

Summary of outreach efforts:

Over the past 14 months, the applicant has conducted outreach and engagement with the Cherry Creek East Association (CCEA), Capitol Hill United Neighborhoods (CHUN) and immediate neighbors at The Griffis and Mountain Shadows.

The city received copies of the draft Good Neighbor Agreement/Memorandum of Understanding between the applicant and CCEA.

The Good Neighbor Agreement/Memorandum of Understanding commit the owner to the following:

- To abide by the Cherry Creek East Commercial Overlay Plan (CCECOP).
- Building Height not to exceed 7 stories.
- Exploration of a possible green roof.
- Setbacks per the pending Cherry Creek East Commercial Overlay Plan: Ground floor setback of five feet from primary/side streets, and eight feet beginning at either the 3rd or 4th stories extending at least 70% of the zone lot street frontage.
- Specific consideration to minimize impact on the Griffis, such as offset windows and the possibility of a green wall.
- Architecturally designed to consider the effect on existing buildings and pedestrian experience.
- Delivery trucks to access the property between 7:00 AM and 9:00 PM, not to block the alley for more than 15 minutes.
- Owners to ensure that City's required parking ratio is achieved through parking agreements with neighbors.
- Owners to ensure that construction has reasonably minimal impact on neighbors.

A list of meetings between the applicant and the RNOs are below.

- **6/22/2020: CCEA Initial Conversation.** Introduction to development lead Bill Tanner.
- **7/21/2020: CCEA Development Committee meeting.** Introduction to CCEA development committee, discussion of pursued rezoning to C-MX-8 and potential CCEA concerns.
- **10/7/2020: CCEA Team Meeting.** Continuation of conversations with CCEA team members about neighborhood concerns and desires.
- **12/28/2020: Conversation with Jim DiRienzo at Griffis Residential.** Discussion of intentions with 5 Cook St w/ representative of immediate neighbor, Griffis Residential. Concluded that Griffis will remain a neutral party.
- **2/17/2021: Conversation with CHUN Representatives.** Conversation of intentions with 5 Cook St with CHUN representatives including president Travis Leiker. CHUN generally supportive of development as long as it includes affordable component.
- **3/2/2021: CCEA Development Committee Meeting.** Continuation of conversation with CCEA development committee; full PowerPoint presentation for rezoning.
- **4/27/2021: CCEA Development Committee Meeting.** Additional conversation with CCEA development committee.
- **5/17/2021: CCEA Presentation to Board.** Full PowerPoint presentation to CCEA Board.
- **5/26/2021: Presentation and Discussion with Mountain Shadows.** Presentation and discussion with neighbors at Mountain Shadows.

- **7/21/2021: Community Meeting with CCEA Members/Neighbors.** Full presentation to CCEA members and neighbors.
- **7/26/2021: Discussion of survey and Good Neighbor Agreement with CCEA Development Committee members.** Answering of neighborhood questions in preparation for launch of survey to CCEA members.

Thanks,
Canyon

Canyon Law
303.902.7179

MEMORANDUM OF UNDERSTANDING
between
THE LAW FAMILY
And
Cherry Creek East Association
Regarding the property located at
5 Cook Street, Denver, Colorado

Draft

WHEREAS, 5 Cook Street (Property) is owned by the Law Family (Laws). The Property is currently zoned PUD. The Laws have requested to rezone the Property to C-MX-8.

WHEREAS, The Laws believe a rezoning to C-MX-8 is consistent with surrounding zoning, and consistent with Denver’s adopted plans (Comprehensive Plan 2040, Blueprint Denver 2019, and the Cherry Creek Area Plan). The Laws have expressed their commitment to building a thoughtful, high-quality, mixed-use building that fits the context of the neighborhood and meets the Denver Zoning Code review criteria. The Laws have also committed to abiding by the Cherry Creek East Commercial Overlay Plan.

WHEREAS, The Neighbors, while not objecting to a rezoning and a thoughtful, high-quality, mixed use building, have expressed concerns about design, setbacks, retail, parking, quality, sense of space and operations.

WHEREAS, At the request of Councilman Hinds, the Laws and Neighbors have agreed to work toward achieving an agreement that enables Laws to rezone in a reasonable manner and addresses the Neighbors issues and concerns.

NOW THEREFORE, in consideration of the mutual agreements herein, the Parties agree as follows:

- I. Cherry Creek Overlay. The Laws agree that any development on this Property will conform to all requirements of the Cherry Creek East Commercial Overlay Plan (CCECOP).
- II. Building Height. Although C-MX-8 allows up to eight stories in height, Laws agree to a height limit not to exceed seven (7) stories. [Laws will explore the possibility of a green roof.](#)
- III. Setbacks.
 - a. The proposed setbacks will conform with the required setbacks in the CCECOP.
 - b. They will include:
 - i. Ground floor setback of five feet from primary and side streets.
 - ii. Upper floor setback of eight feet, beginning at either the 3rd or 4th stories facing a primary and side street and extending a minimum of 70% of the zone lot street frontage.
 - c. [Specific consideration will be taken to minimize the impact on the Griffis, such as offset windows and the possibility of a green wall.](#)
 - d. The proposed building will do more than just meet the required setbacks. It will be architecturally designed in such a way as to take into consideration surrounding buildings, possible articulation to address massing concerns, eyes on the street, pedestrian experience, walkability and feel of the corner, impact on Mountain Shadows, and the opportunity for green space.

- IV. Landscaping. Will be designed to meet and exceed Denver’s zoning requirements and strive to enhance the pedestrian experience.
- V. Retail. The ground floor will be retail that is accessible to the neighborhood and bring a vibrancy to the corner. Issues associated with retail:
 - a. Exhaust fans for retail use will be designed in a way to have minimal impact on immediate neighbors.
 - b. Delivery trucks and trash pick-up trucks will access the property between the hours of 7:00am and 9:00pm and will not block the alley for more than fifteen minutes.
 - c. [There will be a dock off the alley, which will be primarily for tenant use.](#)
 - d. Any other significant negative impacts as a result of retail will be addressed in a timely and effective manner.
- VI. Parking. The owners of 5 Cook Street will ensure that parking necessary to meet the City’s required parking ratio (.75/unit) is secured by long-term leases prior to applying for a building permit.
- VII. Other Points.
 - a. [The building is anticipated to contain thirty to thirty-six units.](#)
 - b. The building will contain a place for indoor bike parking.
 - c. A water capture plan will be put in place as more detailed design development is done.
 - d. Tenants who do not follow rules regarding control over their pets, clean-up after their pets, etc., will be subject to penalties.
- VIII. Construction.
 - a. The Laws will ensure that construction has reasonably minimal impact on immediate residents.
 - b. Any construction on this site will adhere to the City’s requirements which allow for construction between the hours of 7:00 a.m. and 9:00 p.m. on weekdays and 8:00 a.m. to 5:00 p.m. on weekend.
 - c. Reasonable measures will be taken to prevent particulate matter from becoming airborne and to prevent the visible discharge of dust and other particles beyond the property where they originated.
 - d. Parking will be provided for construction workers and the requirement to park in the designated spaces will be a part of all contracts with those doing construction activity at 5 Cook Street.
 - e. The phone number to call if neighbors have complaints about construction is, Canyon Law at 303.902.7179.
- IX. Agreement of the Parties.
 - a. Both Laws and Cherry Creek East Association agree that this Memorandum of Understanding shall be enforceable on any owner of this Property and will run with the land in perpetuity. If this project is converted to a different type of housing, the requirements in this MOU will continue to apply.
 - b. Any Party to this agreement may choose to record the Memorandum of Understanding with the Denver Clerk and Recorder’s Office.

Signed and dated on next page

Canyon Law, Representing the Law Family, owners of the property Date

Chris Ward, President, Cherry Creek East Association Date

Cherry Creek East Association Survey Report: 5 Cook St. Rezone

What this survey report covers.

5 Cook St. Rezoning: The Law family who own 5 Cook St want to rezone their property from a 2 story PUD to CMX-8¹. In order to win CCEA (Cherry Creek East Association) support for the rezoning, the Laws agreed to sign a neighborhood agreement. The proposed full text of the agreement is at https://www.cherrycreekeast.org/editor_upload/File/Proposed%20MOU%20-%205%20Cook%20v7_26_21%20cl%20sc.pdf.

The results of the survey are contingent on the Laws signing and acting in good faith and accordance with the full negotiated agreement.

Working with the Canyon Law, Steve Charbonneau [Find Solutions], the CCEA Development Committee and CCE residents, a survey of CCEA residents and commercial property owners was created to learn whether the CCE community wanted CCEA to recommend that City Planning and City Council support the rezoning, or not.

The survey was conducted after Canyon Law presented the rezoning proposal to CCE. The presentation can be viewed at [https://www.cherrycreekeast.org/editor_upload/File/5%20Cook%20St%20Canyon%20community%20present%202_21_21%20\(1\).pdf](https://www.cherrycreekeast.org/editor_upload/File/5%20Cook%20St%20Canyon%20community%20present%202_21_21%20(1).pdf)

Who and how many took the survey, when.

Engagement with the survey was excellent for this community. Over 220 persons started the survey over a two-week period ending 8.12.2021. Responses were received from every occupied CCE block. Survey outreach included multiple mailings to CCEA members, non-members, social and neighborhood watch lists, multiple postings on social media, outreach to other local groups and word of mouth.

The survey represents the broader CCE community, not just CCEA paid members. Just over half of respondents [52%] were CCEA members, 34% were not CCEA members and 14% were unsure if they were members.

Both property owners and renters were represented: 80% own property; 20% lease or rent residential or commercial property in CCE.

Respondents represented both residents of adjacent buildings [41%] and the broader CCE community.

- Adjacent building residents who took the survey include those from Mountain Shadows [22% of all CCE respondents], Griffis Cherry Creek [6%], Kavod [1.4%], The Seasons [6%], another building respondents perceived to be within 200 feet of 5 Cook St. [7%.]
- About 1/3 [30%] of respondents live or own property on Cook or Adams Street between 1st and Ellsworth [the same block as 5 Cook St.]

Respondents were well informed about the rezoning prior to taking the survey. Over 80% visited the 5 Cook St site. Over ¾ [76%] read some or part of the neighborhood agreement, about 5/8 [63%] viewed the 5 Cook St presentation online and over ¼ [29%] attended the developer's presentation to the CCE community. An image of the current building, a compilation of key facts about the proposal, highlights of the proposed neighborhood agreement/memorandum of understanding were included in the survey pre-amble.²

¹ PUD = Planned Unit development [in the case of 5 Cook St and many CCE properties, a zone specific to the property. CMX-8 = Mixed residential and commercial uses allowed, 8 story maximum height.

² A complete copy of the survey text and a copy of all results incl. all open ended, individual comments are available on request.

Cherry Creek East Association Survey Report: 5 Cook St. Rezone

Results: What respondents said about the rezoning.

A majority of respondents favor the CCEA Board supporting the rezoning as described in the survey, developer’s presentation and memorandum of agreement. The table below shows how respondents answered the question:

“Contingent on the above Neighborhood agreement being signed, how do you feel about the CCEA Board recommending to City Planning that the 5 Cook St rezoning from PUD to CMX-8 stories be approved?”

Response Checked	All Respondents [Base: 213 ³]	Say They Rent/ Own Residence in Adjacent Bldg⁴ [Base: 88]	Say They Do Not Rent/Own in Adj Bldg [Base: 122]
“The CCEA Board should recommend in favor the rezoning of 5 Cook St to CMX-8 [7 stories will be built]”	57% ⁵	63%	54%
“The CCEA Board should recommend against the rezoning of 5 Cook St to CMX-8 [7 stories will be built]”	36%	35%	36%
“I am not sure if the CCEA Board should recommend for or against the rezoning of 5 Cook St to CMX-8 [7 stories will be built]”	7%	2%	10%
Total	100%	100%	100%

- **Over ½ [54%] of Mtn Shadows residents [46 persons voting] voted in favor** of the CCEA board supporting the rezoning.
- Of those who state that they **live on the same block as 5 Cook St [On Adams or Cook between 1st and Ellsworth, 67 persons], about 2/3 [64%] voted in favor** of the CCEA board supporting the rezoning.
- The majority of the minority who were opposed to the rezoning [58% of those opposed] did not live in a building adjacent to 5 Cook St. Over ¼ [28% of those opposed] lived at Mountain Shadows.

³ Since respondents drop out of surveys for a variety of reasons [e.g., intended to complete survey later but forgot, other interruption, etc.], 3 respondents who answered the pro/con rezoning question did not complete the adjacent building question. This is typical for surveys and still represents a completion rate well above expectations [based on SurveyMonkey estimates.]

⁴ Mountain Shadows, Griffis, Kavod, Seasons, other w/in 200 feet.

⁵ Clearly, CCE is NOT a NIMBY [“not in my backyard”] neighborhood since in two recent cases [McKinnon & Law], CCE has supported rezoning from less tall to taller buildings.

Cherry Creek East Association Survey Report: 5 Cook St. Rezone

Why respondents voted as they did.

In this report section direct sample quotes are used to illustrate key themes in open ended responses. All comments are available on request and will be posted to the CCEA website. Readers are encouraged to review them.

The **majority who were in favor** of the rezoning mentioned:

- **Perceived fit with surrounding buildings and city plans and the Law family's willingness to apply the CCE overlay restrictions to their building.**
 - *"It seems that all the city requirements and CCEA overlays are met."*
 - *"Development is similar to surrounding buildings"*
 - *"I like this project. I will add housing in an area next to equally tall buildings in a really creative way. Fits within the area plans too!"*
 - *"It is surrounded by taller buildings so 7 stories will not impact the neighborhood"*
 - *"The desired CMX 8 zoning is consistent with surrounding buildings/zoning and with the area plan."*
 - *"Following our guidelines"*
 - *"The pending agreement with CCEA, when signed, seems to be reasonable and workable."*
- **Perception that the Law family would follow through and abide by their agreement**
 - *"CCE needs to do its part to help with Denver's increasing density. The draft designs of the proposed building are beautiful. The owners have worked with CCE and they will sign a neighborhood agreement."*
 - *"I heard good things about the Law family and I believe 5 cook development fits well with the community "*
 - *"I think Law family is a trustful developer "*
 - *"Seems like the Laws are being very considerate of n'hood concerns. Building is in keeping with surrounding buildings"*
 - *"They seem willing to listen and follow through. I think the family has integrity. It seems unfair to deny their request when everything around them has built higher."*
- **Perception that the new building would be an improvement over the current building. Some mentioned that the plan to include first floor retail added to this perception.**
 - *"Would fit the neighborhood better than the small building there now."*
 - *"Would look nicer, having a cafe there would be nice."*
 - *"Would like a restaurant on the corner."*

The **minority opposed to or "not sure"** if the rezoning should be supported by the CCEA Board focused on:

- **The absence of onsite parking and other perceived negative impacts of increasing density in the area.**
 - *"No parking for the building. Too much traffic"*
 - *"Parking is a major issue in the streets & neighbor. Traffic including bikes, pedestrians, municipal services already clog the area making it unsafe to navigate."*
 - *"1 - Overdevelopment of CCE 2- Do much density for such a lovely inner-city area 3- Traffic congestion is already an issue and this will increase traffic. 4-Parking issue - too many to park on the street 5- More density causes issues with limitations for trees and shade and parks 6 - totally against this!!"*
 - *"A seven or 8 story building with no added parking will substantially increase vehicle congestion on the streets and among the existing parking areas where the Laws would contract for designated parking. Competition among residents and their guests for existing parking is already stiff...an added Highrise with no added integral parking is VERY undesirable."*
 - *"Height, no parking, noise, deliveries, impact on Mt Shadows Eastside property values."*

Cherry Creek East Association Survey Report: 5 Cook St. Rezone

- **Some adjacent neighbors noted that the new taller building will adversely impact their quality of life.** The Laws should minimize the negative impact on adjacent residents.
 - *"I moved into the Griffis this summer, to an apartment that faces 5 Cook. Being new to Denver, I was not aware of these proposed changes. Had I known, I would have reconsidered my lease. I enjoy Cherry Creek, for what I expected when I arrived. I enjoy my patio deck, and this proposed building would block and any all space of enjoyment of that space. Aside from the extreme construction, which would be expected with any new development, putting large building on that intersection would not benefit those living nearby. I'm happy to now call Cherry Creek East my home, please don't take away the luxury from those who live here!"*
 - *"I'm a Mountain Shadow resident and facing east so I can see 5 Cook from my living room and bedroom. The project will lower the cost of my condo, will be a lot of inconvenience during construction (a lot of us work from home so living with construction noise for 2 years won't be beneficial in any way), with Alexan apartments built there is no room for 7 stories, alley will be blocked, no parking will kill it."*
 - *"I would be directly impacted as the owner directly facing the proposed site."*

Other Questions: First Floor Retail & Respondents' Closing Comments

What would CCE respondents want to see on the first floor of the 5 Cook St building, if rezoned?

- A plurality⁶ would want to see either a **restaurant/ sandwich shop [45%]** or a **coffee/ ice cream shop [43%]**
- Minorities wanted "retail shops/ boutiques," nothing or "other" which includes retail or services similar to existing businesses, spa or small grocery.

At the survey's end, respondents were given the opportunity to comment on the rezoning, the survey and the process used to get their opinions. Comments often reinforced already stated issues such as the lack of parking/ traffic congestion, others indicated appreciation for the survey and CCEA Board process for getting constituent input [e.g., *"Excellent fair, democratic approach to CCE development ... the committee meetings, community meeting and survey sent by email and posted on social media that is far more outreach than most communities engage in."*] and other responses were unique including a perception that the new building did not fit the CCAP⁷. All comments are available on request.

Summary

- **The majority of CCE respondents indicated that the CCEA Board should support the 5 Cook St rezoning *subject to the Law family signing the pre-survey agreement as written.***
- **Cherry Creek East is clearly not a "NIMBY" neighborhood** opposed to *any* new density. CCE is now supporting the 5 Cook St rezoning from 2 to 7 stories. It recently supported the rezoning of the intersections of First and Bayaud with Harrison from 2 to 4 stories. Developers who approached the community with rezoning requests that offer a perceived benefit to the neighborhood and the City, received a fair response from CCE constituents who thoughtfully weighed both pros and cons.
- **The process works.** All CCE constituents have a chance to learn about upcoming developments and to "vote" in favor or against based on available information. The process is imperfect but it serves the purpose of informing City Council of what a broader spectrum of constituents think than could be obtained via meetings [generally far fewer than 200 persons], petition drives [generally fewer than 100 persons] or solely from Board members. The process uses extensive outreach, Board and community meetings and a survey that references key information.

⁶ Plurality = the number of votes cast for a candidate who receives more than any other but does not receive an absolute majority.

⁷ Respondent indicated that they were a founding contributor to the CCAP [Cherry Creek Area Plan.]