

April 2017

## **Crestmoor Heights development**

**By David Foster**

The Colorado Court of Appeals, in a 33-page Opinion dated April 6, 2017, concurred with the Denver District Court and upheld the rezoning of the property located at 195 South Monaco. The Court of Appeals opined that the “competent evidence in the record supports the City Council’s rezoning decision such that the neighbors have failed to rebut the presumption of integrity, honesty, and impartiality in favor of the City Council’s decision.” The court went on to state, “we conclude that the neighbors [plaintiffs] have failed to demonstrate that the determination of the City Council was an abuse of discretion. The lengthy deliberations show that Council members discussed the criteria and evidence in the record, including testimony presented by both opponents and proponents at the hearing. Therefore, the neighbors have failed to demonstrate that the City Council’s approval of the proposed rezoning was arbitrary and capricious.” This decision comes nearly 2 years after the property was rezoned by Denver City Council in June of 2015.

Denver residents should be proud of the efforts of its City Council and the multitude of city agencies for their thorough review and vetting of this rezoning application. Although some people may disagree with the ultimate decision by the City Council, it should give most people the renewed confidence that the process by which the rezoning application was reviewed and approved was done legally and appropriately. An appropriate legal process is ultimately what we all want to ensure in a land use context.

Cedar Metropolitan is presently building 25 townhomes and a building that will have 40 condominiums, all of which are for sale. FGMC was proud to represent Cedar Metropolitan throughout the rezoning and appellate process.

Click [Here](#) to read the opinion.