THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF EAST BELLEVIEW AVENUE AND THE WEST LINE OF THE EAST ONE-HALF (½) OF SAID SECTION 8 FROM WHICH THE SOUTH ONE-QUARTER (¼) CORNER OF SAID SECTION 8 BEARS SOUTH 00°39'23"" WEST, 50.00 FEET; THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE OF EAST BELLEVIEW AVENUE SOUTH 89°56'41" EAST, 1276.53 FEET; THENCE LEAVING SAID NORTH RIGHT-OF-WAY LINE NORTH 00°11'19" EAST, 1145.04 FEET TO A POINT ON THE CENTERLINE OF A PUBLIC SERVICE COMPANY EASEMENT RECORDED IN BOOK 692, PAGE 344, WITH THE CLERK AND RECORDER OF ARAPAHOE COUNTY, AND THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID CENTERLINE OF THE EASEMENT NORTH 50°51'49"" EAST, 610.00 FEET; THENCE NORTH 04°38'56" WEST, 429.42 FEET TO THE CENTERLINE OF SAID PUBLIC SERVICE EASEMENT; THENCE NORTH 50°45'19" EAST ALONG SAID CENTERLINE 160.00 FEET; THENCE NORTH 24°00'35" WEST, 959.57 FEET; THENCE NORTH 65°59'25" EAST, 325.15 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 25; THENCE NORTH 24°03'07" WEST, ALONG SAID RIGHT-OF-WAY LINE 600.00 FEET; THENCE LEAVING SAID RIGHT-OF-WAY LINE SOUTH 65°56'53" WEST, 667.02 FEET TO A POINT ON A CURVE; THENCE 447.65 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 561.00 FEET, A CENTRAL ANGLE OF 45°43'08", AND WHOSE CHORD BEARS SOUTH

16°06'00" WEST, 435.86 FEET TO A PONT OF TANGENCY; THENCE SOUTH 38°57'33" WEST, 518.25 FEET TO A POINT OF CURVATURE; THENCE 375.03 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 561.00 FEET, A CENTRAL ANGLE OF 38°18'10", AND WHOSE CHORD BEARS SOUTH 19°48'28" WEST, 368.09 FEET TO A POINT OF TANGENCY; THENCE SOUTH 00°39'23" WEST, 151.58 FEET TO A POINT OF CURVATURE; THENCE 712.85 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 561.00 FEET, A CENTRAL ANGLE OF 72°48'16" AND WHOSE CHORD BEARS SOUTH 35°44'45" EAST, 665.85 FEET TO A POINT OF TANGENCY; THENCE SOUTH 72°08'53" EAST, 125.27 FEET TO A POINT OF CURVATURE; THENCE 404.77 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 561.00 FEET, A CENTRAL ANGLE OF 41°20'24", AND WHOSE CHORD BEARS SOUTH 51°28'41" EAST, 396.05 FEET; THENCE SOUTH 68°53'31" EAST, 150.00 FEET TO THE TRUE POINT OF BEGINNING AND CONTAINING 54.33 ACRES MORE OR LESS.

Section 4. That the foregoing change in zoning classification is based upon the representations by the owner that it will waive those certain rights available to it and, in lieu thereof, agree to certain limitations, which limitations are set forth in Subsection 3 of Section 1 hereof, and as is also based upon reasonable conditions approved by owner, which conditions are set forth in Subsection 4 of Section 1 hereof. No permit shall be issued except in street compliance with the aforesaid waivers and conditions. Said waivers and conditions shall be binding upon the owner for the change in zoning classification and shall be binding upon all successors and assigns of said owner.

Section 5. That the Ordinance shall be recorded by the Department of Zoning Administration among the records of the Clerk and Recorder of the City and County of Denver.

COMMITTEE APPROVAL DATE: September 28, 2005 MAYOR-COUNCIL DATE: November 15, 2005

PASSED BY THE COUNCIL December 19 2005

_____ - PRESIDENT

APPROVED: _____ - MAYOR December 20, 2005

ATTEST: _____ - CLERK AND RECORDER,
EX-OFFICIO CLERK OF THE
CITY AND COUNTY OF DENVER

NOTICE PUBLISHED IN THE DAILY JOURNAL Nov. 25, 2005; Dec. 23, 2005

PREPARED BY: KAREN A. AVILES, ASSISTANT CITY ATTORNEY, 11/17/05

Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to § 3.2.6 of the Charter.

Cole Finegan, City Attorney

BY: _____, Asst City Attorney DATE: 11-17-05