

BY AUTHORITY

ORDINANCE NO. *366*
SERIES OF 200*9*

COUNCIL BILL NO. *288*
COMMITTEE OF REFERENCE:
Blueprint Denver

A BILL

For an ordinance changing the zoning classification, with a waiver and a condition, for 7050 and 7080 Tower Road.

WHEREAS, the City Council has determined, based on evidence and testimony presented at the public hearing, that the map amendment set forth below conforms with applicable City laws, is in accordance with the Comprehensive Plan, is justified either by changed or changing conditions or to correct manifest error in the prior zoning and is necessary to promote the public health, safety and general welfare;

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

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

1. That the land area hereinafter described is presently classified as Gateway;
2. That the owner proposes that the land area hereinafter described be changed to C-MU-20 with a reasonable waiver and a condition it has approved;
3. That in the application the owner has represented that if the zoning classification is changed pursuant to the application, the owner will and hereby does waive the right to use or occupy the land or to use, occupy, construct, alter or maintain the following uses listed under Section 59-303 (uses allowed in these districts) of the Revised Municipal Code of the City and County of Denver for structure or structures located in the C-MU-20 zone district:

Artist studio, Dwelling, multiple unit, Dwelling, single unit, Live/work residential, Residence for older adults, Residential institutional/special, Rooming and/or boarding house, and Bed and breakfast.

All other provisions of Section 59-303 of the Denver Revised Municipal Code shall remain in full force and effect.

4. That in the application the owner has represented that if the zoning classification is changed pursuant to the application, the owner will and hereby does agree to the following condition: The owner shall execute, record and deliver to the Department of Community

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City & County of Denver

1 Planning and Development a true copy of an Air Rights Covenant and Avigation Easement, in
2 a form acceptable to the City Attorney, that shall run with the land whereby the owner and its
3 successors and assigns waive any rights and causes of action they may have in the future
4 against the City and County of Denver and others due to noise resulting from aircraft landing
5 at, taking off from, or operation at Denver International Airport and grant an avigation
6 easement.

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8 **Section 2.** That the zoning classification of the land area in the City and County of
9 Denver described as follows or included within the following boundaries shall be and hereby is
10 changed from Gateway to C-MU-20 with a reasonable waiver, which waiver is set forth in
11 Subsection 3 of Section 1 hereof, and a reasonable condition, which condition is in Subsection
12 4 of Section 1 hereof:

13

14 **Lot 1 and Lot 2, Block 1, Sunrise Gateway Filing No.2, City and County of Denver, State**
15 **of Colorado**

16

17 in addition thereto those portions of all abutting public rights-of-way, but only to the centerline
18 thereof, which are immediately adjacent to the aforesaid specifically described area.

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20 **Section 3.** That the foregoing change in zoning classification with a reasonable waiver and
21 a condition is based upon the representation by the owner that it will waive those certain rights
22 available to it, and, in lieu thereof, agrees to certain limitations which limitations are set forth in
23 Subsection 3 and Subsection 4 of Section 1 hereof, and no permit shall be issued except in strict
24 compliance with the aforesaid waiver and condition. Said waiver and condition shall be binding
25 upon all successors and assigns of said owner, who along with said owner shall be deemed to
26 have waived all objections as to the constitutionality of the aforesaid waiver and condition.

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28 **Section 4.** That this ordinance shall be recorded by the Department of Community
29 Planning and Development among the records of the Clerk and Recorder of the City and County
30 of Denver.

1 COMMITTEE APPROVAL DATE: May 13, 2009 MAYOR-COUNCIL DATE: May 19, 2009
2 PASSED BY THE COUNCIL June 29 2009

3 Jeanes Robb - PRESIDENT

4 APPROVED: William H. Adams ACTING MAYOR June 30 2009

5 ATTEST: Stephanie Malley - CLERK AND RECORDER,
6 EX-OFFICIO CLERK OF THE
7 CITY AND COUNTY OF DENVER

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9 NOTICE PUBLISHED IN THE DAILY JOURNAL June 5 2009; July 2, 2009

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11 PREPARED BY: ^{KA} KAREN A. AVILES, ASSISTANT CITY ATTORNEY, May 12, 2009

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

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18 David R. Fine, City Attorney
19 BY: David R. Fine, Assistant City Attorney, 20 May, 2009

