



**BOARD OF COUNTY COMMISSIONERS LAND USE
MEETING/PUBLIC HEARING**

TUESDAY, JUNE 10, 2025

AGENDA

Tuesday, June 10, 2025

2:30 PM

Hearing Room

2:30 PM

1. Call to Order

- a. Pledge of Allegiance
- b. Attorney Certification of Agenda
- c. Commissioners Disclosure for Items on This Agenda

2. Land Use Meeting Agenda Items

No Items

3. Public Hearing Agenda Items

- a. Happy Canyon Filing 4, Tracts F and G - Zone Map Change - Project File: DR2024-005.
Trevor Bedford, AICP, Senior Planner — *Department of Community Development*
The request is for approval of a zone map change for two tracts in Happy Canyon Filing 4.

Attachments: [Staff Report - DR2024-005](#)
[Resolution Happy Canyon Tracts](#)

- b. Zoning Resolution Waiver for Inverness Filing 9, Lot 3 - Project File: US2024-011.
Mike Pesicka, AICP, Principal Planner — *Department of Community Development*
The request is for approval of a waiver of the prohibition of “multi-family residential” in the Noise Sensitive Zone within the Centennial Airport Review Area Overlay District of the Douglas County Zoning Resolution, in conjunction with a Use by Special Review for multi-family use in the Light Industrial zone district.

Attachments: [Staff Report - Zoning Resolution Waiver Request](#)
 [Exhibit 1 - Easements](#)
 [Exhibit 2 - Emails](#)
 [Exhibit 3 - Tenant Incident](#)
 [BCC Staff Report \(Zoning Waiver Request-US2024-011\) - staff report supplement](#)

- c. Cross Mountain - Zone Map Change - Project File: DR2025-001.
Trevor Bedford, AICP, Senior Planner — *Department of Community Development*
The request is for approval of a zone map change consisting of approximately 17.9 acres to preserve the top of Cross Mountain from future development.

Attachments: [Staff Report - DR2025-001](#)
 [Resolution Cross Mountain](#)

- d. 2096 S. Interstate 25 - Zone Map Change - Project File: DR2025-002.
Matt Jakubowski, AICP, Chief Planner — *Department of Community Development*
The request is for approval of a zone map change to the Light Industrial and Agricultural One zone boundaries on a split-zoned lot.

Attachments: [Staff Report - DR2025-002](#)
 [Resolution 2096 S Interstate 25](#)

4. Adjournment

The Next Land Use Meeting / Public Hearing Will be Held on Tuesday, June 24, 2025 @ 2:30 p.m.

MEETING DATE: June 10, 2025

STAFF PERSON RESPONSIBLE: Trevor Bedford, AICP, Senior Planner

DESCRIPTION: Happy Canyon Filing 4, Tracts F and G - Zone Map Change - Project File: DR2024-005.

SUMMARY: The request is for approval of a zone map change for two tracts in Happy Canyon Filing 4.

STAFF ASSESSMENT: Staff has evaluated the zone map change request. The map change rezones County-owned property to Open Space Conservation that has been historically used as wildlife habitat and open space. In staff's assessment, the request meets the eligibility criteria. After consideration, the Board of County Commissioners may approve of the zone map change and sign the resolution.

REVIEW:

Terence T Quinn - FYI	Notified - FYI	5/29/2025
Steven E Koster	Approve	5/29/2025
Jeff Garcia	Approve	6/3/2025
Andrew Copland	Approve	6/3/2025
Doug DeBord	Approve	6/4/2025
Samantha Hutchison - FYI	Notified - FYI	6/4/2025

ATTACHMENTS:

Staff Report - DR2024-005
Resolution Happy Canyon Tracts

Zone Map Change Staff Report

Date: May 28, 2025
To: Douglas County Board of County Commissioners
Through: Douglas J. DeBord, County Manager
From: Terence T. Quinn, AICP, Director of Community Development *TQ*
CC: Trevor Bedford, AICP, Senior Planner
Curtis J. Weitkunat, AICP, Long Range Planning Manager
Steven E. Koster, AICP, Assistant Director of Planning Services
Subject: **Happy Canyon Filing 4, Tracts F and G Zone Map Change**
Project File: DR2024-005

Planning Commission Hearing:	June 2, 2025 @ 6:00 p.m.
Board of County Commissioners Hearing:	June 10, 2025 @ 2:30 p.m.

I. EXECUTIVE SUMMARY

The request is for approval of a zone map change to rezone Tracts F and G of Happy Canyon Filing 4 from the Estate Residential (ER) zone district to the Open Space Conservation (OS) zone district in accordance with the Douglas County Zoning Resolution (DCZR) Section 112 – Zone Map Changes, under the procedure for “Rezoning of land to Open Space Conservation District.”

The request consists of two county-owned tracts totaling 12.1 acres. Tract F is approximately 2.7 and Tract G is approximately 9.4 acres. Both tracts are within Happy Canyon Filing 4 and are currently undeveloped.

The Planning Commission is scheduled to hear the application at its June 2, 2025 public hearing. Staff will provide an update on the outcome of the Planning Commission hearing at the Board of County Commissioners’ public hearing.

II. APPLICATION INFORMATION

A. Owner

Douglas County Board of County Commissioners
100 Third Street
Castle Rock CO 80104

B. Owner Representative

Douglas County Department of Community Development
100 Third Street
Castle Rock CO 80104

C. Request

Approval of a zone map change for two tracts in Happy Canyon Filing 4.

D. Process

A zone map change application is processed pursuant to Section 112 of the DCZR.

Per Section 112.06 of the DCZR, “The Board shall evaluate the proposed amendment, staff report, referral agency comments, public testimony, and the Planning Commission recommendation, and shall approve, approve with conditions, table for further study, remand to the Planning Commission or deny the map amendment.”

E. Location

Both tracts are located within Happy Canyon Filing 4. Tract G is located south of Pawnee Trail, approximately 1350 feet west of its intersection with Mesa Drive. Tract F is located at the southeast corner of the intersection of Mesa Ridge Lane and Mesa Drive. The properties are surrounded by residential and agricultural properties. The attached vicinity map, zoning map, and aerial map highlight site location and existing conditions.

F. Project Description

This zone map change request is to rezone two tracts in the Happy Canyon Filing 4 subdivision from ER to OS to protect areas historically used as wildlife habitat and open space. Tract F is approximately 2.7 and Tract G is approximately 9.4 acres.

If the requested zone map change is approved, the tracts will remain in County ownership and maintenance. Maintenance is the responsibility of Douglas County Open Space and Natural Resources. These tracts are natural areas, which require minimal maintenance.

III. CONTEXT

A. Background

In 1963, four tracts (E, F, G, and J) were deeded to Douglas County as part of the Happy Canyon Filing 4 subdivision. At that time, the County required a public land dedication of at least six percent (6%) with every subdivision. The land could be put to a variety of public uses such as schools, parks, open space, and libraries. There was not a cash-in-lieu option available as there is in the current County regulations.

In 1996, the County conveyed Tract E to the owner of the adjacent Lot 6 in Happy Canyon Ranches, leaving three County-owned tracts (F, G, and J) in Filing 4.

The Happy Canyon Homeowner’s Association (HCHOA) submitted a request for the Board to consider rezoning Tracts F, G, and J from ER to OS. The HCHOA noted in their request that Tracts F and G have importance as wildlife habitat, while Tract J serves as a community separator parcel between Happy Canyon and the Maher Ranch subdivision within the Town of Castle Rock.

The Board of County Commissioners directed staff at the May 6, 2025, work session to proceed with the rezoning for Tracts F and G to Open Space. The Board decided to have Tract J remain zoned Estate Residential.

B. Adjacent Land Uses and Zoning

The zone map change request is adjacent to agricultural and residential properties.

Zoning and Land Use Tract F

Direction	Zoning	Land Use
North	Agricultural One	Vacant Land
South	Estate Residential	Residential
East	Agricultural One	Agricultural
West	Estate Residential	Residential

Zoning and Land Use Tract G

Direction	Zoning	Land Use
North	Estate Residential	Residential
South	Estate Residential	Residential
East	Agricultural One	Residential and Vacant Land
West	Estate Residential	Ranching and Residential

IV. ZONE MAP CHANGE ELIGIBILITY

Section 112 of the DCZR allows for changes to the zoning map. The procedure is utilized for the following:

- Zoning of land disconnected from an incorporated area.
- Rezoning of land purchased with open space funds or dedicated to the County for open space.
- Correction of zoning map errors.
- Rezone of land to Open Space Conservation district.
- Rezoning of land, when requested by the landowner, to bring it into compliance with the Master Plan.

In this case, the rezoning was requested by Happy Canyon Homeowner's Association and initiated by the County to rezone to the Open Space Conservation District. The subject property is included within the High Plateau Subarea of the CMP. The CMP includes the following goals and policies that support the zone map change request.

- Goal 3-1: Project and conserve the natural and rural character of the nonurban area.
- Policy 3-1A.2: Preserve open space through the purchase of land or conservation easements, donations, acquisitions, partnerships, or other appropriate land conservation tools.
- Objective 3-1E: Preserve and provide for the stewardship of open space and natural areas.

- Policy 3-1E.1: Identify and set aside, through the land use and development review processes, important open spaces in tracts or easements, where appropriate.
- Goal 3-2: Ensure land use and design is compatible with the natural and rural character of the nonurban area.
- Goal 3-3: Maintain the unique rural character of the Chatfield Valley (nonurban area), Cherry Valley, High Plateau, Indian Creek, Northeast, West Plum Creek, and Pike National Forest and Foothills Subareas.

V. REFERRALS

This zone map change was distributed to applicable referral agencies. The Town of Castle Rock responded with “Approved with Conditions” that the zoning change shall not impact Castle Rock Water’s access to their water tank through Tract G. The zoning change will not impact access to the water tank. No other concerns were received regarding the rezoning of Tracts F and G.

Douglas County Open Space and Natural Resources responded with full support of the request and noted that the tracts have significant natural resources and are great habitat areas. HCHOA responded in support of the application. Additionally, one neighboring landowner responded with support for the rezoning of Tracts F and G.

VI. PLANNING COMMISSION

The Planning Commission is scheduled to hear the application at its June 2, 2025 public hearing. Staff will provide an update on the outcome of the Planning Commission hearing at the Board of County Commissioners’ public hearing.

VII. STAFF ASSESSMENT

Staff has evaluated the zone map change request. The map change rezones County-owned property to Open Space Conservation that has been historically used as wildlife habitat and open space. In staff’s assessment, the request meets the eligibility criteria. After consideration, the Board of County Commissioners may approve of the zone map change and sign the resolution.

<u>ATTACHMENTS</u>	<u>PAGE</u>
Douglas County Land Use Application	5
Applicant’s Narrative	7
Comp Plan Vicinity Map	11
Zoning Maps.....	12
Aerial Maps	14
Referral Agency Response Report	17

LAND USE APPLICATION

Please complete, sign, and date this application. Return it with the required items listed on the Submittal Checklist to planningsubmittals@douglas.co.us. Submittals may also be mailed or submitted in person to Planning Services. **NOTE: The Planning Commission or the Board of County Commissioners should not be contacted regarding an open application.**

OFFICE USE ONLY
PROJECT TITLE:
PROJECT NUMBER:

PROJECT TYPE: Zone Map Change
 MARKETING NAME: _____
 PRESUBMITTAL REVIEW PROJECT NUMBER: PS 2024-248


PROJECT SITE:
 Address: Happy Canyon Filing 4
 State Parcel Number(s): _____
 Subdivision/Block#/Lot# (if platted): _____

PROPERTY OWNER(S):
 Name(s): Douglas County
 Address: _____
 Phone: _____
 Email: _____

AUTHORIZED REPRESENTATIVE: (Notarized Letter of Authorization is required from the property owner, unless the owner is acting as the representative)

Name: Richard West, President, for Happy Canyon Homeowners' Association, Inc
 Address: 558 Castle Pines Pkwy, B#4 Box 159, Castle Pines CO 80108
 Phone: 303-619-4235
 Email: rdale.west@outlook.com / happycanyonhoa@gmail.com

To the best of my knowledge, the information contained on this application is true and correct. I have received the County's information sheet regarding the Preble's Meadow Jumping Mouse.

 12/14/24
 Applicant Signature Date

100 Third Street, Castle Rock, Colorado 80104 • 303.660.7460

Revised 6/2024

**ZONE MAP CHANGE
Submittal Checklist**

SECTION 1 of the Zoning Resolution requires the following items for a complete submittal. Please send separate documents electronically to planningsubmittals@douglas.co.us. Submittals can also be mailed in or submitted in person to Planning Services.

- ☒ Completed Land Use Application.
- ☒ Written narrative describing the request.
 - ☐ See Zoning Resolution Section 112 for zone map change types
- ☐ Notarized letter of authorization from the landowner permitting a representative to process the application. *If the applicant is the landowner, this item is not applicable.*
- ☐ Plan exhibit depicting the property subject to the zoning map change request.

100 Third Street, Castle Rock, Colorado 80104 • 303.660.7460

LAND USE APPLICATION – NARRATIVE
Happy Canyon Homeowners' Association

December 14, 2024

Project Type: Zone Map Change
(Rezoning of Tracts G, F, and J to Open Space Conservation)
Project File #: PS2024-248
Project Name: Happy Canyon Tracts F, G & J Rezoning
Property Owner: Douglas County

The Happy Canyon Estates subdivision was one of the first rural subdivisions established in Douglas County in the early 1960s. Properties within the subdivision are zoned Estate Residential. This request from the Happy Canyon Homeowners' Association, Inc. (HCHOA) is for the rezoning of three Tracts that were dedicated from Happy Canyon's original developer to Douglas County at the time of subdivision to better protect their intended and historic uses. The affected Tracts include:

1. Happy Canyon Tract F identified as State Parcel #2351-232-01-002 (Assessor Account #R0353303) being approximately 2.714 acres.
2. Happy Canyon Tract G identified as State Parcel #2351-221-06-107 (Assessor Account #R0353304) being approximately 9.419 acres.
3. Happy Canyon Tract J identified as State Parcel #2351-232-03-004 (Assessor Account #R0353305) being approximately 0.0018 acres.

Tracts F and G are open space parcels providing wildlife habitat and migration corridors and are zoned Estate Residential. Below is an email from Katie Doyle, Colorado Parks and Wildlife District Manager to the HCHOA regarding wildlife activity in Happy Canyon:

Page Two
December 14, 2024

From: Doyle - DNR, Katie katie.doyle@state.co.us
Sent: Thursday, November 14, 2024 2:41 PM
To: Elizabeth West westfamily@msn.com
Subject: Re: Wildlife population and species information for Happy Canyon

Hi Rich and Liz,
I am happy to provide my input on the increased wildlife activity in the Happy Canyon area.

The Happy Canyon Subdivision has experienced an increase in the wildlife population due to human caused changes in the surrounding areas. The construction of The Canyons subdivision that has been under construction since 2021 has misplaced elk, deer and pronghorn that utilized that habitat year around. On top of that in 2022, CDOT put up a wildlife exclusion fence along Interstate 25 which has minimized elk and deer herd migration into and out of the neighborhood. What Colorado Parks and Wildlife recommends in these cases, although it is impossible to eliminate fragmentation and habitat loss with any development, impacts to wildlife can be minimized through the use of clustering configurations, density reduction, and providing open space for wildlife.

Sincerely,
Katie Doyle
District Wildlife Manager
Parker/Castle Rock East- Area 5



P 303.291.7139 | C 720.930.8039
6060 Broadway, Denver, CO 80216
katie.doyle@state.co.us | cpw.state.co.us



Attached is an archived Happy Canyon Community map that shows Tracts G as “deer refuge/park” and Tract F as “park.” Both of these tracts have been used for wildlife habitat and migration for decades.

Tract J is a community separation parcel which is utilized as an emergency access for evacuation during disaster-emergency incidents. Track J is not currently zoned.

The request of the County is to recognize and protect these tracts on behalf of the HCHOA. Insofar as the Intent of the Open Space Conservation District is:

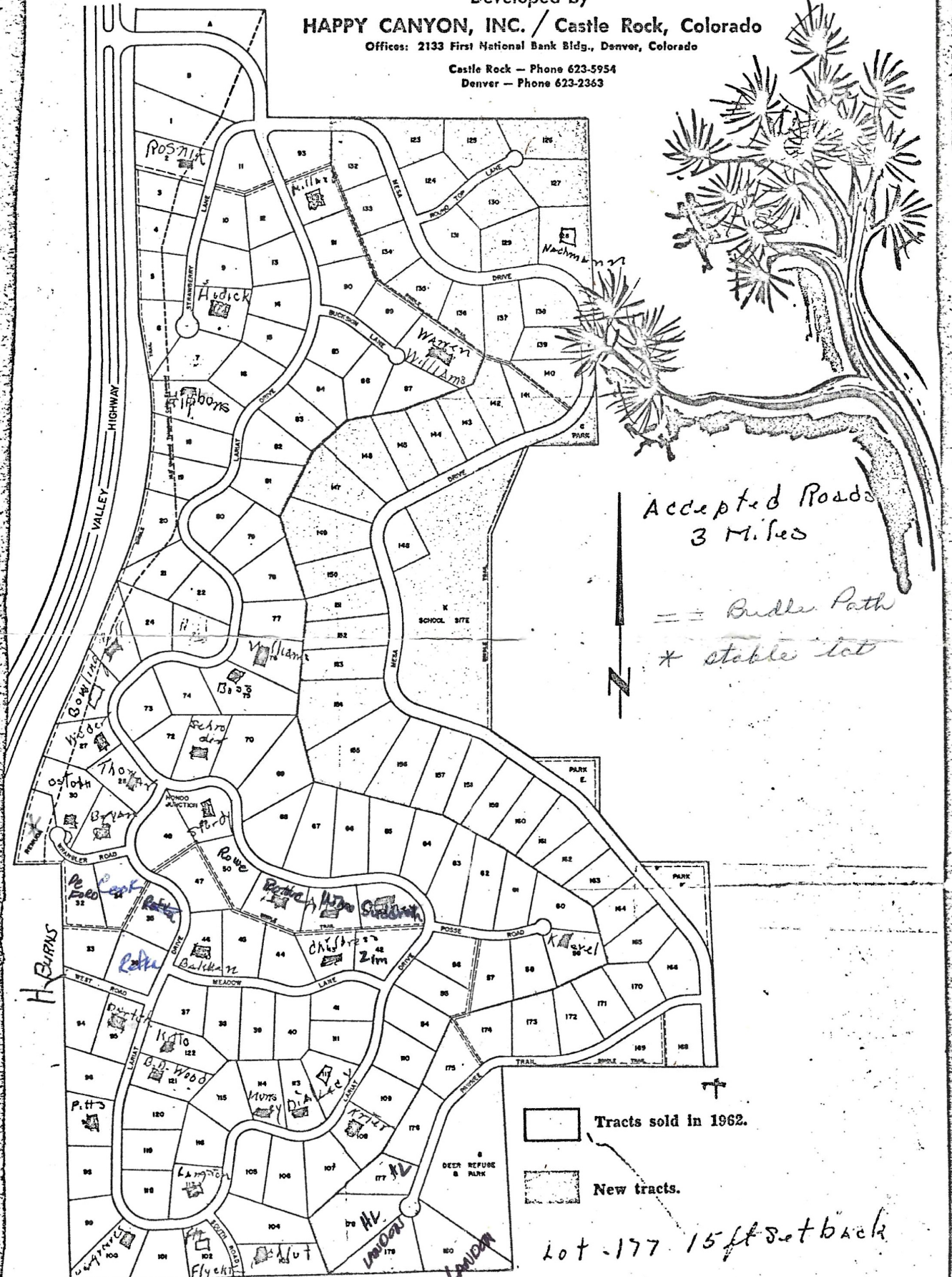
“To provide for areas intentionally left free from development, for the preservation of wildlife corridors/habitats; scenic viewsheds; cultural, historical and archaeologic areas/structures; landmarks and natural resources including forest lands, range lands, agricultural lands, aquifer recharge areas, and areas of unique biological, physical, topographical or botanical character. These areas will provide buffers to developed areas in order to maintain a separate identity for the Towns and the County. The most intensive uses of these areas will normally be for outdoor recreation activities or passive uses not requiring significant infrastructure such as roads or utility services.”

It is requested that Tracts F and G be used pursuant to Section 1602.05 and that the use of Tract J be limited to emergency access by the Director and/or the Douglas County Board of Commissioners pursuant to Section 1602.06.

HCHOA is amenable to the development of a conservation easement agreement if it is determined necessary to protect the historic uses and values of these Tracts.










Submitted by Richard West, President
For Happy Canyon Homeowners' Association

Developed by
HAPPY CANYON, INC. / Castle Rock, Colorado
 Offices: 2133 First National Bank Bldg., Denver, Colorado
 Castle Rock — Phone 623-5954
 Denver — Phone 623-2363







Comprehensive Master Plan Land Use Reference Map

Comprehensive Master Plan Areas

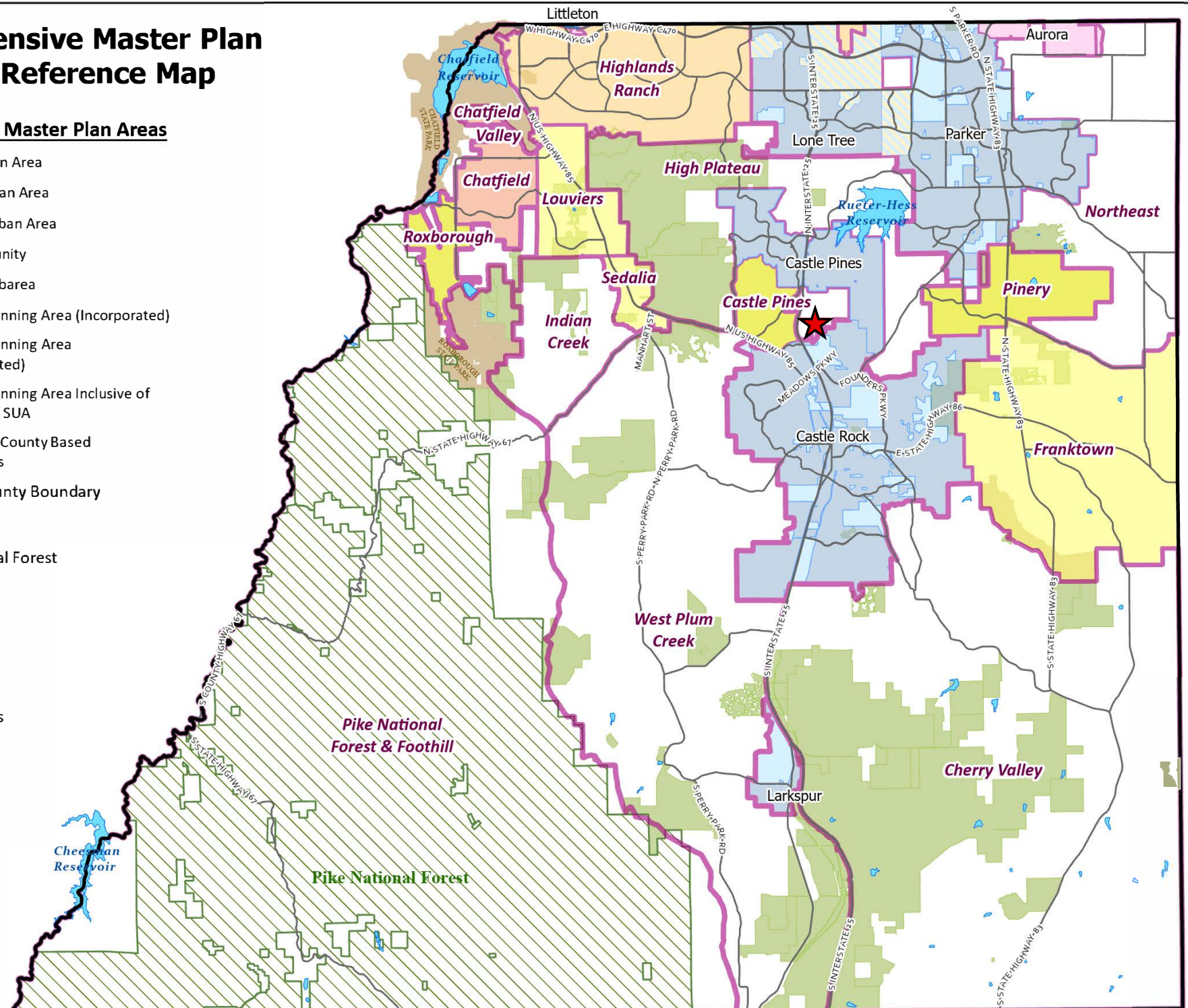
-  Primary Urban Area
-  Chatfield Urban Area
-  Separated Urban Area
-  Rural Community
-  Nonurban Subarea
-  Municipal Planning Area (Incorporated)
-  Municipal Planning Area (Unincorporated)
-  Municipal Planning Area Inclusive of County PUA / SUA
-  Non-Douglas County Based Municipalities
-  Douglas County Boundary

Parks

-  Pike National Forest
-  State Parks
-  Open Space
-  Lakes

Roadways

-  Major Roads

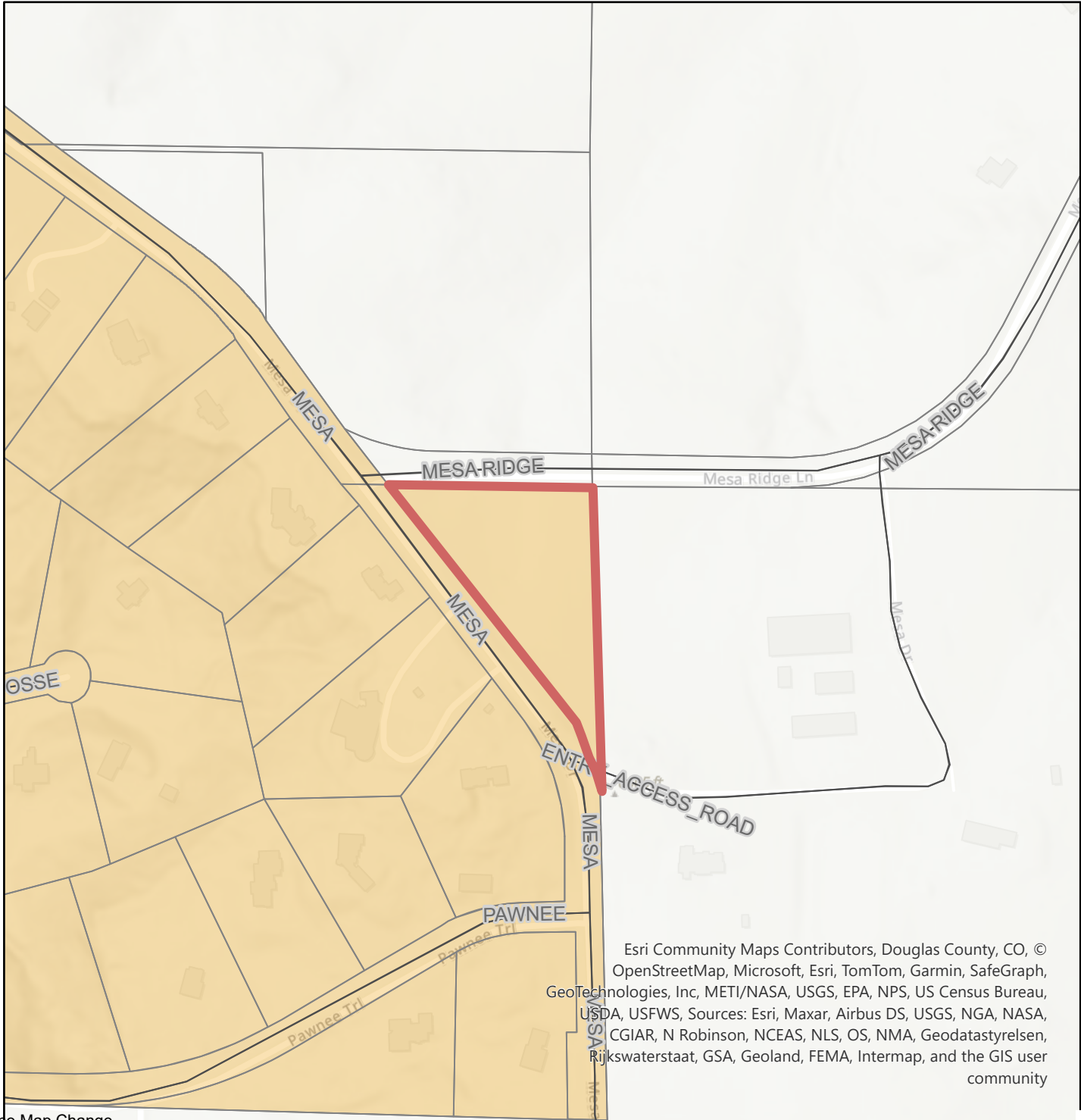


Happy Canyon Filing 4, Tract F

DR2024-005
Zoning Map



- LEGEND
- Roads
 - Major Roads
 - Parcels - PARCELS
 - A1 - AGRICULTURAL ONE
 - ER - ESTATE RESIDENTIAL
 - CTY



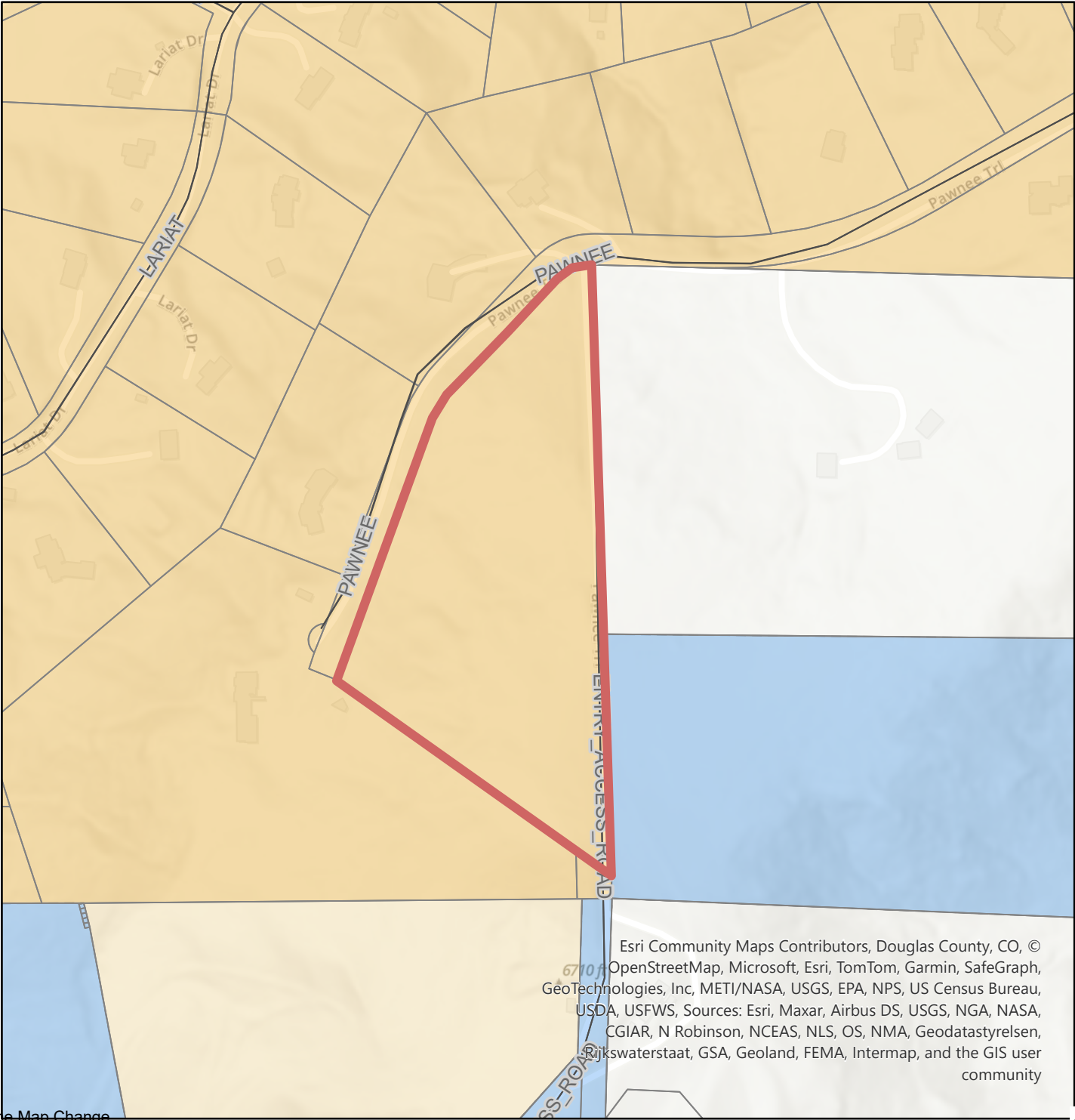
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GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau,
USDA, USFWS, Sources: Esri, Maxar, Airbus DS, USGS, NGA, NASA,
CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen,
Rijkswaterstaat, GSA, Geoland, FEMA, Intermap, and the GIS user
community

Happy Canyon Filing 4, Tract G

DR2024-005
Zoning Map



- LEGEND
- Roads
 - Major Roads
 - Parcels - PARCELS
 - A1 - AGRICULTURAL ONE
 - LRR - LARGE RURAL RESIDENTIAL
 - ER - ESTATE RESIDENTIAL
 - CTY



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GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau,
USDA, USFWS, Sources: Esri, Maxar, Airbus DS, USGS, NGA, NASA,
CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen,
Rijkswaterstaat, GSA, Geoland, FEMA, Intermap, and the GIS user
community

Happy Canyon Filing 4 Tracts F and G

DR2024-005



- LEGEND
- Roads
 - Major Roads
 - Parcels - PARCELS



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GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau,
USDA, USFWS, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N
Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat,
GSA, Geoland, FEMA, Intermap and the GIS user community

Happy Canyon Filing 4 Tract F

DR2024-005



- LEGEND
- Roads
 - Major Roads
 - ▭ Parcels - PARCELS



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GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau,
USDA, USFWS, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N
Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat,
GSA, Geoland, FEMA, Intermap and the GIS user community

Happy Canyon Filing 4 Tract G

DR2024-005



- LEGEND
- Roads
 - Major Roads
 - Parcels - PARCELS



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GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau,
USDA, USFWS, Sources: Esri, Airbus DS, USGS, NGA, NASA, CGIAR, N
Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat,
GSA, Geoland, FEMA, Intermap and the GIS user community

Referral Agency Response Report**Page 1 of 2****Project Name:** Happy Canyon, Tracts F, G, and J**Project File #:** DR2024-005**Date Sent:** 03/05/2025**Date Due:** 03/26/2025

Agency	Date Received	Agency Response	Response Resolution
Addressing Analyst	03/06/2025	No Comment:	No response necessary
Arapahoe County Public Airport Authority-Centennial	03/05/2025	Received: Thank you for the opportunity to review the rezone plan. The Arapahoe County Public Airport Authority has reviewed the documents and has no objection to the proposed development. Please reach out should you have any further questions.	No response necessary
Assessor	03/13/2025	No Comment:	No response necessary
Castle Pines Homes Association		No Response Received:	No response necessary
City of Castle Pines		No Response Received:	No response necessary
Colorado Parks and Wildlife (East DC - Dist 549)		No Response Received:	No response necessary
Douglas County Conservation District	03/26/2025	Received:	No response necessary
Engineering Services	03/05/2025	Received: Douglas County Public Works Engineering has no concern with the proposed Request for Zone Map Change. Engineering agrees with the staff assessment in the staff report that Tract J should remain within the ER Zone District so that it can remain ROW and continue to provide emergency ingress/egress access with the adjacent subdivision. Should this parcel be reclassified as open space Public Works engineering would request that an emergency access easement be provided across the tract to in order to continue to provide emergency ingress/egress access.	Tract J is no longer part of the request.
Happy Canyon HOA	03/10/2025	Received: See attached letter Summary: Provided support for the rezoning and noted valuable wildlife habitat.	No response necessary

Referral Agency Response Report**Page 2 of 2****Project Name:** Happy Canyon, Tracts F, G, and J**Project File #:** DR2024-005**Date Sent:** 03/05/2025**Date Due:** 03/26/2025

Agency	Date Received	Agency Response	Response Resolution
Open Space and Natural Resources	03/05/2025	Received: Douglas County Open Space and Natural Resources is in full support of this request. The tracts identified have significant natural resources upon them and are great habitat areas.	No response necessary
South Metro Fire Rescue	03/07/2025	Received: South Metro Fire Rescue (SMFR) has reviewed the provided documents and has no objection to the proposed change to Tract F and Tract G. SMFR has conditional non-objection to the proposed change to Tract J, provided the emergency access road connecting Mesa Dr and Sapphire Point Blvd is maintained physically and legally via an access easement.	Tract J is no longer part of the request.
Town of Castle Rock	03/26/2025	Received: U1. Please contact Ken Torres, PE, Plan Review Engineer with questions. ktorres@crgov.com or 720-733-6072 U2. The review is rated Approved with Conditions. Only minor comments remain that can be quickly checked by the technical review team or project coordinator. Note: This rating is specific to this discipline and may not be the overall rating for this review. U3. The zoning change shall not impact CR Water's access to Tank 14 through Tract G. U4. A proposed Rueter-Hess to Plum Creek pipeline will be installed adjacent to the existing CRW pipeline near Tract J.	The rezoning will not interfere with any access to the water tank. Tract J is no longer part of the request.
Town of Parker Development Review	03/26/2025	No Comment:	No response necessary
Town of Parker Public Works	03/18/2025	No Comment:	No response necessary
Wildfire Mitigation	03/12/2025	Received: Wildfire mitigation has no comment.	No response necessary

SOUTH METRO FIRE RESCUE

FIRE MARSHAL'S OFFICE



Trevor Bedford, AICP, Project Planner
Douglas County Department of Community Development, Planning Services
100 Third St
Castle Rock Co 80104
303.660.7460
303.660.9550 Fax

Project Name: Happy Canyon, Tracts F, G, and J
Project File #: **DR2024-005**
S Metro Review #: REFOTH25-00045

Review date: March 7, 2025

Plan reviewer: Aaron Miller
720.989.2246
aaron.miller@southmetro.org

Project Summary: Request for a Zone Map Change for 3 Douglas County Tracts to be rezoned from Estate Residential to Open Space.

Code Reference: Douglas County Fire Code, 2018 International Fire Code, and 2021 International Building Code with amendments as adopted by Douglas County.

South Metro Fire Rescue (SMFR) has reviewed the provided documents and has no objection to the proposed change to Tract F and Tract G.

SMFR has conditional non-objection to the proposed change to Tract J, provided the emergency access road connecting Mesa Dr and Sapphire Point Blvd is maintained physically and legally via an access easement.



CENTENNIAL AIRPORT
ARAPAHOE COUNTY AIRPORT AUTHORITY

7565 South Peoria Street, Unit D9
Englewood, Colorado 80112
main: 303-790-0598 | fax: 303-790-2129
www.centennialairport.com

March 5, 2025

Trevor Bedford
Douglas County Community Development Department
100 3rd St.
Castle Rock, CO 80104

Re: DR2024-005 – Happy Canyon Tracts F, G, and J Rezone to Open Space

Dear Mr. Bedford,

Thank you for the opportunity to review the rezone plan. The Arapahoe County Public Airport Authority has reviewed the documents and has no objection to the proposed development. Please reach out should you have any further questions.

Sincerely,

Zachary Gabehart
Planning Specialist - Noise & Environmental



HAPPY CANYON HOMEOWNERS' ASSOCIATION
558 Castle Pines Pkwy., B #4, Box 159 - Castle Pines, CO 80108

www.happycanyon.org
happycanyonhoa@gmail.com

March 7, 2025

Trevor Bedford, AICP
Douglas County Planning Services
100 Third Street, Castle Rock, CO 80104

Re: Project number DR2024-005, Happy Canyon, Tracts F, G, and J.

Hello Trevor,

Thank you for sending the above-referenced e-referral to the Happy Canyon Homeowners' Association (HCHOA) for comment. Since HCHOA is the applicant who initiated the Zone Map Change from Estate Residential (ER) to Open Space Conservation (OS) for Tracts F, G, and J of Happy Canyon Filing 4, the HCHOA board is in unanimous support of this action.

Happy Canyon's Tracts F, G, and J are of great historic significance to our community. Tracts F and G have been used for more than 60 years for open space and wildlife refuge/corridor purposes. Tract J has been used as well for more than 60 years as a separation between our unincorporated Douglas County community and those to the south and east that are within the Town of Castle Rock. It is our sincere hope that by rezoning these tracts to Open Space Conservation, their historic uses will be preserved in perpetuity for the good of Happy Canyon residents.

We appreciate the guidance and support shown to the HCHOA by Douglas County through this process. We look forward to a positive outcome with Douglas County's Planning Commission and Board of County Commissioners at the public hearings.

Best regards,

Rich West, President
Happy Canyon Homeowners' Association
Cc: HCHOA Board

REFERRAL RESPONSE REQUEST

Date Sent: March 5, 2025

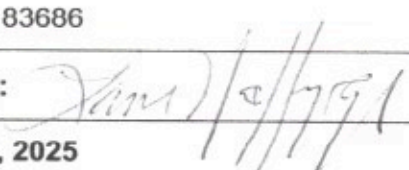
Comments due by: **March 26, 2025**

Project Name: Happy Canyon, Tracts F, G, and J

Project File #: DR2025-004

Project Summary: The applicant is requesting a Zone Map Change from Estate Residential (ER) to Open Space Conservation (OS) for Tracts F, G, and J of Happy Canyon Filing 4. The tracts are vacant properties within Happy Canyon, owned by Douglas County.

Information on the identified development proposal located in Douglas County is enclosed. Please review and comment in the space provided.

<input type="checkbox"/> No Comment	
<input checked="" type="checkbox"/> Please be advised of the following concerns: Fully agree with tracts F and G being rezoned as they are large enough to be considered open space and wildlife are using currently. Tract J is a strip that is too small to be considered open space and the rezoning could be prejudicial to Happy Canyon residents for any future use. A one-foot strip of land is not currently being used by any wildlife as a space. Rezoning would be too limiting for this strip.	
<input type="checkbox"/> See letter attached for detail.	
Agency:	Phone #: 7605183686
Your Name: Lane Naffziger (please print)	Your Signature: 
	Date: March 24, 2025

Agencies should be advised that failure to submit written comments prior to the due date, or to obtain the applicant's written approval of an extension, will result in written comments being accepted for informational purposes only.

Sincerely,

Trevor Bedford, AICP, Project Planner

Enclosure

RESOLUTION NO. R-025-_____

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

A RESOLUTION REZONING TWO PARCELS OF LAND, TOTALING 12.1 ACRES,
LOCATED IN DOUGLAS COUNTY, COLORADO, FROM ESTATE RESIDENTIAL TO
OPEN SPACE CONSERVATION

WHEREAS, the Douglas County Board of County Commissioners as owner of Tracts F and G, Happy Canyon Filing 4, has requested rezoning of these two parcels of land (Project File No. DR2024-005) more particularly described in **Exhibit A**, which is attached hereto and incorporated herein, from Estate Residential to Open Space Conservation (the "Rezoning"); and

WHEREAS, the Planning Commission reviewed and recommended _____ of the Rezoning at a public hearing on June 2, 2025; and

WHEREAS, the Board of County Commissioners reviewed the Rezoning at a properly noticed public hearing held on June 10, 2025, and determined that the Rezoning is in substantial compliance with the approval criteria contained in Section 1 of the *Douglas County Zoning Resolution*; now therefore,

BE IT RESOLVED, by the Board of County Commissioners of the County of Douglas, State of Colorado that the Rezoning is hereby approved.

PASSED AND ADOPTED this 10th day of June 2025, in Castle Rock, Douglas County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

BY: _____
Abe Laydon, Chair

ATTEST:

BY: _____
Hayley Hall, Clerk to the Board

Exhibit A

Tracts F and G, Happy Canyon Filing No. 4

MEETING DATE: June 10, 2025

STAFF PERSON RESPONSIBLE: Mike Pesicka, AICP, Principal Planner

DESCRIPTION: Zoning Resolution Waiver for Inverness Filing 9, Lot 3 - Project File: US2024-011.

SUMMARY: The request is for approval of a waiver of the prohibition of “multi-family residential” in the Noise Sensitive Zone within the Centennial Airport Review Area Overlay District of the Douglas County Zoning Resolution, in conjunction with a Use by Special Review for multi-family use in the Light Industrial zone district.

STAFF ASSESSMENT: Staff has evaluated the waiver request in accordance with Section 122 of the Douglas County Zoning Resolution. Should the Board find that the approval standards for the waiver request are met, staff proposes the following conditions be included in the Board’s motion:

1. Prior to final approval of the associated Use by Special Review application, the applicant shall record a navigation easement on the property.
2. Prior to issuance of a building permit, the applicant shall update the east side of the existing building to bring the interior DNL limit below 45 DNL using one of the two recommended design implements from the sound level measurement study conducted by Engineering Dynamics dated April 17, 2025.
3. All commitments and promises made by the applicant or the applicant’s representative during the public meeting and/or agreed to in writing and included in the public record have been relied upon by the Board of County Commissioners in approving the applicant; therefore, such approval is condition upon the applicant’s full satisfaction of all such commitments and promises.

The applicant requests that this public hearing be continued to July 22, 2025, at 2:30 p.m. for consideration of the rest of the Use by Special Review application by the Board.

REVIEW:

Terence T Quinn - FYI	Notified - FYI	5/29/2025
Steven E Koster	Approve	5/29/2025
Jeff Garcia	Approve	6/3/2025
Andrew Copland	Approve	6/3/2025
Doug DeBord	Approve	6/4/2025
Samantha Hutchison - FYI	Notified - FYI	6/4/2025

ATTACHMENTS:

Staff Report - Zoning Resolution Waiver Request

Exhibit 1 - Easements

Exhibit 2 - Emails

Exhibit 3 - Tenant Incident

BCC Staff Report (Zoning Waiver Request-US2024-011) - staff report supplement

Zoning Resolution Waiver Staff Report

Date: May 28, 2025
To: Douglas County Board of County Commissioners
Through: Douglas J. DeBord, County Manager
From: Terence T. Quinn, AICP, Director of Community Development *TQ*
CC: Mike Pesicka, Principal Planner
Jeanette Bare, AICP, Planning Manager
Steven E. Koster, AICP, Assistant Director of Planning Services
Subject: Zoning Resolution Waiver for Inverness Filing 9, Lot 3
Project File: US2024-011

Planning Commission Hearing:	May 19, 2025 @ 6:00 p.m.
Board of County Commissioners Hearing:	June 10, 2025 @ 2:30 p.m.

I. EXECUTIVE SUMMARY

The request is for a waiver of certain provisions of Section 19, Centennial Airport Review Area Overlay District (CARA), of the Douglas County Zoning Resolution (DCZR). Specifically, the applicant requests a waiver of provisions in Section 1906.02.1 and Table 19-1 which prohibit “multi-family residential” in the Noise Sensitive Zone (NSZ). The applicant has proposed a concurrent Use by Special Review (USR) to convert approximately 118,000 square feet of an existing 3-story office building into 53 residential units on the 2nd and 3rd floors.

Approval of the waiver request is necessary for the project to proceed with the USR application for a multi-family development in the Light Industrial (LI) zone district. The 7.85-acre site is located on Inverness Drive South, approximately $\frac{3}{4}$ of a mile east of Interstate 25 and just west of Centennial Airport in the north central portion of the County.

If the waiver request is approved, the multi-family USR application will come back before the Planning Commission and Board of County Commissioners for a decision on the specifics of that application request.

At the May 19, 2025, public hearing, the Planning Commission recommended denial of the zoning waiver request by a vote of 7 to 1.

II. APPLICATION INFORMATION

A. Applicant

Tower 22, LLC
2200 S. Valentia St.
Denver, CO 80231

B. Applicant's Representative

Karen Kennedy, COO, Homeland Development
2200 S. Valentia St.
Denver, CO 80231

C. Request

Approval of a waiver of the prohibition of “multi-family residential” in the NSZ in Section 1906.02.1 and Table 19-1 as defined within the CARA Overlay Zone District of the DCZR, in conjunction with a USR for multi-family use in the LI zone district.

D. Process

The waiver process is set forth in Section 122 of the DCZR. Waivers may be requested by an applicant in conjunction with any application subject to the standards or other criteria established with the DCZR. Section 122.03 sets forth a series of findings that must be made by the Board in order to approve a waiver request. Specifically, Section 122 provides that “The Board, at a public hearing on a specific application, may hear the request for a waiver from the standards and decide to accept or reject the request, or make modifications to the waiver request.”

If the waiver request is approved, the full USR application will come back before the Board of County Commissioners for consideration. A USR application is processed pursuant to Section 21 of the Zoning Resolution. Section 21 states the intent of the process is “to provide for uses in specific zone districts that shall require a public notice and hearing and the approval of the Board of County Commissioners subject to subject to such conditions and safeguards as may be imposed by the Board.”

E. Location

The project area is located approximately 1,000 feet southeast of the intersection of Inverness Way South and Inverness Drive South in the north central portion of the County. The attached CMP vicinity map, zoning map, and aerial map highlight site location and existing conditions.

F. Project Description

The applicant requests a waiver from the requirements of Section 2109.6 of the DCZR to allow a residential use in the Noise Sensitive Zone of the CARA Overlay District. The residential use will be located on the second and third floors of an existing office building on Lot 3, Inverness Subdivision Filing 9. The waiver request is in conjunction with a USR application to allow a multi-family residential use in the LI zone district. Per

Section 1304 of the DCZR, a single-family attached or multi-family use is permitted with approval of a USR in the LI zone district.

Per Section 122.01, the applicant is required to provide a written waiver request that explains in detail the extent of the waiver, and the grounds for the requested waiver. The applicant provided an assessment of the waiver criteria as attached to this staff report and noted in the staff analysis section below. Generally, the applicant argues that indoor noise levels will meet acceptable standards and that no outdoor use areas are proposed. A noise impact assessment was prepared by the applicant which was reviewed and found to be acceptable by the County's noise consultant, DL Adams.

In addition, the applicant conducted a noise study and the 7-day noise test as requested by Centennial Airport. The County's noise consultant agreed with the findings of the noise test and indicates that interior noise levels can be brought to acceptable levels with the recommended construction materials.

III. CONTEXT

A. Background

The site was initially platted as Superblock B, Inverness Filing 6, 4th Amendment in 1996, and further subdivision via a replat for Inverness Filing 9 that was approved by the Board of County Commissioners in 2003. A Site Improvement Plan (SIP) was approved in 1996 for the existing building and site improvements. A revision to the SIP was approved in 2016 to add parking spaces to the site.

Section 1906 of the DCZR lists land use restrictions for each of the noise zones and safety zones in the CARA. Specifically, Section 1906.02.1(2) of the DCZR states, "Residential uses, and other noise sensitive uses as described in Table 19-1 are not allowed in the noise sensitive zone." A copy of Table 19-1 is included for reference below. Under the column for Noise Sensitive Zone, "multi-family residential" is identified as "use prohibited by this Section."

B. Adjacent Land Uses and Zoning

The project site is bordered by Centennial Airport to the east and adjacent to the departure end of Runway 17R and the arrival side of runway 35L. There are office uses to the north, an apartment development to the west, and a private school to the south. The following table reflects those zone districts and land uses surrounding the PD.

Zoning and Land Use

Direction	Zoning	Land Use
North	Light Industrial (LI)	Office building
South	Light Industrial (LI)	Private school
East	Agricultural One (A1)	Centennial Airport
West	Planned Development (PD)	Residential

IV. PHYSICAL SITE CHARACTERISTICS

The site is bounded on the west by Inverness Drive South, by an office building to the north, a private school to the south, and Centennial Airport to the east. The site is completely developed with a three-story, 118,838 square foot office building and associated parking and landscaping. With the exception of updated accessible parking spaces and minor changes to landscaping, there will be no physical changes to the site and no over lot grading. Access is provided via two driveways that connect to Inverness Drive South.

V. PROVISION OF SERVICES

The site is served by AT&T, CenturyLink, Comcast, Douglas County School District, Douglas County Sheriff, Inverness Metro District, Inverness Water and Sanitation District, South Metro Fire and Rescue and Xcel Energy. None of these agencies commented on the waiver request. If the waiver request is approved, additional review from these agencies will occur through a final referral of the USR application.

VI. PUBLIC NOTICE AND INPUT

Courtesy notices of an application in process were sent to adjacent property owners during the 21-day referral period. No comments were received from adjacent property owners or other members of the public during or after the referral period.

Referral response requests were sent to required referral agencies on November 20, 2024. All referral responses received to date have been included as an attachment to the staff report or are provided in the referral response report, also attached to the staff report. Mailed, published, and posted notices of the public hearings are required in compliance with Section 2113 of the DCZR.

Centennial Airport Authority provided a letter which states that it opposes this application due to its location within the NSZ and its location at the edge of the Fan Safety Zone (FSZ), which “prohibits residential uses due to the increased risk of aircraft accidents in close proximity to flight paths and the airport.” In addition, staff received a letter from the Federal Aviation Administration (FAA) which states that it “strongly opposes” the development because of the “potential negative impacts this development may have on persons and property on the ground and the safety and utility of the National Airspace System.” The letters from Centennial Airport and the FAA are attached to this staff report.

VII. PLANNING COMMISSION HEARING

At the May 19, 2025, public hearing, the Planning Commission recommended denial of the zoning waiver request by a vote of 7 to 1. Commissioners felt that several, if not all, the waiver approval standards had not been met. Commissioners cited noise, dust, fumes, and safety concerns as factors that make the location unsuitable for residential

use. The Commission also noted the strong objections from the Airport Authority and the FAA. Commission McKesson stated that the waiver standards could be met but felt the USR itself had several challenges to overcome. The Commission also voted to continue the noticed public hearing on the USR to July 7, 2025. The full USR would be considered at that time should the Board approve the waiver request.

Three members of the public commented on the zoning waiver request. The adjacent property owner expressed concerns with security as they are a government contractor and must adhere to federal standards, compatibility with the neighborhood, trespass onto their property from future residents, and noise impacts from Centennial Airport on the future tenants of the project. The other two members of the public commented that they did not support the zoning waiver request due to year-round noise impacts, unacceptable levels of lead from airplane exhaust, and concern that increasing the number of residential units near the airport could lead to more citizen noise complaints.

A representative from Centennial Airport testified that the Airport strongly opposes the zoning waiver request due to the site being only 0.16 miles from the Airport's busiest training runway where 50% of the aircraft operations occur, year-round noise impacts, close proximity to the FAN safety zone, inconsistency with zoning regulations, serious safety concerns, and impacts from numerous aircraft overflight and their associated effects including but not limited to noise, smoke, dust, fumes and vibrations.

A representative for the applicant responded to comments by indicating his desire to continue to work towards addressing the concerns raised. He noted the difficulty in converting obsolete office space to viable uses. He also stated that a residential use is compatible with many surrounding uses in the Inverness business park including other residential projects, schools, and parks.

Handouts provided during public testimony are attached to the staff report.

VIII. STAFF ANALYSIS

Pursuant to Section 122 of the DCZR, the waiver may be approved only upon the finding, based upon the evidence presented, that the following criteria are met.

122.03.01: The waiver does not have the effect of nullifying the intent and purpose of this Resolution.

Staff Comment: The stated intent of the CARA is, "to reduce exposure of residential and other sensitive land uses to aircraft operations and their potential impacts, including noise; to reduce risks to public safety from aircraft accidents; and to discourage traffic congestion and incompatible land uses proximate to, and within airport review areas."

The Noise Sensitive Zone (NSZ) is the inner noise zone, closest to the airport runways, that restricts certain uses on land surrounding the airport due to the proximity of the airport and its associated noise. When the CARA was adopted in 1997, the NSZ was founded upon

the projected 2005, 65 DNL contour (the nationally accepted day-night level within which residential development is generally prohibited). The projected 2005 contours produced by the County's airport consultant assumed the future elimination of the Preferential Runway Treatment Program, operational changes related to flights departing to the south, and the advent of new technology resulting in quieter airplanes.

The applicant's narrative notes that the outdoor noise levels of the project site do fall within the 65 DNL noise contour as provided by Centennial Airport, indoor noise levels as measured in the building and analyzed for building material acoustics show that the interior levels lie below 45 DNL, which complies with the US Department of Housing and Urban Affairs (HUD) standards for properties that fall within the 65 DNL outdoor noise category. It goes on to state that "the developer and the intended residents of this development view the airport runway as an amenity, both adding to the aesthetic character of the property's viewsheds, and security of a continuous border shared by the airport and adjacent properties." The applicant also states that "our team understands that past approvals, nor the approval of this request and USR, set a precedent for future applications."

The County's noise consultant reviewed the noise assessment and concurred with the applicant's findings: "The existing building – a three-story office building for adaptive re-use as multi-family residential – is directly adjacent to Centennial Airport and within its Noise Sensitive Zone (NSZ). Exterior noise levels are expected to exceed Douglas County/HUD normally acceptable criteria of 65 DNL, and with no reduction in these exterior noise levels anticipated, the applicant cites the HUD Normally Acceptable interior criteria of 45 DNL. The provided documents propose that the current building exterior façade elements are sufficient to meet this interior noise criteria." The consultant went on to state that "We have conducted an independent noise assessment and can confirm the site falls between the 65 and 70 DNL contours on Centennial's Airport Influence Area Map. An OITC check using HUD's STraCAT tool agrees with EDI's assessment. Note that if doors, windows, or other exterior building elements are changed at any point, only materials with equivalent or better sound isolation performance should be used."

122.03.2: The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property.

Staff Comment: The intent of the CARA is to reduce exposure of sensitive land uses to aircraft operations and noise, reduce risks to public safety, and discourage incompatible land uses proximate to airport review areas. The applicant retained Engineering Dynamics Inc. to conduct an Aircraft Noise Assessment for indoor and outdoor noise levels for the project site which was completed on May 15, 2024. The assessment indicates the entire building is within the 65 DNL range. The measured interior noise levels for this property range from 39 to 41, with a variance of +1 and -2. Based on this report, the proposed development meets the criteria for residential development and requires no additional sound mitigation as long as the windows and exterior of the building are not changed drastically.

Although not required, the applicant also conducted a seven-day noise test, as recommended by Centennial Airport. The County's noise consultant reviewed the seven-day noise test and generally agreed with the recommended upgrades to the east facade to bring the interior DNL limit to below the HUD recommended standard of 45 DNL. This can be accomplished by following one of the two noise mitigation improvements listed below:

- 1. Along the east side of the building, incorporate a separation of the exterior of the building and the residential units with a wall or common area element.*
- 2. Remove and replace existing exterior glazing with new glazing that has a Sound Transmission Class (STC) rating of 39 or higher along the east side of the building where any residence is located.*

Both Centennial Airport Authority and the FAA assert that the project will put apartment residents at risk of higher noise exposure and aircraft accidents due to the proximity to the airport and its runways.

122.03.3: The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property.

Staff Comment: The waiver request is specific to proposed development on the subject property as depicted on the USR plan exhibit (US2024-011). There are two properties north of this site and two properties south of this site and within Inverness that are occupied by commercial uses, including a private school that is partially within the NSZ. The applicant's letter notes that the waiver would only apply to the USR application for this site and asserts that a waiver would not set a precedent for other properties.

122.03.4: A particular noneconomic hardship to the owner would result from a strict application of this Resolution.

Staff Comment: The applicant indicates that without a waiver for the current request, the associated USR will not be able to move forward for final USR consideration before the Planning Commission and Board of County Commissioners. The proposed USR request is for a multi-family development in the LI zone district.

122.03.5: The waiver will not in any manner vary the provision of the Zoning Resolution of County Building Code.

Staff Comment: The waiver request does not fall under the variance provisions as defined within Section 26, Variance Standards and Procedures, of the DCZR. The applicant will be required to comply with all other DCZR requirements and Douglas County building codes through the USR and building permit processes.

122.03.6: The proposed development will be in conformance with the Douglas County Master Plan.

Staff Comment: The site is located within the Lone Tree Municipal Planning Inclusive of the Primary Urban Area of the 2040 Douglas County Comprehensive Master Plan (2040 CMP). In particular, Policy 6-5A.1 states to apply CARA land use regulations in addition to underlying zoning regulations to ensure the future operation of Centennial Airport.

Additionally, Section 8 of the 2040 CMP identifies noise as a threat to public health, safety, and welfare; and states land use controls are a valid means of mitigation, including protecting noise-sensitive uses from uses generating excessive levels of undesirable noise. Policy 8-6A.2 encourages the use of sound-dampening construction materials and design techniques to reduce outside and inside noise levels.

The applicant's narrative notes the proposed multi-family use meets Objective 2-1A directing urban-level development to designated urban areas. In addition, the applicant references Goal 2-5 to design development to complement both the natural and historic landscape. The proposal will utilize an existing building, the historic appearance of the property will be unchanged, and unused space will be activated and will take advantage of the views of planes departing and arriving. The applicant also believes the request meets Goal 2-7 which is to foster a balanced community and robust economy and "vacant office space does not benefit the community's sense of space, property owner investments, or County tax base. Providing housing options in a mixed-use infill environment encourages both a balanced community and a robust economy."

IX. STAFF ASSESSMENT

Staff has evaluated the waiver request in accordance with Section 122 of the DCZR. Centennial Airport Authority and the FAA object to the proposal for residential use at this site due to noise and safety concerns. The applicant has provided noise studies, including a 7-day noise test, related to aircraft noise at the site. Indoor noise levels are anticipated to meet acceptable standards. No outdoor use areas are proposed.

Should the Board find that the approval standards for the waiver request are met, staff proposes the following conditions be included in the Board's motion:

1. Prior to final approval of the associated USR application, the applicant shall record an avigation easement on the property.
2. Prior to issuance of a building permit, the applicant shall update the east side of the existing building to bring the interior DNL limit below 45 DNL using one of the two recommended design implements from the sound level measurement study conducted by Engineering Dynamics dated April 17, 2025.
3. All commitments and promises made by the applicant or the applicant's representative during the public meeting and/or agreed to in writing and included in the public record have been relied upon by the Board of County Commissioners in approving the applicant; therefore, such approval is condition upon the applicant's full satisfaction of all such commitments and promises.

The applicant requests that this public hearing be continued to July 22, 2025, at 2:30 p.m. for consideration of the rest of the USR application by the Board.

ATTACHMENTS	PAGE
Douglas County Land Use Application	10
Applicant's Narrative	11
CMP Vicinity Map.....	21
Zoning Map	22
Aerial Map.....	23
Centennial Airport Review Overlay District and Noise Zones Map	24
Selected Referral Agency Response Report.....	25
Selected Referral Agency Response Letters	27
Applicant's Response to Referral Comments	38
Noise Assessment	41
7-Day Noise Test	51
Noise Consultant Review Findings.....	59
Supplemental Public Comment	61

LAND USE APPLICATION

Please fill in this application form completely. An incomplete application will not be processed.

Note: Neither the Planning Commission nor the Board of County Commissioners should be contacted regarding an open application.

OFFICE USE ONLY		PROJECT FILE #:
PROJECT NAME: _____	_____	
PROJECT TYPE: <u>Mixed Use</u>	PLANNING FEES: _____	
MARKETING NAME: <u>Inverness Overlook</u>	_____	
SITE ADDRESS: <u>327 Inverness Dr. S. Englewood, CO 80112</u>	ENGINEERING FEES: _____	
OWNER(S): _____	_____	
Name(s): <u>Tower 22</u>	TOTAL FEES: _____	
Address: <u>2200 S. Valentia St. Denver, CO 80231</u>	_____	
Phone: <u>720-840-7634</u>	RELATED PROJECTS: _____	
Email: <u>craig@pillows.com</u>	_____	
AUTHORIZED REPRESENTATIVE <i>(requires notarized letter of authorization if other than owner)</i>		
Name: <u>Homeland Development</u>	_____	
Address: <u>2200 S. Valentia St. Denver, CO 80231</u>	_____	
Phone: <u>417-988-8326</u>	_____	
Email: <u>karen@homeland.com</u>	_____	

LEGAL DESCRIPTION:Subdivision Name: InvernessFiling #: 9 Lot #: 3 Block #: _____ Section #: 2 Township: 6 South Range: 67 WestSTATE PARCEL NUMBER(S): 2003071425**ZONING:**Present Zoning: L1- light industrial Proposed Zoning: L1- light industrial Gross Acreage: 7.856Gross Site Density (DU per AC): _____ # of Lots or Units Proposed: 1**SERVICE PROVIDERS:**Fire District: South MetroMetro District: SE Public ImprovGas: Xcel EnergyWater: Inverness Water and SanitationSewer: Inverness Water and SanitationElectric: Xcel EnergyRoads: ☒ Public☐ Private (please explain): _____

To the best of my knowledge, the information contained on this application is true and correct. ***I have received the County's information sheet regarding the Preble's Meadow Jumping Mouse.***



Applicant Signature

7/25/24

Date

May 7, 2026

Mike Pesicka, Principal Planner
Douglas County – Department of Community Development
512 Cherry Avenue, Building A
County, CO 80514

RE: Inverness Overlook CARA Overlay Zone District Use Waiver Request

Dear Mr. Pesicka,

Homeland Development, Baseline Corporation, Pappas Architecture, and Drexel Barrell are pleased to submit the Inverness Overlook Centennial Airport Review Area (CARA) Overlay Zone Use Waiver Request application to the Douglas County Department of Community Development. This narrative provides a summary of the proposed development and conformance with County plans, goals, and regulations. The following documents are also included in our submittal:

- Presubmittal Review (PS2024-064-Inverness Filing 9-Lot 3 – USR)
- Land Use Application
- Project Narrative (including CARA Waiver and Variance requests)
- Title Commitment
- Letter of Authorization
- USR Site Plan
- USR Management Plan
- Water Supply Documentation
- Landscape Plan
- Building Elevations
- Utility Plan
- Grading Plan
- Drainage Letter
- Traffic Generation Analysis
- Noise Assessment
- ALTA Survey
- Variance Exhibit
- List of Abutting Property Owners
- Landlord Notification Letter
- CARA Use Waiver Comment Responses
- CARA Use Waiver Request Narrative

Project History

The project site is located at the property addressed as 327 Inverness Drive South, also known as Lot 3, Inverness Subdivision Filing #9, in unincorporated Douglas County. The site totals approximately 7.85 acres

and is currently zoned Light Industrial (LI). An existing, three-story office building owned by Tower 22 LLC, as well as two adjacent parking areas on Lot 3, are partially occupied by commercial tenants on the first floor, and are proposed for redevelopment. The Centennial Airport is located directly to the east, and the property is also within the “Noise Sensitive Zone” and “Noise Mitigation Zone” contours of the Centennial Airport Review Area (CARA) Overlay Zone District.

A pre-submittal review meeting was held with Douglas County on March 21, 2024, which was attended by Homeland Development’s team and a Baseline representative. The proposal included plans for an adaptive re-use project to utilize the existing office building for multi-family residential. While multi-family residential is allowed as a Use by Special Review (USR) in the “LI” zone district, it is understood that the CARA Overlay Zone contains additional land use regulations to consider. The pre-submittal response provided by County staff indicated that while various commercial and industrial uses are allowed in the CARA Noise Sensitive Zone, no residential uses are allowed without a waiver. Based on their evaluation that almost the entirety of the building is located in the Noise Sensitive Zone, a proposal for multi-family residential would require a CARA use waiver request to the Board of County Commissioners to be considered along with the USR application.

Our team met with the Centennial Airport staff in advance of preparing these submittals to explain our proposal and learn more of their potential concerns. We are grateful to have had the chance to discuss airport operations and their staff’s concerns, and acknowledged their position to enforce regulations that are meant to protect the airport and their position if we proceeded forward. However, we feel that we can work through relevant concerns, so that all review entities can find positive aspects to this re-use of the property. The proposed use is very similar to other developments in the airport area, and we feel we can mitigate concerns with the proposed development.

This narrative, and supporting submittal documents, will provide applicant findings and documentation as it pertains to the CARA Overlay Zone District Use Waiver request. Two sound studies were completed and referenced by this narrative, an Airport Noise Assessment completed with the initial submittal, and a 7-Day Single Event Level report, requested by County sound engineering consultants and completed subsequently. This narrative, which demonstrates how the Inverness Overlook proposal meets the intent, purpose, and criteria of the CMP, DCZR, also addresses comments related to the use waiver and airport-related impacts which were received during the County review process.

Site Characteristics

The Inverness Overlook project is located within Section 2, Township 6 South, Range 67 West of the 6th Principal Meridian, in unincorporated Douglas County. Located north of E-470 and east of Interstate 25, east of Inverness Drive South, and west of the Centennial Airport, the site consists of one parcel (no. 2231-021-01-003), with an approximate area of 7.85 acres. The existing building shares a hallway connection to the adjacent building/property that lies immediately to the north (parcel no. 2231-021-01-002), though it has been permanently closed and abandoned by recorded easement. These parcels, Lots 2 & 3 of the Inverness Subdivision Filing No. 9, along with Lot 1 (parcel no. 2231-021-01-001) located further to the north, all have shared street frontage and site access to the west from Inverness Drive South, and are bordered on the east side by a parking lot.

Lots 1 and 2 are still currently primarily office uses, while the property to the south was recently redeveloped as a K-8 school, known as Colorado Christian Academy. To the west of the site on the opposite side of Inverness Drive South lies a multi-family residential development, the Palmer Apartments. As stated earlier, the eastern border of the site is shared by a Centennial Airport runway.

The property is currently served by the Douglas County RE-1 school district, as well as the South Metro Fire Protection District. A will serve letter from the Inverness Water & Sanitation District is included with this submittal, indicating their capacity to provide the site water and wastewater services. The existing County stormwater infrastructure will be utilized for this project, and no additional impervious area is proposed.

The site includes a parking lot of 32 spaces to the west of the building, and another 443 spaces located behind the building, to the east. The rear parking lot is accessed by a shared drive which connects the property to the north, and its parking lot, to Inverness Drive South. No changes to the existing parking lots, landscaped islands, or landscape buffer zones are proposed at this time, as there is no additional space on the property to expand these site improvements and because the current configuration meets the use proposed in this submittal

The building is situated to provide pedestrian access from the parking lots on the east and west sides. Sidewalks also connect the front (west) entrance to adjacent buildings and Inverness Drive South public right-of-way. As stated earlier, an access restricted building corridor currently lies between the subject property and its neighbor to the north. No access or connection to the property to the north is planned, though the current proposal also does not plan to demolish or change this portion of the buildings.

Project Proposal

The proposed Inverness Overlook development intends to utilize the existing built environment to provide much needed housing supply for current and future residents of Douglas County to enjoy the many nearby amenities, along with easy access to I-25, C-470 and E-470. The Inverness Overlook development benefits from the existing infrastructure investments made by previous owners, developers, and Douglas County, as well as central placement near employment, recreation, shopping, and entertainment opportunities.

As many office buildings have been left empty due to long-term market changes, as well as recent trends towards virtual/remote work for many companies, these spaces are in a unique position to be upgraded and retrofitted for residential uses. The three-story office building at 327 Inverness Drive South will be converted into a mixed-use complex with 53 residential units, which equates to a proposed density of 6.75 dwelling units per acre. The ground floor will be comprised of multi-tenant office space and planned community spaces for office and residential tenants. The 2nd floor will be remodeled for 29 residential units, and the 3rd floor for an additional 24 units. Other than internal renovations, this proposal does not include major changes to the buildings massing or façade.

Of the 53 units, 14 of these are planned to be one-bedroom units, 35 two-bedroom units, and 4 three-bedroom units. This current unit breakdown would require 113 parking spaces for residents and guests, per Section 28 of the DCZR. The site's two parking lots provide 475 parking spaces, 9 of which are accessible. An ADA Access Plan has been included with this USR submittal set showing the necessary re-striping in the parking lot, as well as reconstruction of ramps and the addition of truncated domes, to meet accessibility requirements.

The existing roadway and utility infrastructure currently has the capacity to serve additional residents in this area, documented by the reports included with this submittal, and is adjacent to a similar multi-family residential development, a school, and more office buildings that could be utilized for similar uses. Utility and Grading Plans have been included with the associated USR submittal, as well as a Drainage Letter, which indicate the minimal site work necessary with this redevelopment as adequate infrastructure is already available and no additional impervious area is planned.

No adverse impacts to the neighboring properties are expected. In fact, this use will strengthen the sense of community and locate residential development in an area that's already developed. No impacts to existing vegetation, wildlife, air or water quality, nor the sense of peace and quiet of the neighborhood have been found, as this is already an urban area and no major improvements or construction is necessary. A landscaped buffer already exists on the property and in the surrounding area, which once again will not be affected by this proposal.

However, the proximity to the airport does entail certain impacts to the site that have also been carefully considered. Further detail on the CARA Overlay Zone and compliance with the Douglas County Comprehensive Plan and Zoning Resolution area detailed below. Our team is prepared to work with the County, Airport, and any applicable agencies to comply with all permits and regulations.

Conformance with the Douglas County Comprehensive Plan

The Inverness Overlook proposal has incorporated the guiding principles of the 2040 Douglas County Comprehensive Master (CMP) into its planning and design. The CMP's Future Land Use Map indicates the subject property located within the Lone Tree Municipal Planning Area, which is regulated by Section 2 of the CMP as an "Urban Land Use" area.

This section describes the intent of this designation as, "generally characterized by residential uses at a gross density greater than one dwelling unit per 2.5 acres," as well as references regional goals from DRCOG's Metro Vision 2040 Plan which aims for "open space, freestanding communities, a balanced transportation network, urban centers, environmental quality, and senior-friendly development." This USR proposal meets all these criteria by redeveloping the existing built environment and locating a high-density residential mixed-use project within an existing urban center, reducing sprawl and preserving open space and environmental quality. The property is already served by a substantial transportation network for local and regional automobile trips, as well as sidewalk and trail networks for pedestrians or bicyclists. Multi-family developments provide housing that is easier to attain for residents of all ages and socioeconomic status.

The close proximity to commercial and mixed-use space is intended to easily connect residents with local businesses and services as well as provide a convenient destination for commuters to visit to and from work. The connection with nearby trails provides multi-modal access to commercial, residential, and public open space areas, as well. The E-740 Trail is located approximately one mile to the south of the proposed development, which provides regional access to the South Platte Trail, Cherry Creek Trail, and others. The surrounding area has been developed with an extensive sidewalk network, providing access to parks, recreational amenities, and Park Meadows. The internal pedestrian access will provide connections across and through the site to these developed networks.

Providing a variety of housing stock is crucial for any urban area and creates the necessary tax base for commercial areas to thrive. Providing housing near employment opportunities creates less regional traffic, and localized freestanding communities. The adaptive re-use of an office building, especially in an urban infill environment, is a sustainable use of resources and not only meets the intent of the CMP, but each Goal listed below:

- (2-1) *Improve and enhance existing infrastructure; support healthy living; reduce vehicle miles travelled; maintain air quality standards; and conserve open space.*

Applicant Finding: Objective 2-1A of Section 2 of the CMP states, "Direct urban-level development to designated urban areas. This USR is proposed within the Lone Tree Municipal Planning Area, meeting the

intent of this objective. Furthermore, the overall goal of the Inverness Overlook proposal is an adaptive infill development, which will utilize existing infrastructure for water, wastewater, stormwater, as well as pedestrian and vehicular access, which will be upgraded per current County standards for residential development. This benefit, along with the nearby proximity to employment, entertainment, and retail, creates a sustainable development and walkable neighborhood that encourages residents and tenants to walk or bike instead of driving, supporting healthy living, reducing VMT, maintaining environmental quality, and conserving open space.

(2-2) Support environmental systems comprised of water, wildlife, wildlife habitat, recreation and sense of place.

Applicant Finding: This proposal intends to build upon the existing community activity and contribute to the sense of place that existing residents and businesses enjoy. Recreation opportunities and the aesthetic and cultural value of the airport are central to the overall concept of Inverness Overlook, and placing much needed residential uses within a developed part of the County supports conservation of environmental systems already in place.

(2-3) Provide connected parks, trails, and recreational facilities appropriate to the scale of the development.

Applicant Finding: Many recreational opportunities exist within the Inverness area, including John Derry Park, Inverness Park Sand Volleyball Courts, the Inverness Reservoir, and several sidewalks and trails connecting the homes and businesses in the area to one another.

(2-4) Establish public spaces or gathering places in new and existing neighborhoods.

Applicant Finding: The community theater that occupies the 1st floor is an existing benefit to the community, and will be a great amenity for future residents. Outdoor recreation spaces, such as sport courts, are currently being evaluated, and John Derry Park is located nearby. Park Meadows Mall and other nearby recreational or shopping opportunities can be accessed via existing sidewalk and road networks, and the developed nature of the Inverness area has little room for new spaces in this existing context.

(2-5) Design development to complement both the natural and historic landscape.

Applicant Finding: By utilizing an existing building, the historic appearance of the property will remain the same, while activating unused space and taking advantage of the views of planes departing and arriving. The Inverness development was originally designed to incorporate natural landscape features and drainageways, which our proposal will not modify or cause conflict.

(2-6) Achieve compatibility between residential and nonresidential land uses, in terms of land use and design.

Applicant Finding: In addition to the compatibility of residential uses near the Centennial Airport as demonstrated below, placing residential uses in unused office or retail spaces also create a beneficial mix of uses and potential for residents to work very close to home. The adjacent residential, school, office, and retail uses have proven their synergy with one another, and our proposal is intended to strengthen the existing community. Re-using the existing office building for residential purposes, as opposed to proposing new structures, also maintains design compatibility with existing, adjacent offices and commercial buildings.

The CMP's Policy 2-6A.1 states, "Locate residential away from areas that exceed an outside noise level of 65 DNL." This criterion, along with the CARA Overlay Zone District's Noise Sensitive Zone prohibition of residential uses, are requested to be waived based on the findings of the attached Airport Noise Assessment. While the outdoor noise levels of the subject property do fall within the 65 DNL noise contour as provided by the Centennial Airport, initial indoor noise levels as measured in the building and analyzed for building material acoustics showed that the interior lies below 45 DNL, complying with US Department of Housing and Urban Affairs (HUD) standards for properties that fall within the 65 DNL outdoor noise category. During a follow-up 7-Day Single Event Level assessment, it was found that certain areas in the building experienced increases to up to 50 DNL on the east façade near the window. This assessment recommended window glazing improvements to mitigate these increased event impacts, and our team will fully comply with those criteria.

(2-7) Foster a balanced community and robust economy.

Applicant Finding: Vacant office space does not benefit the community's sense of space, property owner investments, or County tax base. Providing housing options in a mixed-use infill environment encourages both a balanced community and a robust economy.

(2-8) Conserve resources.

Applicant Finding: The conservatory benefits of infill development are inherent, reducing waste of building materials, infrastructure, natural and landscaped areas. Services do not need to be extended and long-term, invasive construction impacts can be mostly avoided. As the real estate market and development trends shift, focusing on redevelopment of unutilized places is a sustainable and resilient approach to allocating resources for needed uses.

(2-9) Ensure development occurs concurrently with essential services and infrastructure.

Applicant Finding: As stated above, the benefit of the proposal is that services and infrastructure are already accounted for, and this development will ensure the investment of these essentials are utilized for their highest and best use.

(2-10) Utilize environmental systems comprised of water, wildlife and wildlife habitat, recreation, and sense of place as the basis for community form within the Chatfield urban area.

Applicant Finding: This USR proposal does not lie within the Chatfield urban area.

(2-11) Design density-appropriate development to complement both the natural and historic landscape.

Applicant Finding: The proposed density of 6.75 dwelling units per acre meets the CMP's policy of greater than one dwelling unit per 2.5 acres. The project will not affect the natural or historical landscapes in the area.

(2-12) Provide density-appropriate connected parks, trails, and recreational facilities.

Applicant Finding: The proposed density of the multi-family residential uses are centrally placed near many parks, trails, sidewalks, and recreational opportunities, as described above.

(2-13) Ensure the cohesive implementation of community-identified values in the Chatfield urban area as expressed by this plan.

Applicant Finding: This USR proposal does not lie within the Chatfield urban area.

(2-14) Establish vibrant community activity centers.

Applicant Finding: The Inverness development and nearby Centennial Airport and Park Meadows mall are established and vibrant community activity centers. Placing residential uses will allow more members of the community to access and enjoy these areas.

(2-15) Preserve the integrity of the separated urban areas.

Applicant Finding: As part of a Separated Urban Area in the CMP, this proposal preserves the integrity of the developed area as well as conserved County open space, by locating new development in areas already urbanized.

(2-16) Encourage coordinated comprehensive master plans between the county and municipalities.

Applicant Finding: The findings of this narrative are based on the criteria found in the Douglas County CMP, however, nearby municipalities, regional planning efforts, as well as national standards and plans were considered in the drafting of the Inverness Overlook USR application. We look forward to working with the County and surrounding municipalities to ensure the coordination and compliance with all regional plans.

Conformance with the Douglas County Zoning Resolution

Section 1 of the Douglas County Zoning Resolution, titled “Administrative Provisions and Procedures,” provides the following approval criteria for waiver requests:

(122.01) The applicant shall provide a written waiver request that explains in detail the extent of the waiver, and the grounds for the requested waiver.

Applicant Finding: Acknowledged, this narrative has been revised to address the details and grounds for the requested waiver to the Centennial Airport Review Area Overlay District use standards.

(122.02) The Planning Commission, as part of the hearing on a specific application, will hear the request for a waiver from the standards and make recommendations to the Board.

Applicant Finding: Acknowledged.

(122.03) Such waiver shall be approved only upon the finding, based upon the evidence presented in each specific case, that:

Applicant Finding: Acknowledged, please see applicant responses detailing each criteria below.

(122.03.1) the waiver does not have the effect of nullifying the intent and purpose of this Resolution;

Applicant Finding: The waiver request does not nullify any intent or purpose stated in the Douglas County Zoning Resolution, and goes further to meet intent and purpose statements found in the CMP, as described above.

(122.03.2) the granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;

Applicant Finding: The waiver request addresses County and Federal regulations pertaining to the public safety, health, and welfare of Douglas County residents and future tenants, and will in no way be injurious to other properties. The waiver request, associated sound assessments, and USR application has addressed the concerns stated by Centennial Airport and FAA to the highest degree possible and look forward to continued coordination with Douglas County to ensure any public health or safety concerns are addressed.

(122.03.3) the conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;

Applicant Finding: The proposed waiver request is only applicable to the subject property of this application, and will not affect existing Douglas County zoning regulations for any other properties. The conditions of this application are extremely unique, as further analyzed in the associated USR and variance applications, to be reviewed after the current CARA use waiver hearings.

(122.03.4) a particular non-economical hardship to the owner would result from a strict application of this Resolution;

Applicant Finding: The applicant's team does not feel that the strict application of this Resolution would necessarily result in the denial of the application. Douglas County staff and the County's sound engineer seem to be in agreeance of the findings presented in our submittal. The Centennial Airport and Federal Aviation Administration have provided review comments stating their opposition to the proposed use, and the applicant's team has provided empirical and contextual data, proving that the impacts created to potential residents of the proposed development are safe, within the acceptable range of federally approved criteria for housing and urban development, and no greater than the impacts would be to the uses which would be supported by the Centennial Airport. Based on the findings presented in this submittal, we believe the criteria stated in this section and other sections of the Zoning Resolution, including Use by Special Reviews and Variances, to be fully met.

(122.03.5) the waiver will not in any manner vary the provisions of the Zoning Resolution or County Building Code; and

Applicant Finding: The waiver request does not nullify or vary any provision stated in the Douglas County Zoning Resolution.

(122.03.6) the proposed development will be in conformance with the Douglas County Master Plan.

Applicant Finding: Conformance with the Douglas County Master Plan is described in the section above.

Centennial Airport Review Area Overlay Zone Use Waiver Request

As mentioned previously, Douglas County Comprehensive Plan's Policy 2-6A.1 intends to locate residential uses in areas that do not exceed an outdoor noise level of 65 DNL. Baseline and Homeland met with the Centennial Airport on April 23, 2024, per County direction, to discuss the USR proposal as it relates to the CARA Overlay Zone. Their evaluations have shown that the property and entirety of the building lies within the 65 DNL area, designated by CARA as the "Noise Sensitive Zone." Residential uses are prohibited in the

Noise Sensitive Zone, though a number of nearby developments have been approved recently based on their own findings of noise levels.

Included with this submittal is an Aircraft Noise Assessment completed by Engineering Dynamics Inc. on May 15, 2024, which details the findings of indoor and outdoor noise levels for 327 Inverness Drive South. The report concludes with the most recently available Centennial Airport Noise Contours, indicating the entire building to be within the 65 DNL range. As outdoor noise levels due to the airport cannot be reduced or mitigated, and because it is expected that residents and tenants will be more exposed to indoor sound levels, each floor of the building was measured for a range of decibel level readings as well as analyzed building material acoustics of the existing façade, windows, and roof.

The US Department of Housing and Urban Affairs (HUD) defines the acceptability of residential development to be “Normally Acceptable” when the measured DNL is less than 65, consistent with Douglas County standards. When a development lies between 65 – 75 DNL, it is considered to be “Normally Unacceptable” by HUD standards. The Inverness Overlook development is therefore considered to be Normally Unacceptable by HUD standards. However, this categorical designation goes further to provide acceptable indoor sound levels, and this proposal complies with that standard.

The maximum interior noise level for this property and all others in its category, based on HUD definitions, is 45 DNL. The measured interior levels range from 39 to 41, with a variance of +1 and -2. The submitted report also analyzed the existing building per Outdoor-Indoor Transmission Class, a noise parameter used for determining the level of sound reduction from outside a building to inside a building. The details of this calculation are included in the report, and the findings further conclude that the interior noise level is 41 DNL.

Based on this report, the Inverness Overlook development meets the criteria for residential development, and at the request of County staff, the site was further analyzed in a follow-up 7-Day Single-Event Level (SEL) assessment. The findings of this assessment have been found satisfactory by County review agencies and suggest the implementation of building upgrades to the east façade windows, reducing indoor DNL in areas affected more heavily by airport noise. The applicant’s team is more than happy to follow the recommendations of the EDI sound assessment and will update future USR plan and building permit submittals to reflect these improvements. We ask the County and applicable review agencies to take this into consideration while reviewing our request to waive the CARA Overlay Zone District prohibition of residential uses for this USR application.

Staff indicated in the Presubmittal Review Findings that, “There is no clear path for amending or waiving the Noise Sensitive Zone boundary or use restrictions. While the Board of County Commissioners may consider a waiver request to certain provisions of the zoning resolution (as outlined in Section 122 of the DCZR), the Board is required to make specific findings before approving a waiver request.” Our team has produced this initial waiver request in confidence that our submittal will provide the basis for these findings, and looks forward to working with the applicable review authorities to ensure the safety and comfort of Inverness Overlook’s residents, tenants, and guests.

In standing with previous CARA Use Waiver request reviews and approvals, the developer and the intended residents of this development view the airport runway as an amenity, both adding to the aesthetic character of the property’s viewsheds, and security of a continuous border shared by the airport and adjacent properties. Our team understands that past approvals, nor the approval of this request and USR, set a precedent for future applications, but our findings are consistent with all the information available pertaining

to the appropriateness and benefit of multi-family residential uses at the subject site, and respectfully requests approval of this waiver from the Douglas County Board of County Commissioners.

If there are questions or comments regarding this submittal, please notify us and we will address them immediately.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Baker', with a stylized flourish at the end.

Andrew Baker, AICP
Senior Planner
Baseline Engineering Corporation

cc. Mike Swisher, Homeland Development Corporation
Karen Kennedy, Homeland Development Corporation

Comprehensive Master Plan Land Use Reference Map

Comprehensive Master Plan Areas

- Primary Urban Area
- Chatfield Urban Area
- Separated Urban Area
- Rural Community
- Nonurban Subarea
- Municipal Planning Area (Incorporated)
- Municipal Planning Area (Unincorporated)
- Municipal Planning Area Inclusive of County PUA / SUA
- Non-Douglas County Based Municipalities
- Douglas County Boundary

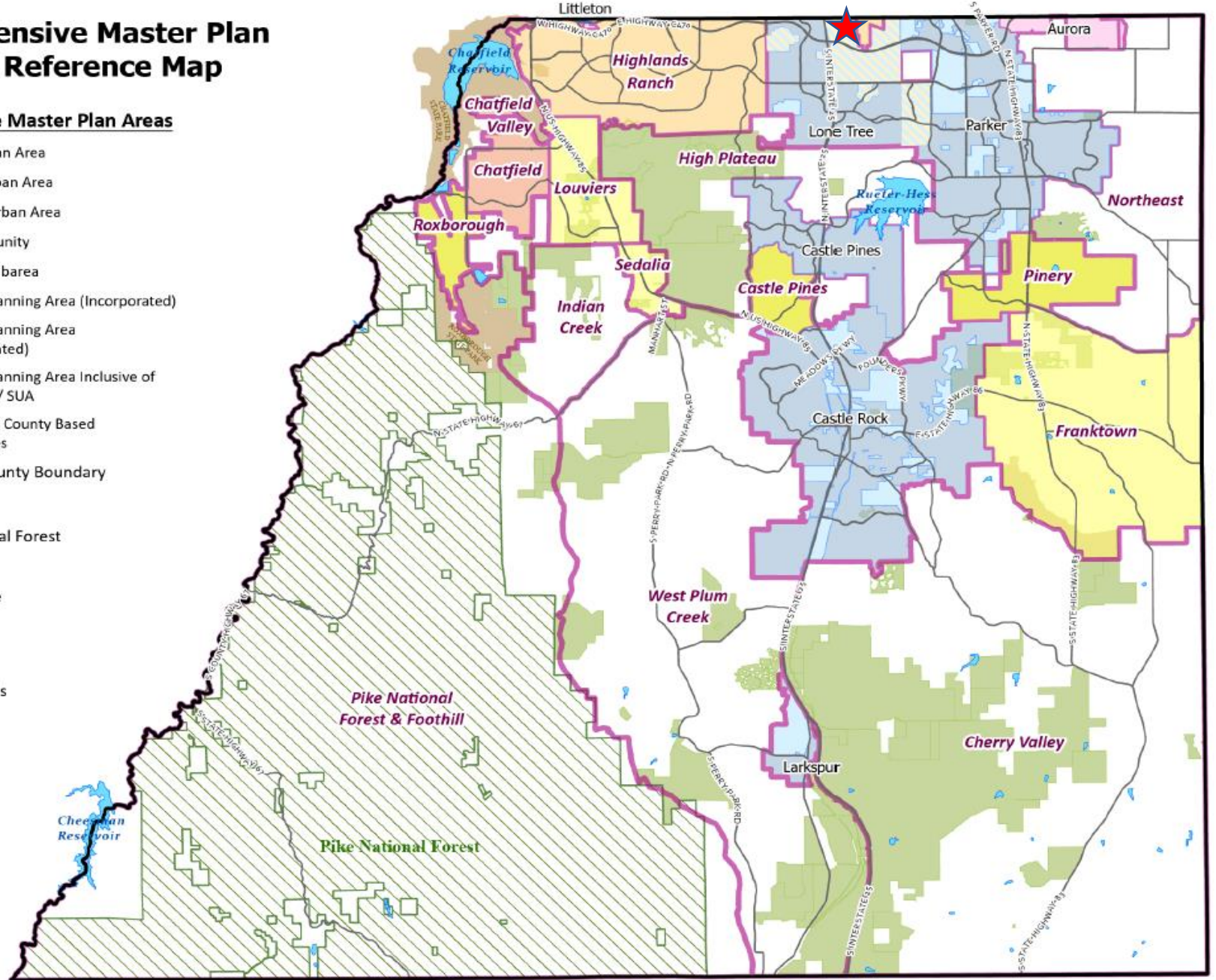
Parks

- Pike National Forest
- State Parks
- Open Space
- Lakes

Roadways

- Major Roads

- Project Site



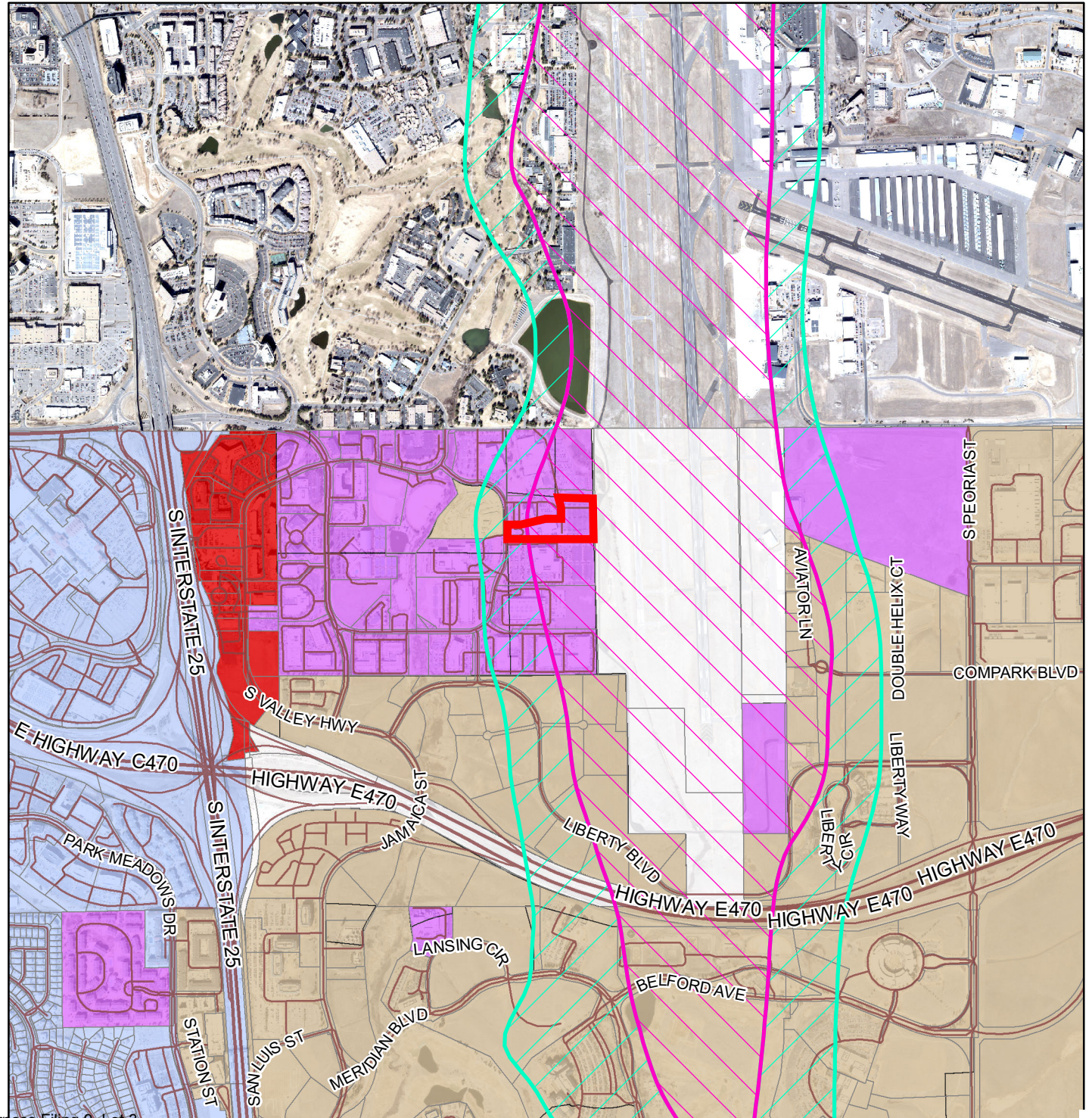
INVERNESS SUBDIVISION FILING 9, LOT 3

US2024-011
ZONING MAP



LEGEND

- PROJECT SITE
- CARA - NOISE MITIGATION ZONE
- CARA - NOISE SENSITIVE ZONE
- MAJOR ROADS
- OTHER ROADS
- ZONE DISTRICT**
- A1 - AGRICULTURAL ONE
- LRR - LARGE RURAL RESIDENTIAL
- RR - RURAL RESIDENTIAL
- ER - ESTATE RESIDENTIAL
- SR - SUBURBAN RESIDENTIAL
- MF - MULTIFAMILY
- LSB - LIMITED SERVICE BUSINESS
- B - BUSINESS
- C - COMMERCIAL
- LI - LIGHT INDUSTRIAL
- GI - GENERAL INDUSTRIAL
- CMTY - SEDALIA COMMUNITY
- D - SEDALIA DOWNTOWN
- HC - SEDALIA HIGHWAY COMMERCIAL
- MI - SEDALIA MIXED INDUSTRIAL
- PD - PLANNED DEVELOPMENT
- OS - OPEN SPACE CONSERVATION
- NF - NATIONAL FOREST
- INCORPORATED AREAS






INVERNESS
SUBDIVISION
FILING 9, LOT 3

US2024-011
AERIAL MAP



LEGEND

-  PROJECT SITE
-  MAJOR ROADS
-  OTHER ROADS



CENTENNIAL AIRPORT

REVIEW AREA OVERLAY DISTRICT AND NOISE ZONES

SAFETY ZONES

- FAN SAFETY ZONE
- RUNWAY SAFETY ZONE

SOUND ZONES

- NOISE MITIGATION ZONE
- NOISE SENSITIVE ZONE



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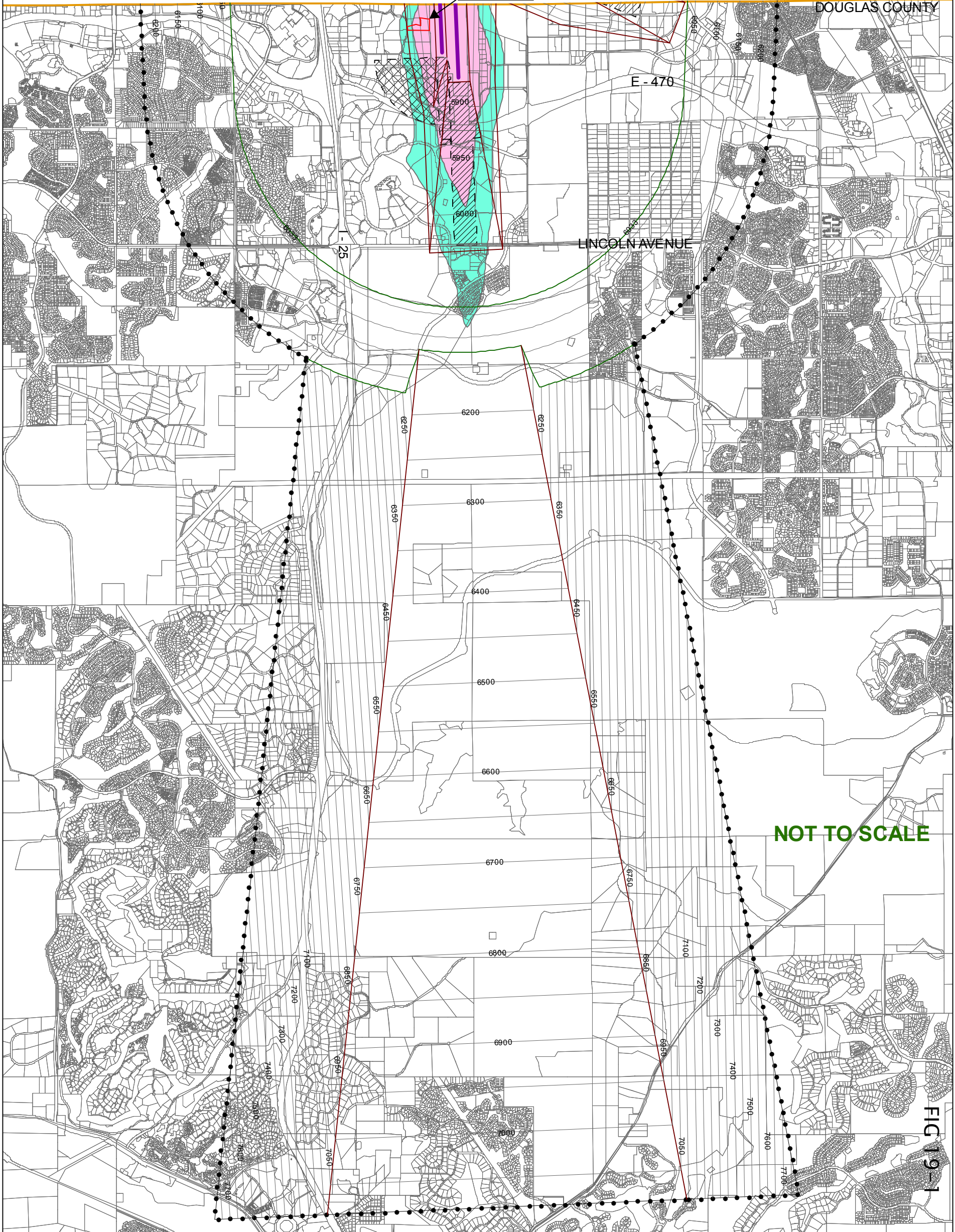
Douglas County GIS Division
Philip S. Miller Bldg., 100 Third St.
Castle Rock, Colorado 80104

IMAGINARY SURFACE
ELEVATIONS {AS DEFINED BY
FEDERAL AVIATION REGULATION
(FAR) PART 77 SURFACES}

- CENTENNIAL AIRPORT REVIEW AREA
- RUNWAYS
- COUNTY BOUNDARY
- PARCELS

Project Site

ARAPAHOE COUNTY
DOUGLAS COUNTY



Referral Agency Response Report**Page 1 of 2****Project Name:** Inverness Subdivision Filing 9, Lot 3**Project File #:** US2024-011**Date Sent:** 11/20/2024**Date Due:** 12/12/2024

Agency	Date Received	Agency Response	Response Resolution
Addressing Analyst	11/21/2024	This agency had no comments on the waiver request.	No Response Required
Arapahoe County Engineering Services Division		No Response Received:	No Response Required
Arapahoe County Public Airport Authority-Centennial	12/04/2024	Received: Following is a summary of comments received from the Arapahoe County Public Airport Authority (ACPAA)). For details please reference their review letter dated December 2, 2024. -The development is inconsistent with zoning regulations and raises serious safety and noise related concerns. -Site lies within the 65 DNL noise contour which the FAA considers incompatible with residential development. -Site lies within the Restricted Development Area (RDA) of the Airport Influence Area (AIA). -Site is adjacent to the end of runways 17R and 35L and will be subject to numerous over flights and their associated effects. -If the request is approved then the following should be implemented: -Avigation easements, a residential 7-day noise test, and filing and approval of a FAA Form 7460-1 for construction activities.	Applicant has submitted an avigation easement that will be required to be recorded as a condition of approval of the USR. Applicant has also submitted a 7-day noise test that was sent to the ACPAA for their review. If the waiver and USR requests are approved, the applicant will obtain the required FAA Form 7460-1.
Arapahoe County PWD/Planning		No Response Received:	No Response Required
AT&T Long Distance - ROW	11/20/2024	This agency had no comments on the waiver request.	No Response Required
Black Hills Energy		No Response Received:	No Response Required
Building Services	11/22/2024	This agency had no comments on the waiver request.	No Response Required
CenturyLink		No Response Received:	No Response Required
Cherry Creek Basin Water Quality Authority	12/13/2024	This agency had no comments on the waiver request.	No Response Required
City of Centennial		No Response Received:	No Response Required
City of Lone Tree	12/02/2024	No Comment:	No Response Required

Referral Agency Response Report**Page 2 of 2****Project Name:** Inverness Subdivision Filing 9, Lot 3**Project File #:** US2024-011**Date Sent:** 11/20/2024**Date Due:** 12/12/2024

Agency	Date Received	Agency Response	Response Resolution
Comcast		No Response Received:	No Response Required
Douglas County Health Department	12/12/2024	This agency had no comments on the waiver request.	No Response Required
Douglas County School District RE 1	12/05/2024	This agency had no comments on the waiver request.	No Response Required
Engineering Services	11/25/2024	This agency had no comments on the waiver request	No Response Required
Inverness Metro Improvement District		No Response Received:	No Response Required
Inverness Planning and Architectural Control Committee		No Response Received:	No Response Required
Inverness Water & Sanitation District		No Response Received:	No Response Required
Mile High Flood District		No Response Received:	No Response Required
Office of Emergency Management		No Response Received:	No Response Required
RTD - Planning & Development Dept		No Response Received:	No Response Required
Sheriff's Office		No Response Received:	No Response Required
Sheriff's Office E911		No Response Received:	No Response Required
South Metro Fire Rescue	11/27/2024	This agency had no comments on the waiver request.	No Response Required
Southeast Metro Stormwater Authority	12/13/2024	No Comment:	No Response Required
Southeast Public Improv Metro District		No Response Received:	No Response Required
Town of Parker Development Review		No Response Received:	No Response Required
Xcel Energy-Right of Way & Permits	12/10/2024	This agency had no comments on the waiver request.	No Response Required

REFERRAL RESPONSE REQUEST – USE BY SPECIAL REVIEW

 Date sent: November 20, 2024

 Comments due by: **December 12, 2024**

Fax: 303.660.9550

Project Name: Inverness Subdivision Filing 9, Lot 3

Project File #: US2024-011

Project Summary:

A Use by Special Review (USR) to convert approximately 118,000 square-feet of an existing 3-story office building (327 Inverness Drive South) into 53 residential units on the 2nd and 3rd floors, and approximately 20,000 square feet of mixed-use office and commercial uses on the ground floor.

The 7.86-acre site is zoned Light Industrial (LI) and is located at 327 Inverness Drive South, approximately 1,000 feet southeast of the intersection of Inverness Way South and Inverness Drive South, west of Centennial Airport.

The property is located within the Noise Sensitive Zone of the Centennial Airport Review Area (CARA) – Overlay District, which prohibits “multifamily residential”. The applicant is requesting the Board of County Commissioners grant a waiver to Section 1906.02.1.(2) of the *Douglas County Zoning Resolution* to allow “multifamily residential” within the Noise Sensitive Zone of the CARA Overlay District.

Information on the identified development proposal located in Douglas County is enclosed. Please review and comment in the space provided.

<input type="checkbox"/> No Comment	
<input type="checkbox"/> Please be advised of the following concerns: <div style="border-bottom: 1px solid black; height: 20px; margin-top: 5px;"></div> <div style="border-bottom: 1px solid black; height: 20px; margin-top: 5px;"></div>	
<input checked="" type="checkbox"/> See letter attached for detail.	
Agency: Arapahoe County Public Airport Authority	Phone #: 303-218-2919
Your Name: Zachary Gabehart (please print)	Your Signature: <i>Zachary Gabehart</i>
	Date: 12/04/2024

Agencies should be advised that failure to submit written comments prior to the due date, or to obtain the applicant's written approval of an extension, will result in written comments being accepted for informational purposes only.

Sincerely,

Mike Pesicka

Mike Pesicka, Principal Planner



CENTENNIAL AIRPORT
ARAPAHOE COUNTY AIRPORT AUTHORITY

7565 South Peoria Street, Unit D9
Englewood, Colorado 80112
main: 303-790-0598 | fax: 303-790-2129
www.centennialairport.com

December 2nd, 2024

Mike Pesicka
Douglas County Community Development Department
100 Third St.
Castle Rock, CO 80104

Re: US2024-011 – 327 Inverness Dr. S; Inverness Filing 9, Lot 3 USR

Dear Mr. Pesicka,

Thank you for the opportunity to review the site plan. Due to the location of the proposed residential development and its proximity to the Airport, the Arapahoe County Public Airport Authority opposes this development. As stipulated in Section 1906.02.1 (2) of the Douglas County Zoning Resolution (DCZR), developments of this nature are prohibited within the Noise Sensitive Zone (NSZ) of the Centennial Airport Review Area (CARA), as defined in Section 19 of the DCZR. Moreover, the proposed development is situated at the edge of the Fan Safety Zone (FSZ), where Section 1906.01.2 (1) of the DCZR prohibits residential uses due to the increased risk of aircraft accidents in close proximity to flight paths and the airport. As such, the proposed development is inconsistent with zoning regulations and raises serious concerns related to safety and noise. In addition to the zoning conflict, the proposed site violates several key Airport Land Use Guidelines, outlined below.

The proposed development lies inside the 65 dNL noise contour and just outside the 70 dNL noise contour. The Federal Aviation Administration (FAA) considers any residential development within the 65 dNL contour to be incompatible. The FAA defines 65 dNL to be the significant level of noise where repeated exposure to this noise level prohibits quiet living environments and considers it significantly disruptive. The proposed development lies 0.16 miles from the nearest runway at Centennial Airport and within the Restricted Development Area (RDA) of the Airport Influence Area (AIA). Based on the Airport's Land Use Guidelines, all new residential and other noise sensitive developments are prohibited within the RDA.

This development is being opposed by the Airport Authority because the new residences are adjacent to the departure end of runway 17R and the arrival side of runway 35L, therefore will be subjected to numerous aircraft over flights at low altitudes and their associated effects. These effects include, but are not limited to: noise, smoke, dust, fumes and vibrations. Not only is this proposed development 0.16 miles from the Airports busiest training runway, the property shares a fence line with the airport. Again this development not only causes concerns with the Airport's Land Use Guidelines but is also inconsistent with provisions set forth in Section 19 of the Douglas County Zoning Resolution.

However, should the County grant this use by special review, which is highly inadvisable due to potential safety and health effects, we request that following be implemented:

- Avigation Easements are required for residential development within the AIA. These documents ensure that home buyers understand that they are buying a house that is in close proximity to an airport. Book and page number of the avigation easement must be included on all plats and plans. Please forward a copy of the executed avigation easement and disclosure statement to our office for our records. Overflight disclosure language should be included in all lease documents as well as posted in a conspicuous place in leasing offices.
- A residential 7-day noise test is recommended using single noise event levels (SEL). It is highly recommended for this proposed development, if approved, to have verified interior noise attenuation at or below 45 dnl.
- Any objects on the site (including cranes used during construction) that penetrate a 100:1 slope from the nearest point of the nearest runway, penetrates the FAA Part 77 airspace surfaces, impede signals associated with navigational equipment or any other reason the FAA deems necessary will require the filing and approval of FAA Form 7460-1. This form may take 90 days or more for approval. Please visit <https://oeaaa.faa.gov> to utilize the notice criteria tool to confirm filing requirements and to file the FAA Form 7460-1. **Please note that this is a State and Federal regulatory requirement.** Runway endpoint data is available from the Airport for engineering calculations. In addition, please have crane operators advise Airport Operations (303-877-7307) prior to erecting any cranes.
- Please include the Airport on the vicinity map.

Please feel free to call me if you have any questions.

Sincerely,



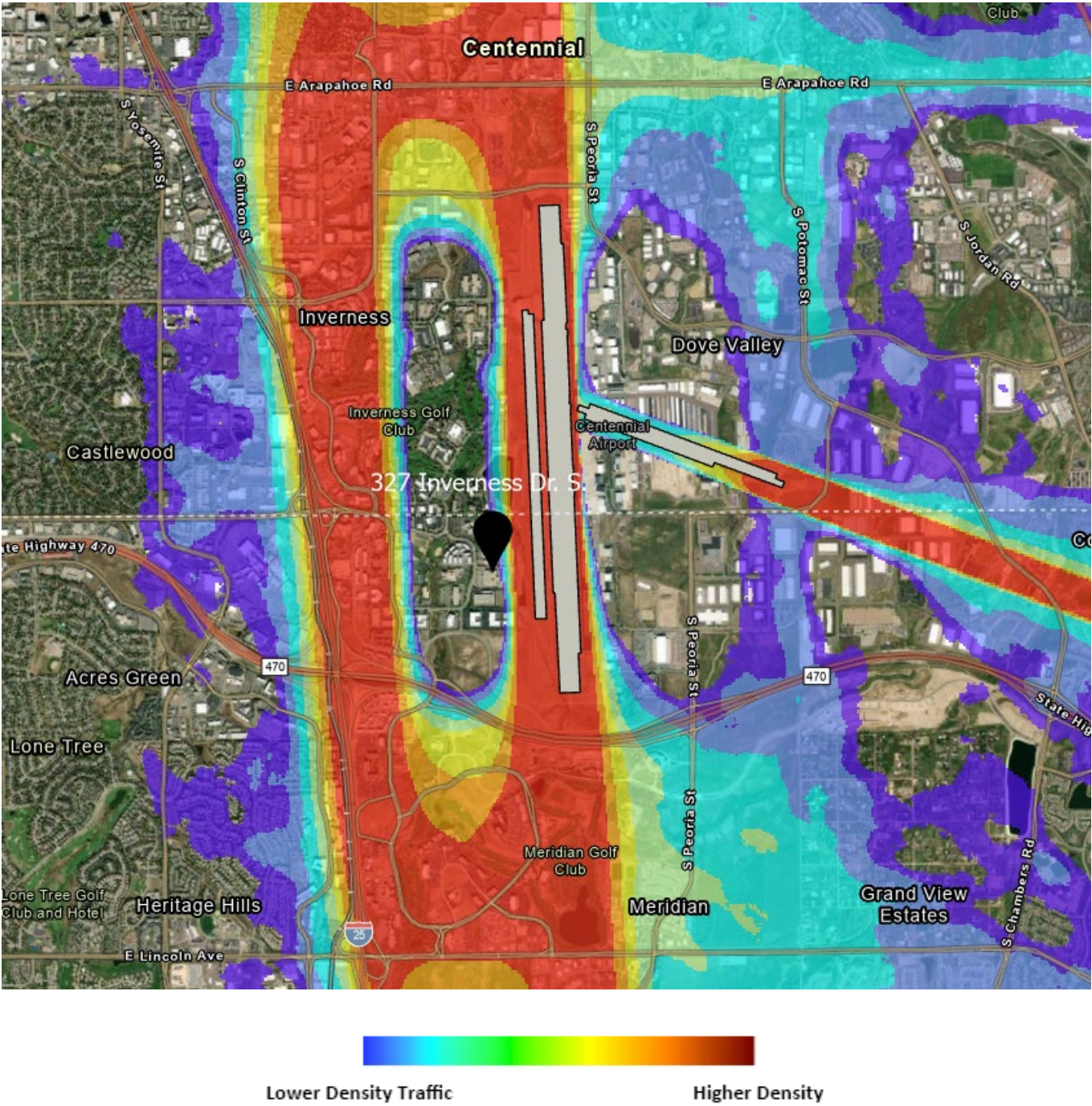
Zachary Gabehart
Planning Specialist - Noise & Environmental

In July of 2024, which was the busiest month of 2024, 327 Inverness Dr. S saw the following number of overflights within 1/4 mile of the property:

Operation Type:	Number of Operations:
Arrivals:	328
Departures:	120
Training Flights:	14,694
Total Overflights:	15,142



The below heat map demonstrates the close proximity of the property to high density operation areas.



STANDARD AVIGATION AND HAZARD EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that

WHEREAS, _____

_____,
who collectively shall hereinafter be referred to as the "Grantors," all own an interest in a part of that certain tract of land in Section _____, Township _____, Range _____ of the _____, County of _____, State of Colorado, more particularly described in Exhibit A attached hereto.

NOW, THEREFORE, in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantors, for themselves, their heirs, personal representatives, successors and assigns, do hereby grant, bargain, sell and convey unto Arapahoe County Public Airport Authority, its successors and assigns, hereinafter referred to as the "Grantee," for the use and benefit of the public, an easement and right of way, appurtenant to the Centennial Airport, for the unobstructed passage of all aircraft, ("aircraft" being defined for the purposes of this instrument as any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air) by whomsoever owned and operated in the air space above Grantors' property to an infinite height, together with the right to cause, in all air space above the surface of Grantors' property, such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused by the operation or aircraft landing at, taking off from, or operating at or on said Centennial Airport.

Grantors do hereby waive, remise and release any right or cause of action which they may now have or which they may have in the future against Grantee, its successors and assigns, with respect to Grantors' property due to such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused or may have been caused by the operation or aircraft landing at, taking off from, or operating at or on said Centennial Airport. Nothing stated in the foregoing waiver, grant and release shall release any person from liability for damages or divest the Grantors, their heirs, personal representatives, successors and assigns from any right or cause of action for damages to any person or property resulting from the unlawful or negligent operation of any aircraft at any altitude over and across Grantors' property.

The easement and right-of-way hereby granted includes the continuing right in the Grantee to prevent the erection or growth upon Grantors' property of any building, structure, tree or other object extending into the air space above a mean sea level of _____ feet, and to remove from said air space, or at the sole option of the Grantee, as an alternative, to mark and light as obstructions to air navigation, any such building, structure, tree or other object now upon, or which in the future may be upon Grantors' property, together with the right of reasonable ingress to, egress from, and passage over Grantors' property for the above purposes.

TO HAVE AND TO HOLD said easement and right-of-way, and all rights appertaining thereto unto the Grantee, its successors and assigns, until Arapahoe County Public Airport Authority shall cease to use said Centennial Airport for public airport purposes.

AND for the consideration hereinabove set forth, the Grantors, for themselves, their heirs, personal representatives, successors and assigns, do hereby agree that for and during the life of said easement and right-of-way, they will not hereafter erect, permit the erection or growth of, or permit or suffer to remain upon Grantors' property any building, structure, tree or other object extending into the aforesaid prohibited air space, and that they shall not hereafter use or permit or suffer the use of Grantors' property in such a manner as to create electrical interference with radio communication between any installation upon said airport and aircraft, or as to make it difficult for flyers to distinguish between airport lights and others, or as to impair visibility in the vicinity of the airport, or as otherwise to endanger the landing, taking off or maneuvering of aircraft. It is understood and agreed that the aforesaid covenants and agreements shall run with the land.

This Avigation and Hazard Easement may be signed in counterpart copies each of which shall be fully binding on the party or parties executing same as if all signatories signed a single copy.

IN WITNESS WHEREOF, the Grantors have executed this Avigation and Hazard Easement as of this _____ day of _____, 19____.

(Grantor)

By _____

ATTEST:

Legal Acknowledgment for each Grantor.



U.S. Department
of Transportation
**Federal Aviation
Administration**

Denver Airports District Office
26805 E. 68th Avenue, Room 224
Denver, Colorado 80249
303-342-1250; FAX 303-342-1260

December 4, 2024

Mike Pesicka
Douglas County Community Development Department
100 Third St.
Castle Rock, CO 80104

Re: US2024-011 – 327 Inverness Dr. S; Inverness Filing 9, Lot 3 USR

Dear Mr. Pesicka:

The Federal Aviation Administration, Denver Airports District Office (FAA) was notified by Centennial Airport concerning the above referenced residential development. Due to the close proximity of this proposed development to Centennial Airport's 17R/35L, FAA strongly opposes this proposed development because of the potential negative impacts this development may have on persons and property on the ground and the safety and utility of the National Airspace System. Additionally, residential developments in such area have been identified as incompatible with airport operations.

Centennial Airport (APA) serves approx. 332,000 aircraft operations (a take-off or landing) per year and is utilized by a variety of aircraft, ranging from small, single-engine propeller airplanes up to large, jet aircraft. The airport is a Federally-funded, public use airport that is required by Federal law to remain open to all types of aircraft 24 hours a day, 7 days a week. APA plays a major role in the Colorado and national airport system.

The Federal Government has made a significant investment of public funds in Centennial Airport. Under the current Federal airport aid program, the FAA has provided over \$103 million in development and planning grants to this airport. This is in addition to Federal funds and resources invested in the construction, maintenance and staffing of a Federal air traffic control tower and aircraft navigational systems. When accepting these Federal funds, Arapahoe County, as the airport sponsor, agreed to certain Federal obligations, known as Federal grant assurances, which among many other requirements, requires the county to preserve and operate Centennial Airport in accordance with FAA regulations and standards and to protect the airport from non-compatible land uses. FAA considers residential development adjacent an airport to be a non-compatible land use (see FAA Order 5190.6B, Airport Compliance Manual, Chapter 20, *Compatible Land Use and Airspace Protection*).

The proposed development lies inside the 65 Day-Night Average Sound Level (dNL) noise contour and just outside the 70 dNL noise contour. The Federal Aviation Administration (FAA) considers any residential development within the 65 dNL contour to be incompatible. The FAA defines 65 dNL to be the significant level of noise where repeated exposure to this noise level prohibits quiet living environments and considers it significantly disruptive. The proposed development lies 0.16 miles from the nearest runway at Centennial Airport and within the Restricted Development Area (RDA) of the Airport Influence Area

(AIA). Based on the Airport's Land Use Guidelines, all new residential and other noise sensitive developments are prohibited within the RDA. Additionally, the proposed residences are adjacent to the departure end of runway 17R and the arrival side of runway 35L, making them subject to numerous aircraft over flights at low altitudes and their associated effects. These effects include, but are not limited to noise, smoke, dust, fumes and vibrations. Not only is this proposed development 0.16 miles from the Airports busiest training runway, but the property also shares a fence line with the airport.

Incompatible land use at or near airports may result in the creation of hazards to air navigation and reductions in airport utility due to obstructions to flight paths or noise-related incompatible land use caused by residential construction development too close to the airport. For these reasons, FAA requires Federally obligated airport sponsors to restrict residential encroachment near their airports, including the adoption of zoning requirements to restrict non-compatible land uses in an area surrounding the airport. Such zoning requirements also ensure compliance with Colorado state laws that require governmental entities with zoning and build permit authority, such as Douglas County, to address safety, noise and compatible land uses around airports (see Colorado Revised Statute 24-65.1-202, Criteria for Administration of Areas of State Interest, and 43-10-133, Safe Operating Areas Around Airports).

Moreover, Douglas County is a member of the Centennial Noise Round Table Committee and its representatives on the committee are well aware of local communities' concerns with aircraft noise and the thousands of noise complaints the Centennial Airport receives every year from individuals that live under the airport's flight paths. To prevent further conflict, it would seem in the County's best interest to protect the welfare of its citizens by restricting residential development in Centennial Airport's approach and departure areas.

In accordance with Title 14 of the Code of Federal Regulations (14 CFR) Part 77, *Safe, Efficient Use, and Preservation of the Navigable Airspace*, and Colorado state law, Douglas County also must ensure the developer of the proposed development requests an airspace analysis to determine potential aeronautical hazards in advance of construction to prevent or minimize the adverse impacts to the safe and efficient use of navigable airspace.

FAA reviews construction proposals through the submittal of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*. If any portion of the proposal is located within 20,000 feet of a public use runway (and breaks a 100:1 plane coming off the nearest point of the nearest runway); or is more than 200 feet above ground level at any location, the FAA requires the project's proponent to file a Form 7460-1. If the proposal does not meet any of the criteria above, it may still be necessary to file a Form 7460-1 if the structure requires an FCC license or there is a potential for navigational equipment interference. The FAA uses information provided on this form to conduct an aeronautical review to determine if the proposal will pose an aeronautical hazard and to minimize the adverse effects to aviation. FAA Form 7460-1 can be filed electronically at www.oaaaa.faa.gov.

For the reasons discussed above, the FAA cannot support the construction of residences so close to Centennial Airport. We recommend the Douglas County not approve this development as proposed and explore alternative uses of this land that better conform with Federal, state and industry recommendations for compatible land uses near airports.

If you have questions regarding the above comments or would like to meet to discuss our concerns, please contact me at (406) 441-5409.

Sincerely,

Joe Nye
Acting Manager
FAA/Denver Airports District Office

APPLICANT'S RESPONSE TO REFERRAL COMMENTS

Centennial Airport's Comments

APPLICANT RESPONSE: The applicant acknowledges the comments received from Centennial Airport in the letter dated 12/2/24. As stated above, the requested draft Avigation Easement included with this resubmittal which will be executed and recorded promptly after final USR approval, via condition of commencement of construction or similar such means. Please see the attached comment response letter from EDI referring to the noise study comments- generally, our findings show that the original airport noise assessment does meet the HUD regulations cited and provides all the information necessary to make an informed decision on the compatibility of proposed land uses. If the Douglas County Planning Commission or Board of County Commissioners feel that additional information is needed, we will be happy to provide that. The applicant also agrees to follow any federal or state regulations, including the referenced FAA Part 77 items regarding FAA Form 7460-1 and potential objects on-site. The airport property will be included on the vicinity map in forthcoming USR resubmittals, and the applicant's team will continue to coordinate with the airport on future reviews.

Federal Aviation Administration

APPLICANT RESPONSE: The applicant's team acknowledges the FAA's position on new residential development and incompatible uses near airports, and appreciates the information provided. The comment letter dated 12/4/24 references Chapter 20 of the Airport Compliance Manual, and the following response outlines the applicant's findings of several points stated in the manual, and offers alternative perspective on FAA regulations and comments:

1. (20.1) *"...if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which federal funds have been expended."*

Based on the first section of language found in Chapter 20, this chapter refers to a change in land use, though the existing Douglas County industrial zoning regulations already allows residential as a Use by Special Review. This means that not only does the County acknowledges that there are certain cases where this land use could be appropriate in this area, it also creates a regulatory path to review and approve such requests. The CARA overlay zone which prohibits multi-family residential within the 65 DNL noise contour is also not proposed to be changed by this proposal. Once again, the County has an established route and specific process to accommodate and review special cases in which the CARA zone district regulations can be reviewed on a case-by-case basis when a residential project is of merit. Adjacent to this project is a residential development which was approved despite the CARA overlay zone, along with a school adjacent to the south which was approved in 2022. This residential project and several other residential projects within the CARA overlay zone, where a waiver was obtained for multi-family use, have been successful proving empirically that multi-family projects in the CARA overlay zone and adjacent to the Centennial Airport can be successful.

1. (20.2.g) *"Pre-existing Obstructions. (1) Historically, some airports were developed at locations where preexisting structures or natural terrain (for example, hilltops) would constitute an obstruction by currently applicable standards. If such obstructions were not required to be removed as a condition*

for a grant agreement, the execution of the agreement by the government constitutes a recognition that the removal was not reasonably within the power of the sponsor.”

The letter references “new construction” and “new development” multiple times. However, the building in question has been in its current location since the mid 1990’s without any harm to the airport, runway, or flight paths, and was approved and constructed per required standards at the time. There will be no expansion or construction that would increase any structural encroachment or obstruction with the building conversion, and redevelopment of unused spaces is not only a sustainable and proven in-fill solution to provide much-needed housing near transportation access and employment opportunities. No County zoning regulations are being changed with this request which may cause further residential development near the airport, or anywhere else. Based on this, we believe that removal of these buildings was not included as a condition in the grant agreement, and the power of removal is not reasonably within the power of Douglas County.

1. Douglas County performed a separate private evaluation of the noise impacts on the proposed Inverness Overlook site, as well as reviewed the noise study provided with our application in the 1st application submittal. The interior noise levels found in the existing structure meet Department of Housing and Urban Development standards for acceptable living environments, and the County’s sound consultant agreed with those findings. The applicant (and seemingly Douglas County staff) finds the HUD’s reasoning behind acceptable noise levels to be more clearly based in science and provide appropriate nuance in their findings and potential mitigation techniques.

The Centennial Airport and FAA’s response letter vaguely refer to “noise, dust, smoke, and vibrations” but offer no further detail or data to back up that claim of harmful effects caused by airports. Centennial Airport states that the “FAA defines 65 dNL to be the significant level of noise where repeated exposure to this noise level *prohibits quiet living environments* and considers it *significantly disruptive*.” This seems to describe an impact that could be disruptive or inconvenient, but not truly harmful. The applicant finds it obvious that the FAA’s and Centennial Airport’s concern with residential land use is not about potential harmful effects, but is primarily due to a desire to minimize complaints about airport noise. Whatever impacts exist for future residents would be equally shared by office users, outdoor recreationalists, school children, and any other people who currently occupy the nearby properties or uses listed by the FAA as “compatible.” Centennial Airport is primarily concerned with reducing the number of noise complaints they receive, and hope that office users would submit complaints less than residents. To avoid this, per the request of Centennial Airport- the applicant has agreed to draft a Landlord Notification Letter which would notify any potential future users of the impacts they may not be aware of prior to lease signing, etc.

Using federal regulation and vague references to harmful effects of airplane operations that are not supported by any analysis is not persuasive when it has been empirically proven that multifamily developments in the vicinity of the airport have been successful, and studies specific to the project in question support the viability of the project. With that said, as noted above; to cooperate with the airport the Applicant will be providing a noise disclosure to all residential tenants and will execute an easement. Additionally, the Applicant intends to be a good neighbor to the airport and always engage in professional discussion when addressing any issue of mutual concern. Finally, the Applicant has met with the airport and understands the airport’s concerns; the Applicant will always keep these lines of communication open and sees the views of the airport to the east as a unique feature to the development that many occupants will enjoy. We have committed that every resident that signs a lease to reside here will acknowledge the location near the airport and that they acknowledge to not provide

complaints to the airport in the future. This is an opportunity to provide more affordable housing to employees of businesses in the area including the airport staff and support staff.

The submitted noise assessment used HUD standards due to the nature of this redevelopment. Adaptive re-use of currently vacant office buildings is currently a very useful strategy to reduce wasted land and structures, while providing needed public investment, and additional housing while we are experiencing a national shortage of housing. In Colorado, this shortage is nothing less than a crisis. The FAA's position on compatible land uses seems outdated and does not take into account local matters, and furthermore - it is the local jurisdictional (Douglas County) decision-makers responsibility to respond to local issues, and we believe Douglas County is aware of their need to honor and uphold their regulations and the agreements they've made in their processes and regulations. Our application has respectfully responded to federal regulation and policy to the highest degree possible, and we hold on to the perspective and trust that the Douglas County Board of County Commissioners to review this application and come to their own decision supporting our request for approval of this simple request to add some residential units in the existing vacant building that has long served the Douglas County community and neighborhood for the last 30 years.

1. As an office building that has existed adjacent to the airport since its construction, the maximum occupancy is currently 1,023. The notion that 1,023 office users, which would typically occupy the property during business hours (which coincides with the busiest airport traffic hours), are somehow less affected by noise, dust, vibration, or any other effects than the maximum 96 residents (as proposed by this USR), does not seem logical or based in scientific findings. Furthermore, the Institute of Transportation Engineers (ITE) Trip Generation Handbook 9th Edition shows office uses as generating exponentially more traffic than multi-family residential uses. The 96 proposed residents would create 318 daily trips (on average, for "Apartment" use category), while the 7.856 acres of office use would create 1,177 trips (on average, for "Business Park" use category – the "General Office" category used in the submitted traffic study would result in an even higher daily trip number. In any case, utilizing any amount of the space for residential use would ultimately result in fewer people affected by the airport during less intensive times of the day.

If there are questions or comments regarding this submission, please notify us and we will address them immediately.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ad R', with a stylized flourish at the end.

Andrew Baker, AICP
Senior Planner, Baseline Engineering Corporation

15 May 2024

Ms. Karen Kennedy
Homeland
2200 S. Valentia St.
Denver CO 80231

Page 1 of 5

Voice: 417-988-8326

RE: Aircraft Noise Assessment
327 Inverness Drive East
EDI Job # C-4467

Dear Ms. Kennedy:

Engineering Dynamics, Inc. has completed an aircraft noise assessment for the proposed conversion of the commercial building located at 327 Inverness Drive East, in Douglas County, Colorado from commercial use to a mixed use of commercial and residential. This noise assessment has been completed to address requirements from Douglas County for the Use by Special Review (USR) for the use change on this project.

This analysis has two parts, which address noise concerns, since the building is located within the Centennial Airport Influence area and within the DNL 65 noise contour. The two parts augment each other.

- a. Sound level measurements inside the building, in areas which are intended to be converted to residential use, to document existing interior Day Night Noise Levels (DNLs) in compliance with the U.S. Department of Housing and Urban Development (HUD) noise guidelines; interior DNL of 45 or less.
- b. Outside to Inside Transmission Loss (OITC) calculation of the building exterior façade elements, in the areas which are intended to be converted to residential use, to demonstrate compliance with HUD noise guidelines for a residential use; interior DNL of 45 or less.

1.0 Background

1.1 HUD Requirements

Department of Housing and Urban Development U.S. Department of Housing and Urban Affairs (HUD) defines acceptability of land used for residential development to be Normally Acceptable when the measured DNL < 65 dB(A). Residential areas with an DNL < 65 dB(A) comply with the Normally Acceptable Criteria for residential development, areas that have DNL's > 65 and < 75 dB(A) are considered Normally Unacceptable, and areas that have DNL's > 75 dB(A) are considered Unacceptable. For residential housing in the Normally Unacceptable category Interior DNL's MUST be less than 45.

The 327 Inverness Drive East Building is located between the DNL 65 and 70 noise contours; the HUD Normally Unacceptable range. Since these noise contours are from aircraft noise, the exterior noise levels cannot be reduced below existing. Therefore, HUD compliance is based on an interior DNL of 45 or less.

1.2 Douglas County Requirements

Interior noise levels are HUD compliant.

1.3 Centennial Airport Noise Contours

Figure 1.3 shows the most recent Centennial Airport Noise Contours. In Figure 1.3 the DNL 75, 70 and 65 noise contours are shown, as is the 327 Inverness Drive East development site. Inspection of Figure 1.3 shows that the 327 building is located between the DNL 65 and 70 noise contours.

2.0 Measured Sound Level Results

Sound level measurements were completed at three locations inside the building over a period of 7-days from 8:30am 7-May-24 through 9:30am 14-May-24. At each measurement location the sound level meter was 5-feet from the windows. The measurement locations were,

- a. 3rd Floor East side northeast corner office (see Figure 2.1),
- b. 2nd Floor East side center of building (see Figure 2.2) and
- c. 3rd Floor West side of center of building (see Figure 2.3),

Sound level measurements were made with three Convergence Instruments Model NSRT_mk4, Type 1 Logging sound level meters. With NIST traceable calibration, calibration date 01-Feb-24.

Results of the sound level measurements show that the 7-day interior DNLs are,

- a. 3rd Floor East side northeast corner office – DNL 41, with variance of -2 and +1.
- b. 2nd Floor East side center of building – DNL 41, with variance -2 and +1.
- c. 3rd Floor West side of center of building – DNL 39, with variance -2 and +1

The measured DNLs inside the building are below the HUD interior limit of DNL 45 for residential buildings between the DNL 65 and 70 noise contours. Therefore, the building interior is compliant with HUD requirements for residential buildings.

Note: the noise floor of the sound level meters is 30 dBA. So, DNLs on the west side of the building will be lower than measured.

3.0 OITC Analysis Results

The standard method for determining the level of sound reduction from outside a building to inside a building is with a noise parameter defined as the Outdoor-Indoor Transmission Class (OITC). This classification yields a measure of the noise reduction through the building exterior façade elements. The expected sound levels inside a building is the average outside noise levels minus the OITC rating. For this analysis the outside noise levels are the maximum expected DNL, or DNL 70 (based on current Centennial Airport Noise Contours).

The OITC rating is determined via the methodology defined in ASTM E1332, 'Standard Classification for Determination of Outdoor-Indoor Transmission Class (OITC)'.

Typically, for a building such as 327 Inverness Drive East, the residential unit that has the greatest exterior façade element area (sum of walls and window areas) is used. In this case proposed unit 313, which is the northeast corner unit on the 3rd floor, see Figure 3.1.

The OITC rating was calculated using standard acoustical engineering methods to calculate the composite Sound Transmission Class (STC) rating of building façade elements and then using the procedures outlined in ASTM E1332 (current revision). The composite STC calculation accounts for the exterior surface area and STC rating for each façade element; walls, roof, windows, and doors. The ASTM E1332 procedure to calculate the Outside-Indoor Transmission Class (OITC) rating incorporates the composite STC data as input. Description of the Composite STC and OITC calculation methodology is shown schematically in Figure 3.2.

For this analysis the following assumptions were made,

- Exterior windows – double pane, two 1/8-inch-thick panes with ½-inch air gap between panes, STC rating 28 to 30.
- Exterior walls – 4-inch-thick brick veneer, ½ to 1-inch air gap, exterior sheathing (OSB or other), 3-5/8-inch steel studs, R-13 fiberglass batt insulation and one layer of 5/8-inch thick gypsum interior surface. STC rating 50 to 55.
- Roof – steel decking, with 2 to 4-inches of insulation and membrane or asphalt coating, 36-inch plenum space with 5/8-inch-thick gypsum hard ceiling. STC rating 50 to 55.

327 Inverness Drive East – Aircraft Noise Assessment
15 May 2024
Page 3 of 10

The OITC calculation sheet is shown in Figure 3.3 and shows a predicted OITC rating of 31. Based on this OITC rating the expected interior DNLs are 41.

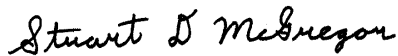
4.0 Conclusion

Results of the sound level measurements and the OITC analysis show that existing and expected DNLs inside residential units in 327 Inverness Drive East will be below the HUD interior limit of 45 DNL for residential buildings within a DNL of 65 to 70.

Therefore the building can be converted from commercial to residential, with no additional noise mitigation as long as the windows are not changed and the exterior wall construction is not significantly changed.

If you have any questions, please contact me at our Englewood office.

Sincerely,
ENGINEERING DYNAMICS, INC.



Stuart D. McGregor, P.E.
President

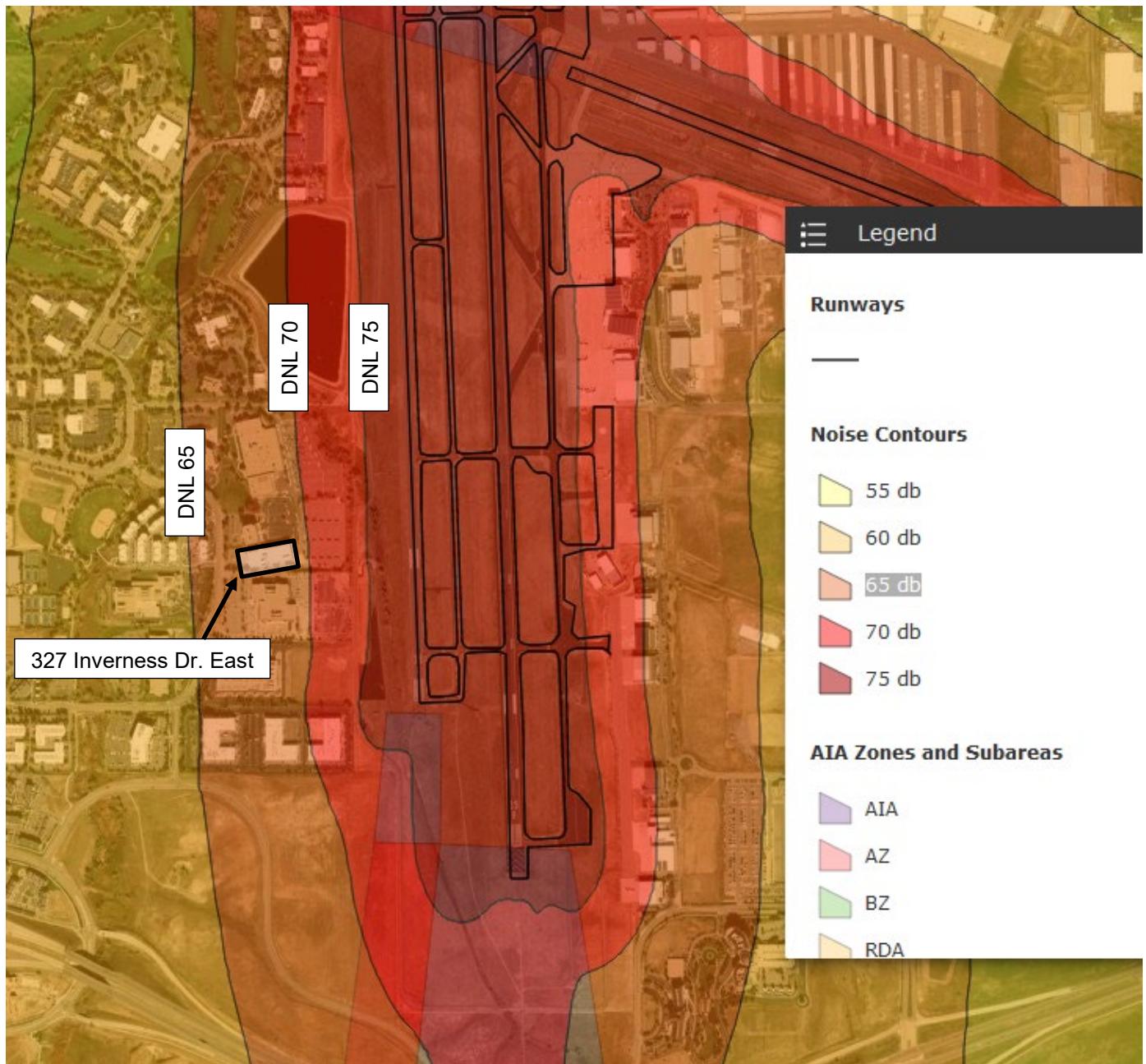


Figure 1.3: Centennial Airport Noise Contours

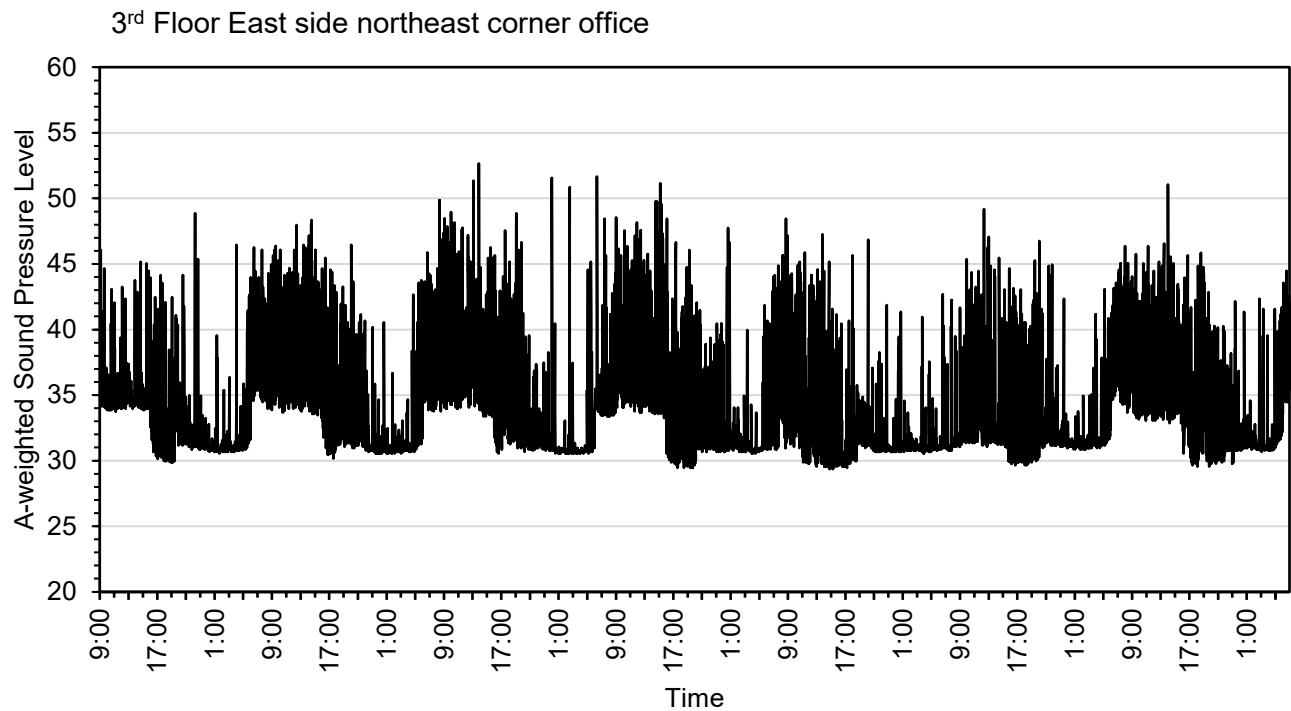


Figure 2.1: 3rd Floor East side northeast corner office

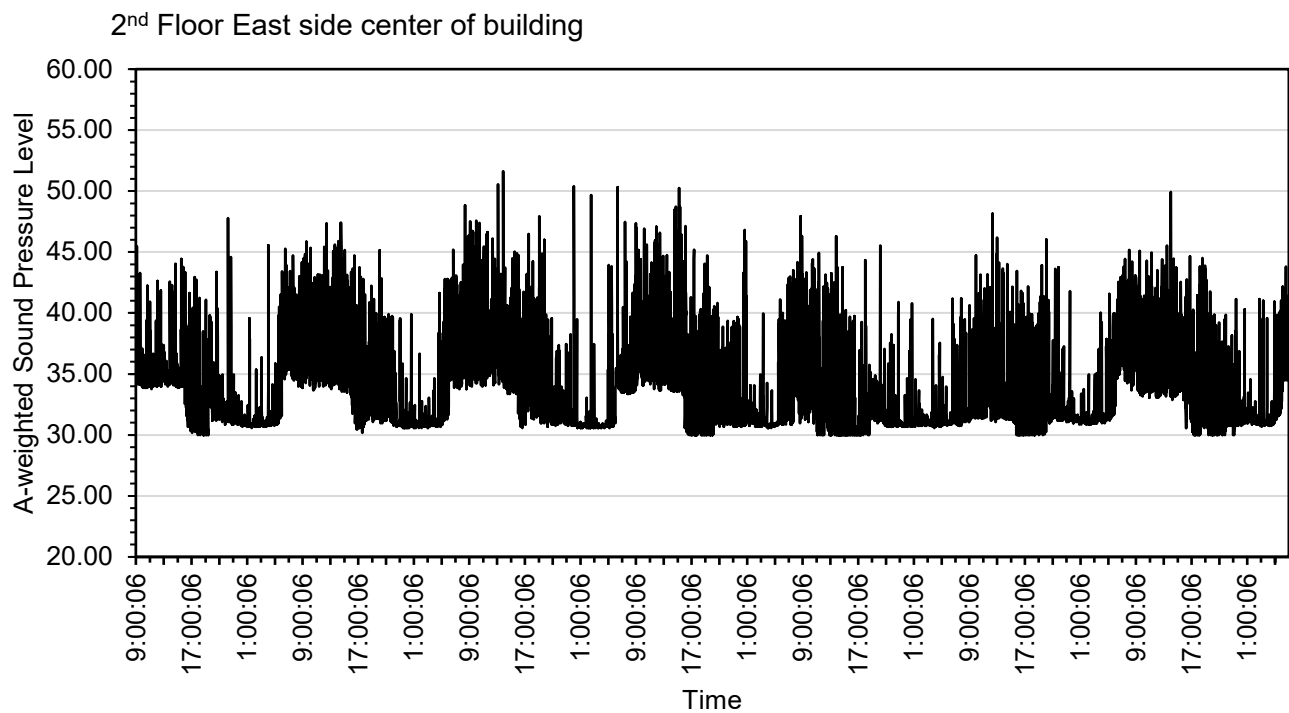


Figure 2.2: 2nd Floor East side center of building

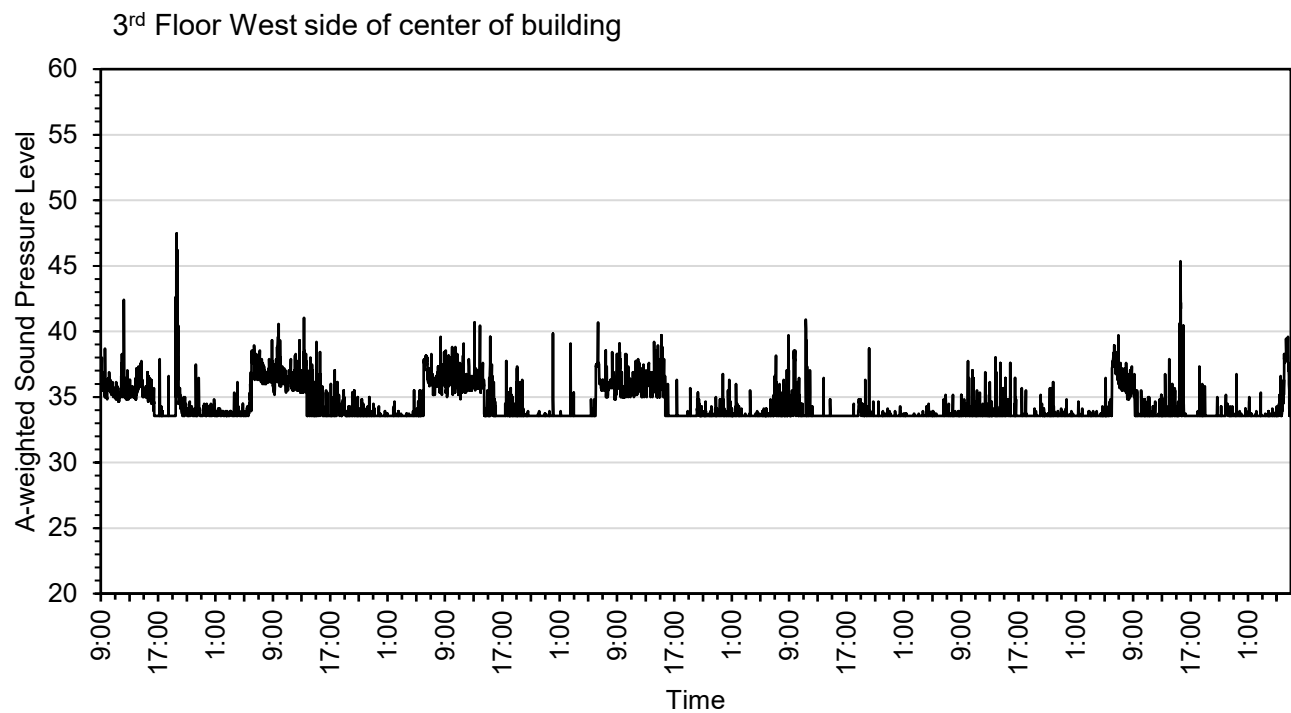


Figure 2.3: 3rd Floor West side of center of building

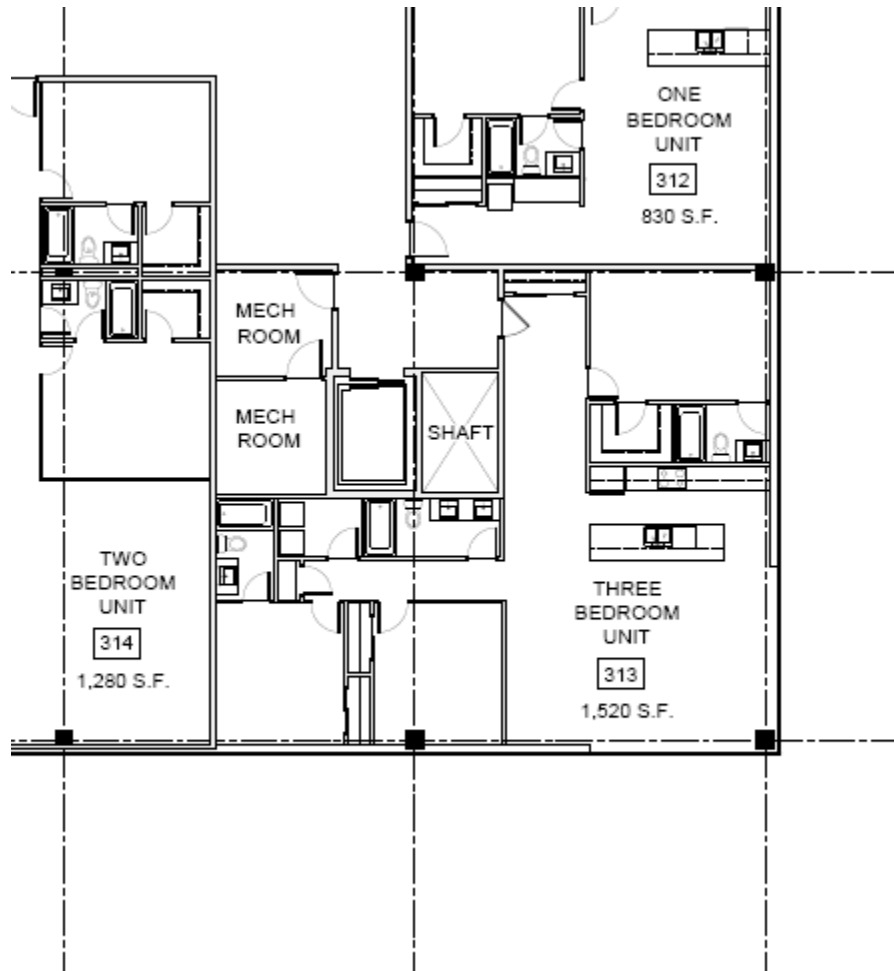
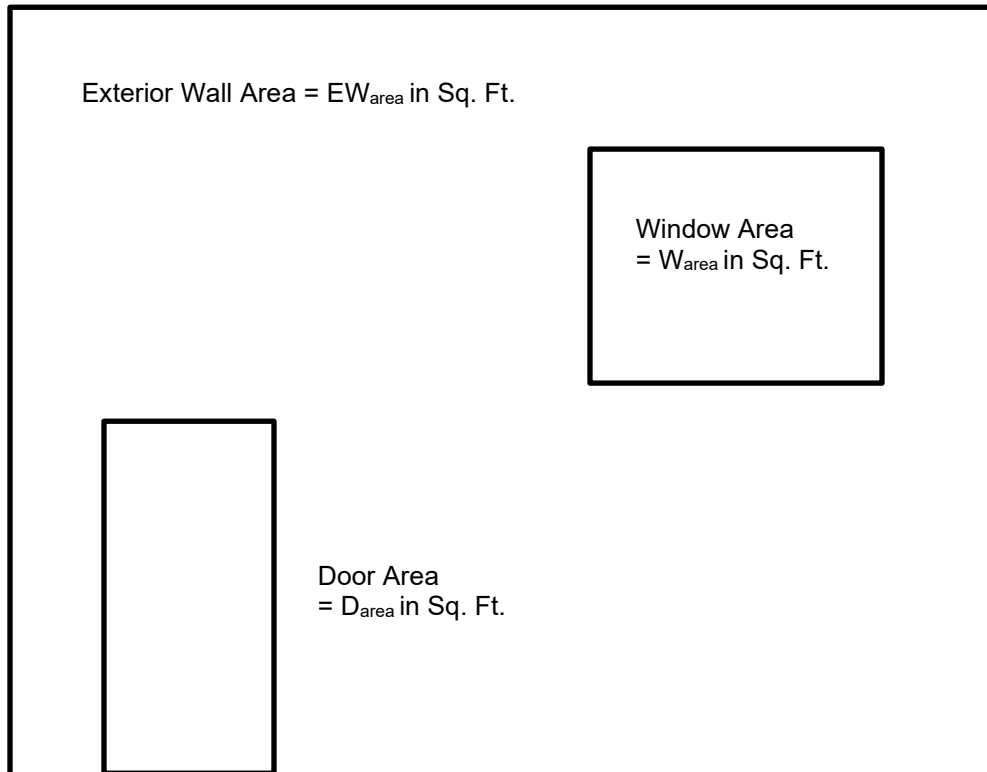


Figure 3.1: Unit 313



$$STC (Composite) = 10 * \log \left[\frac{\sum Facade Element Area_i}{\sum 10^{(Facade Element \tau_i / 10)}} \right]$$

$$OITC = 100.14 - STC(composite)$$

Where,

Facade Element Area i = is the area of the i^{th} façade element in square feet

Facade Element τ_i = is the STC rating of the i^{th} façade element, at a specific 1/3-octave frequency.

The composite STC is calculated at each 1/3-octaveband frequency from 80 to 4000 Hz, as required by ASTM E1332.

Figure 3.2: Composite STC and OITC Calculation Method

327 Inverness Drive East – Aircraft Noise Assessment
 15 May 2024
 Page 10 of 10

Room Identifier:		Unit 313 Living Area																	
Facade Element	Area ft ²	Description																	
Roof	880	Lightweight steel decking roof with 36 inches plenum space																	
Walls	132	3-5/8 inch steel studs with																	
Windows	488	STC 35 Glazing																	
Total Exterior Façade Element Area		1500																	
Building Façade Element Transmission Loss Coefficients																			
		1/3 Octave Centerband Frequency, Hz																	
		80	100	125	160	200	250	315	400	500	630	800	1000	1250	1600	2000	2500	3150	4000
Roof	26	29	32	36	36	40	39	47	52	52	53	55	57	58	58	49	49	54	54
Exterior Walls	28	31	34	36	46	47	51	55	56	56	60	61	60	63	59	52	54	57	57
Windows	25	21	24	20	23	19	19	24	29	34	37	40	42	43	45	46	44	35	35
ASTM 1332 Reference Spectrum		103	102	101	98	97	95	94	93	93	91	90	89	89	88	88	87	85	84
A-weighting Correction		-22.5	-19.1	-16.1	-13.4	-10.9	-8.6	-6.6	-4.8	-3.2	-1.9	-0.8	0	0.6	1	1.2	1.3	1.2	1
Composite Transmission Loss Values		25.8	24.7	27.7	24.7	27.5	23.8	23.8	28.8	33.8	38.7	41.7	44.6	46.6	47.6	49.5	47.9	46.8	39.8
Third Octave OITC		54.7	58.2	57.2	59.9	58.6	62.6	63.6	59.4	56	50.4	47.5	44.4	43	41.4	39.7	40.4	39.4	45.2
Outdoor-Indoor Transmission Class	31																		

Figure 3.3: 327 Inverness Drive East OITC Calculation Sheet

17 April 2025

Tower 22 LLC
Attn: Ms. Karen Kennedy
Denver CO 80231

Page 1 of 8

Voice: 417-988-8326

RE: SEL Aircraft Noise Measurement Results
327 Inverness Drive East
EDI Job # C-4467-2

Dear Ms. Kennedy:

Engineering Dynamics, Inc. has completed updated sound level measurements inside the 327 Inverness Drive East building, located in Douglas County, Colorado. These measurements were made to determine the Single Event Levels (SELs) from aircraft operations at Centennial Airport and then determine the Day-Night Levels (DNLs) inside the proposed residential areas of the building.

1.0 Measurement Locations and Dates

Sound level measurements were made in the 3rd floor northeast corner private office. This location was chosen to minimize noise from other activities, currently in process, inside the building. This location also presents the worst-case SEL generated DNL for noise inside the building. The SEL generated DNLs from the measurement's location will be representative for SEL generated DNLs of residential units along the east side of the building. For residential units along the North, South and West sides of the building, the SEL generated DNLs will be less than the measured east side SEL generated DNLs. The calculated SEL generated DNLs for residential units along the North, South and West sides of the building will be presented in the results section of this report.

Sound levels were measured from ~11:30am on Thursday 27-Feb-25 through noon on Sunday 9-Mar-25, for a total of eight days of sound level measurements.

NOTE: data was not taken on Tuesday the 1st of March 2025, due to inclement weather.

2.0 Instrumentation and Measurement Parameters

Sound level measurements were made with one Convergence Instruments Model NSRT_mk4, Type 1 Logging sound level. The instrument was field calibration checked at the beginning and end of the measurements, with a Larson Davis Model CAL200 Acoustic Calibrator, SN 12548, with NIST calibration date of 20-Jan-25.

Beginning Calibration Check Level – 94.0 dB

Ending Calibration Check Level – 94.0 dB.

The sound level meter was configured to acquire and log A-weighted sound levels on 1-second intervals.

3.0 Measured Sound Level Results

The measured 1-sec sound levels for the eight measurement days are shown in Figures 3.1 through 3.8.

The logged aircraft events were then analyzed to determine the SEL for aircraft events producing measured sound levels above 45 dBA. These SEL events were then used to calculate the interior DNL for each 24-hour period. For SEL events between 22:00:00 and 07:00:00 the DNL 10 dB nighttime adjustment was added to the SEL level in the DNL calculation process.

Table 3.1 shows the SEL generated DNLs for each measurement day, for the measurement location. This location in the building has the greatest aircraft noise impact. Locations along the north, south, and west sides of the building will have lower levels of aircraft noise impact.

Table 3.1: SEL Generated DNLs for Residential Units along the East side of the Building

Day #	Date	Time	SEL Generated DNL
1	27-Feb-25 to 28-Feb-25	11:50am to 11:50am	50
2	28-Feb-25 to 1-Mar-25	11:50am to 11:50am	49
3	1-Mar-25 to 2-Mar-25	11:50am to 11:50am	48
4	2-Mar-25 to 3-Mar-25	11:50am to 11:50am	50
5	5-Mar-25 to 6-Mar-25	9:00am to 9:00am	48
6	6-Mar-25 to 7-Mar-25	9:00am to 9:00am	47
7	7-Mar-25 to 8-Mar-25	9:00am to 9:00am	45
8	8-Mar-25 to 9-Mar-25	9:00am to 9:00am	47
Average SEL Generated DNL in Measurement Room			48 (-3, +2)

4.0 Interior SEL Generated DNLs

The level of aircraft noise intrusion into the building depends on the noise reduction across the exterior façade elements of the building, with walls providing greater noise attenuation than windows. The exterior façade elements for the 3rd floor residential units are as follows.

3rd Floor Ceiling Height – the ceiling throughout the 3rd floor is 8-1/2 feet to bottom of Tee Grid ceiling and ~3 feet of plenum space to exterior structural concrete beam.

Exterior Glazing – the existing exterior glazing around the entire 3rd floor is 1-inch thick (1/4-glass, 1/2-inch air space, 1/4-inch glass). This configuration of windows has a Sound Transmission Class (STC) rating of 36.

North, South and West Sides – have a ~2-foot exterior wall (from floor to 3 feet), then 5-1/2 feet of glazing (window) and ~1/2-foot soffit above the windows.

East Side – has 8-feet of glazing with and ~1/2-foot soffit above the windows.

Aircraft noise intrusion into the residential units is through the exterior façade elements and decreases further into the residential unit; the further from the exterior of the building.

East Side of Building – has the greatest level of aircraft noise exposure, receiving direct noise exposure for aircraft taking off and landing Runways 17/35R and 17/35L. The other three sides of the building have lower direct aircraft noise exposure. Also, aircraft noise levels are on the order of 10 to 15 dB lower during landing than during take-off.

West Side of Building – has almost no direct noise exposure from aircraft take-offs and landings and only has noise exposure from aircraft in the 35L/17R pattern (downwind). The exterior noise exposure for residential units on the west side of the building is more than 10dB less than the east side of the building.

North Side of Building – has direct noise exposure for aircraft taking off towards the north and south, with a shorter time of exposure for aircraft taking off towards the south and aircraft landing towards the north.

South Side of Building – has direct noise exposure for aircraft taking off towards the south (although lower time of exposure than the east side of the building) and landing from the south. The south side of the building has much lower noise exposure for aircraft taking off towards the north.

Expected interior SEL Generated DNLs for residential units along each side of the building are shown in Table 4.1. These interior DNLs consider noise level exposure and noise attenuation inside the residential unit. The predicted levels are inside the residential units, after final construction has been completed.

Table 4.1: Interior DNLs in Residential Units along each Side of the Building

Side of Building	SEL Generated Interior DNLs		
	Living Area along Exterior Wall	First Interior Bedroom	Second Interior Bedroom
North	45	<40	<35
South	45	<40	<35
East	48	<43	<38
West	<40	<35	<30

Inspection of Table 4.1 shows,

- All interior bedrooms or rooms NOT along the exterior walls of the building will have SEL generated DNLs less than 45.
- For residential Units on the North and South sides of the building Living Areas or rooms along the exterior walls of the building, will have interior SEL generated DNLs that are at 45.
- For residential Units on the East side of the building Living Areas or rooms along the exterior walls of the building, will have interior SEL generated DNLs that exceed 45 by 3 dB.
- For residential units on the East side of the building, living areas or rooms along the exterior walls of the building will have interior SEL-generated DNLs that exceed 45 by 3 dB. Unless interior partition walls separate the living space from the exterior walls or glass mitigation measures are implemented.

5.0 Noise Mitigation

For this building mitigation/reduction of aircraft noise intrusion into the building along the east exterior wall can be achieved by several options,

- Replacing the exterior glass on the east side of the building with glass that has a STC rating of 39 or more.
- Configuring the residential layout so that there are no residential living areas along the east side of the building, or
- Configuring the residential layout so there is a partition wall between the east exterior wall and any living areas (i.e. a hallway is created along the east side of the building, the east side of the building is made to be a common area use such as a gym or lounge, etc.).

327 Inverness Drive East – Aircraft Noise Assessment
17 April 2025
Page 4 of 8

- d. Determination of the predicted interior SEL generated DNLs will depend on an acoustical review of the final interior layout

Noise intrusion into a building is directly analogous to heat loss or cold air intrusion into a building. For thermal insulation of a building, most of the heat loss or cold intrusion is through the façade element with the lowest R-value, the windows. The dominant path for noise intrusion is through the façade element with the lowest STC rating, the windows. For this building, the current exterior walls have an STC rating of 45 to 50, and the current windows have an STC rating of 36. So, most of the noise entering the building is through the windows, not through the walls. Therefore, an effective approach to reduce interior aircraft-related noise to levels below 45 dB in the entire building is by increasing the STC rating of the exterior windows along the east side of the building where any residential units are located. Installation of new window glazing that provides STC ratings of 39 or greater along the east exterior of the building where any residences are located shall provide a living space that meets and exceeds the DNLs required for residential occupancy in the building.

Alternatively, having an interior wall built with standard construction techniques between the building's east external wall and any living areas would achieve mitigation would provide a living space that meets and exceeds DNLs required for residential occupancy in the building.

6.0 Summary

The SEL aircraft noise measurements made between Thursday 27-Feb-25 through noon on Sunday 9-Mar 25, show that the SEL generated Interior DNLs in the 327 Inverness Drive East building only exceed the HUD interior DNL limit of 45 by 3 dB and only for rooms along exterior walls on the east side of the building. All other interior spaces have interior SEL-generated DNLs are at or less than the HUD interior DNL limit of 45.

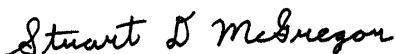
It is recommended that the final residential design implement one of two noise mitigation paths.

One, along the east side of the building, incorporates a separation of the exterior of the building and the residential units with a wall or common area element.

Two, remove and replace existing exterior glazing with new window glazing that has an STC rating of 39 or higher along the east side of the building where any residence is located.

If you have any questions, please contact me at our Englewood office.

Sincerely,
ENGINEERING DYNAMICS, INC.



Stuart D. McGregor, P.E.
President

Figure 3.1: Day 1 Measurement Data, 11:50am 27-Feb to 11:50am 28-Feb 2025

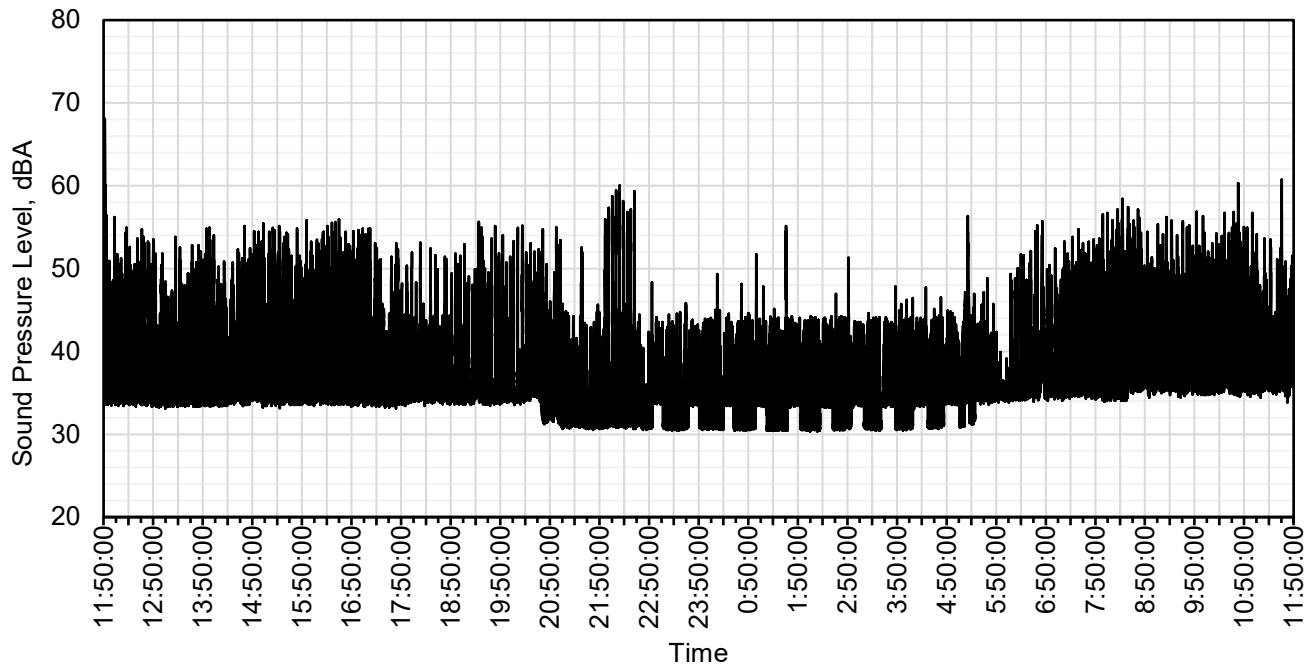


Figure 3.2: Day 2 Measurement Data, 11:50am 28-Feb to 11:50am 1-Mar 2025

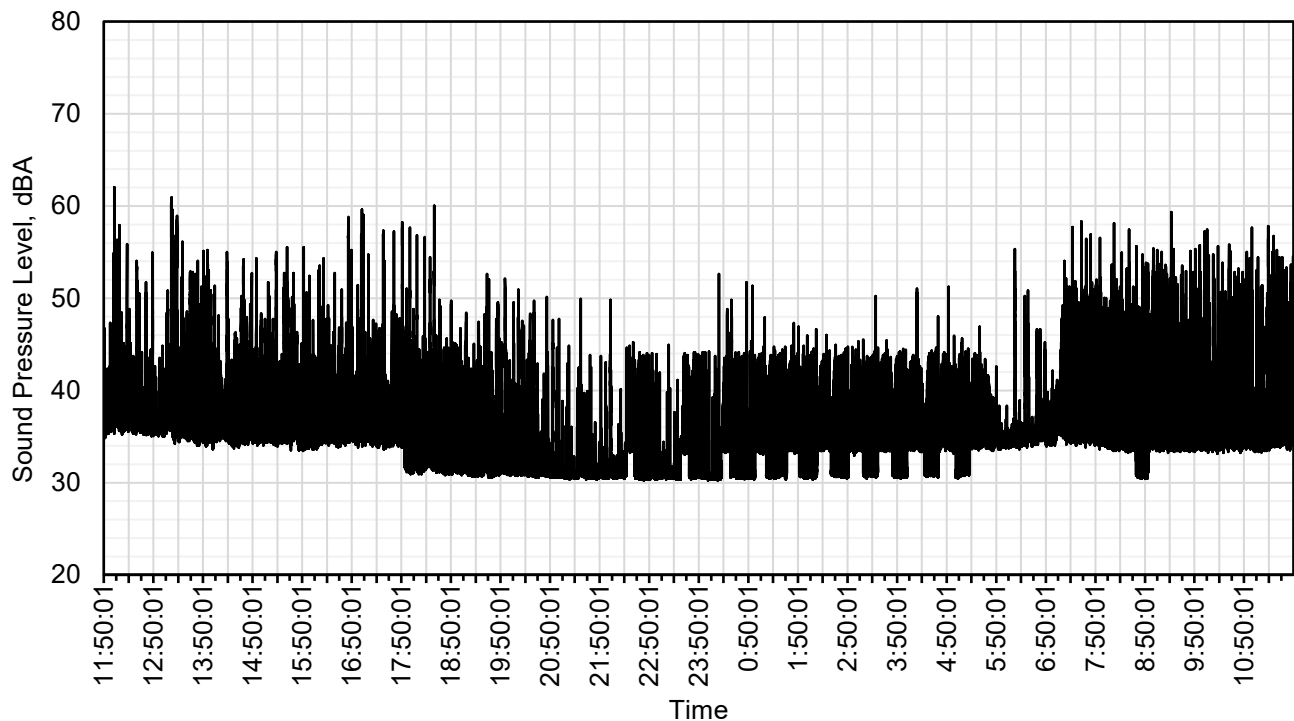


Figure 3.3: Day 3 Measurement Data, 11:50am 1-Mar to 11:50am 2-Mar 2025

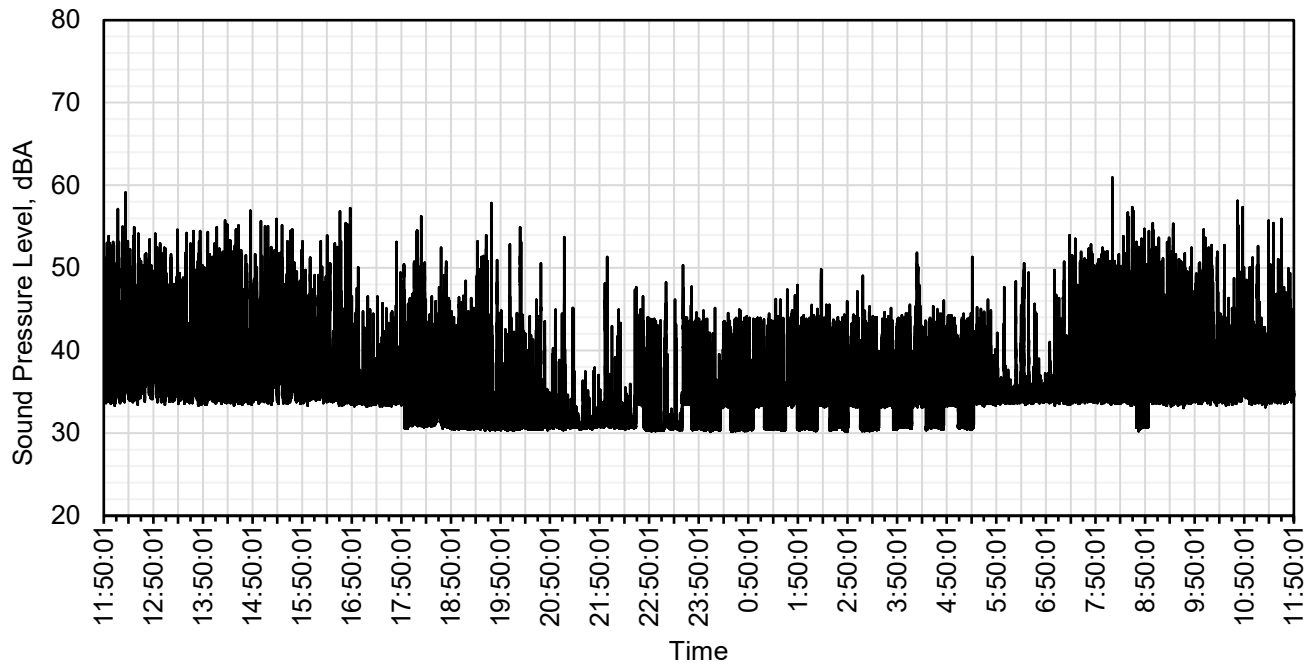


Figure 3.4: Day 4 Measurement Data, 11:50am 2-Mar to 11:50am 3-Mar 2025

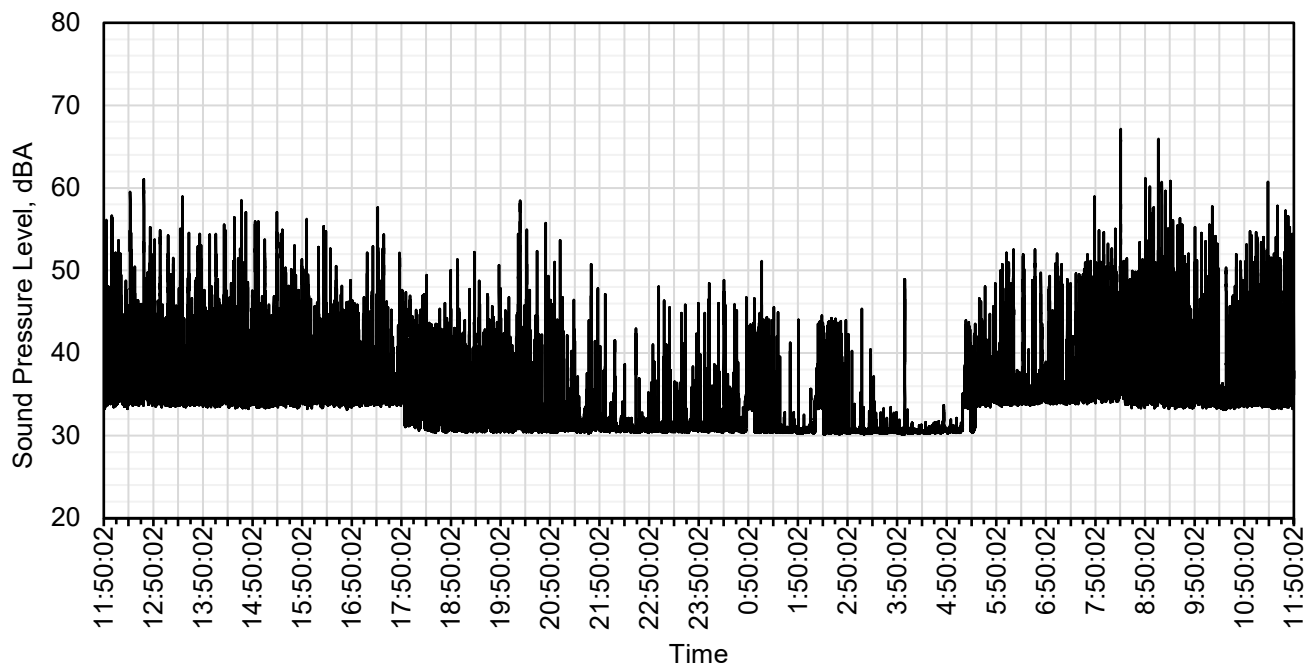


Figure 3.5: Day 5 Measurement Data, 9:00am 5-Mar to 9:00am 6-Mar 2025

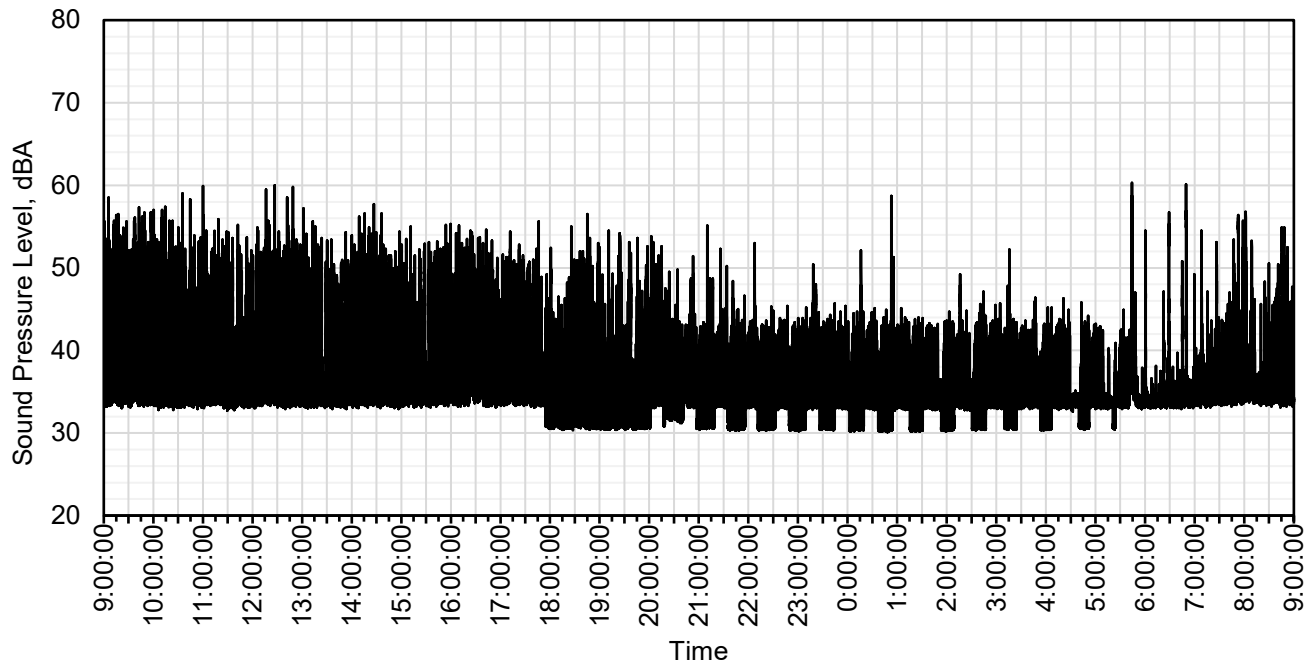


Figure 3.6: Day 6 Measurement Data, 9:00am 6-Mar to 9:00am 7-Mar 2025

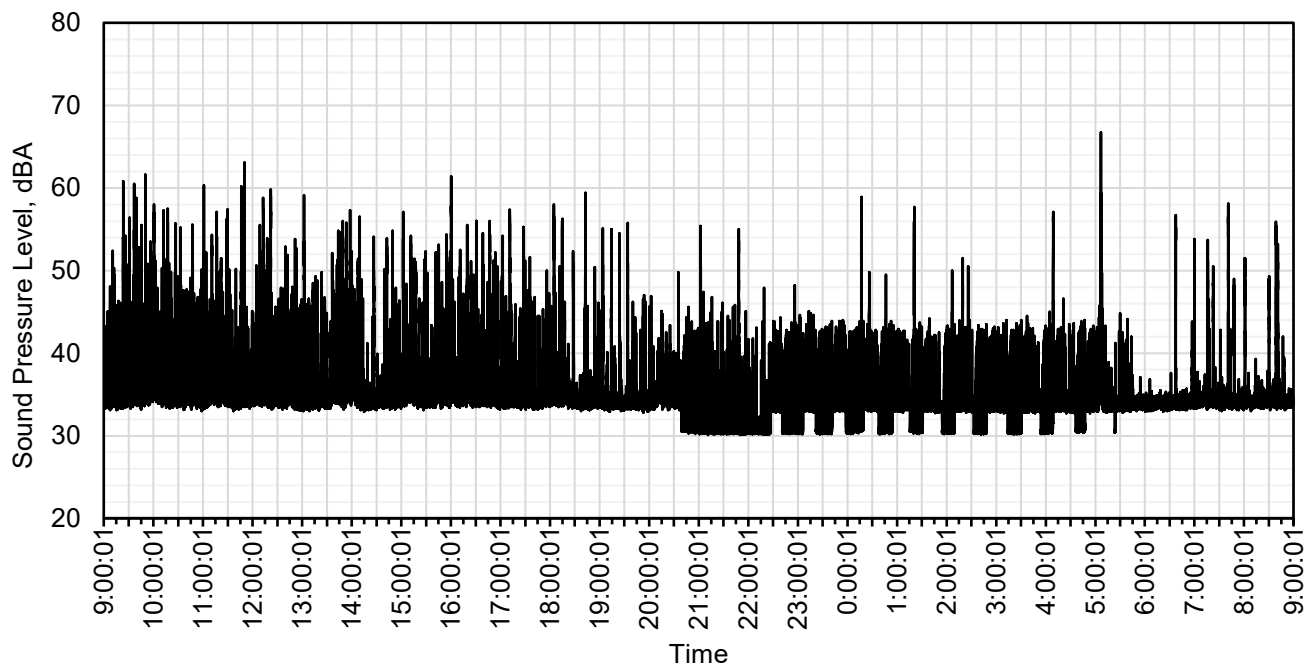


Figure 3.7: Day 7 Measurement Data, 9:00am 7-Mar to 9:00am 8-Mar 2025

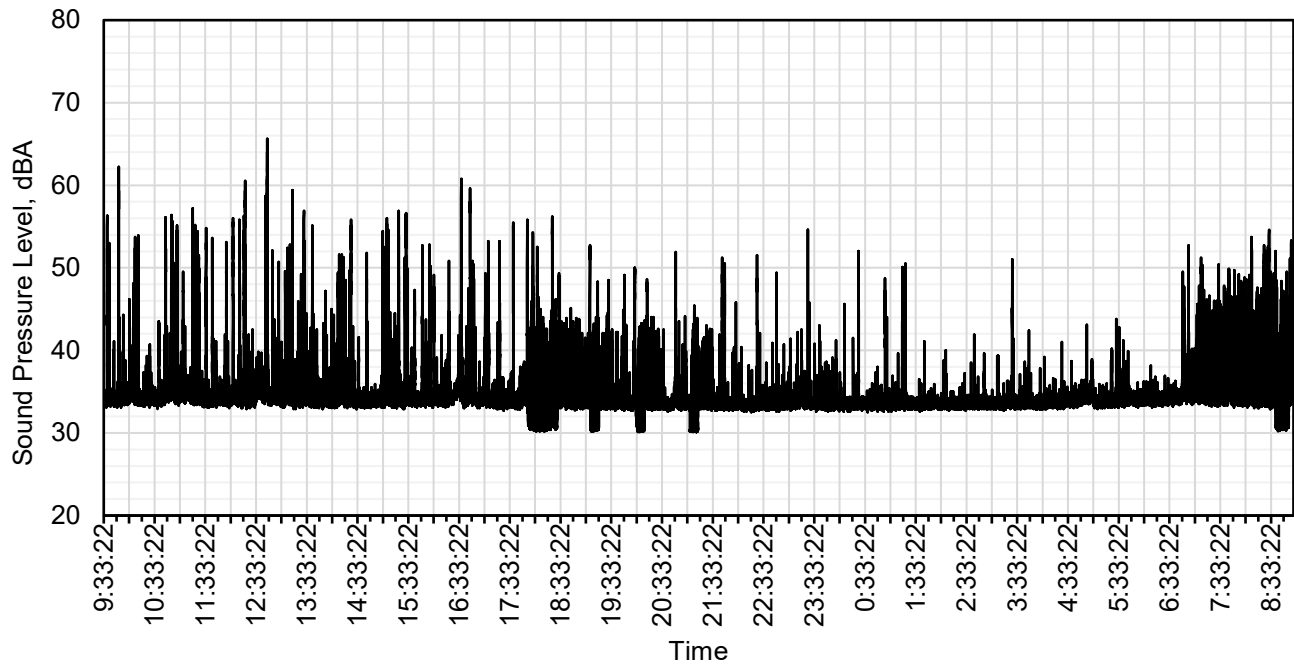
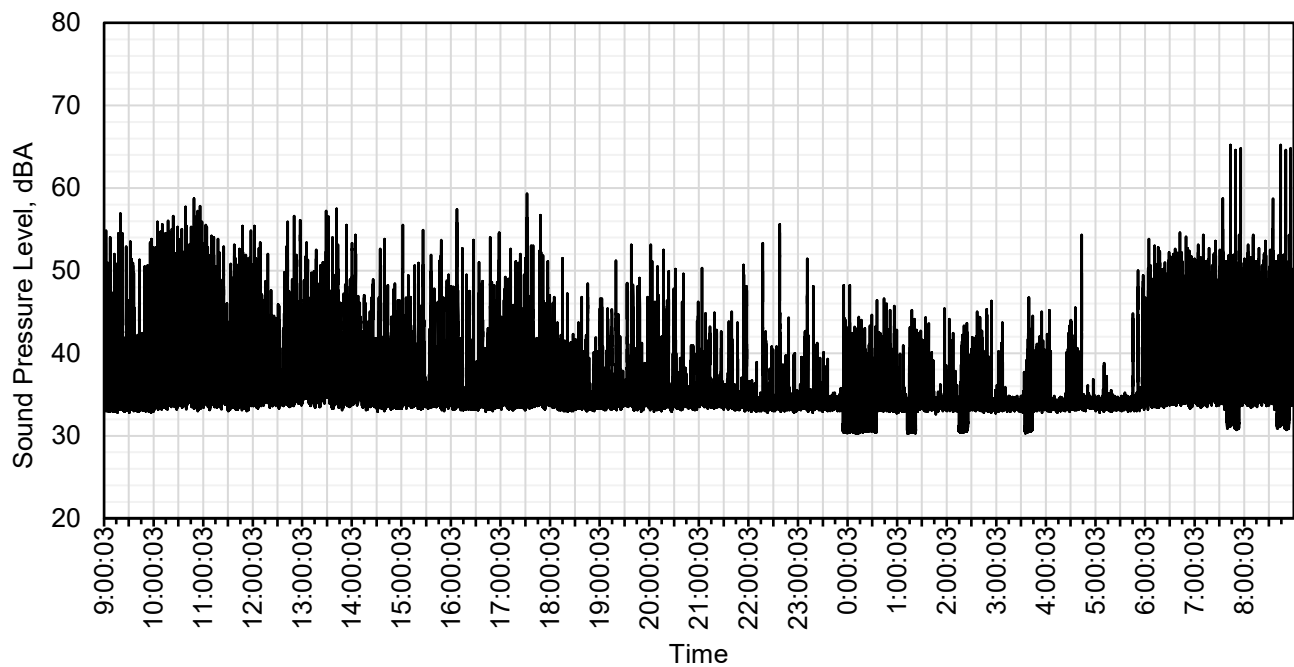


Figure 3.8: Day 8 Measurement Data, 9:00am 8-Mar to 9:00am 9-Mar 2025



December 11, 2024

Mike Pesicka, Principal Planner
Douglas County Department of Community Development
100 Third Street
Castle Rock, Colorado 80104

Re: Inverness Overlook Noise Impact Review (DLAA #15-211-Z1)

Mr. Pesicka,

We have reviewed the documents and information you provided regarding the proposed Inverness Overlook project located at 327 Inverness Dr. South. The information provided includes an Aircraft Noise Assessment conducted by EDI dated May 15, 2024, and a USR Project Narrative by Baseline Engineering Corp. The following memo summarizes our review of these documents with respect to the noise impacts on the Inverness Overlook project site.

The existing building - a three-story office building proposed for adaptive re-use as multi-family residential - is directly adjacent to Centennial Airport and within its Noise Sensitive Zone (NSZ). Exterior noise levels are expected to exceed Douglas County/HUD normally acceptable criteria of 65 DNL. With no reduction in these exterior noise levels anticipated, the applicant cites the HUD Normally Acceptable interior criteria of 45 DNL. The provided documents propose that the current building exterior façade elements are sufficient to meet this interior noise criteria.

We find the technical content of the initial noise study, i.e. calculation methodologies, to be satisfactory. Long-term noise measurements taken inside the current building demonstrate that actual interior noise levels fall below 45 DNL. Additionally, OITC calculations were provided to estimate resulting interior noise levels from published exterior noise data and were found to agree with the measured data.

We have conducted an independent noise assessment and can confirm the site falls between the 65 and 70 DNL contours on Centennial's Airport Influence Area Map. An OITC check using HUD's STraCAT tool agrees with EDI's assessment. Note that if doors, windows, or other exterior building elements are changed at any point, only materials with equivalent or better sound isolation performance should be used.

Please do not hesitate to reach out with any questions.

Sincerely,



William D. Hesser P.E.
Senior Acoustical Consultant

From: [William Hesser](#)
To: [Michael Pesicka](#)
Cc: [Ted Pitney](#)
Subject: RE: Douglas County Land Use Application Referral
Date: Tuesday, May 6, 2025 11:31:43 AM

Hi Mike,

We've reviewed the 7-day noise test by EDI and find it satisfactory. We generally agree with their recommended upgrades to the building east façade.

Let us know if you have any questions or would like a written review letter.

Best regards,

William D. Hesser P.E.
Senior Acoustical Consultant



From: William Hesser
Sent: Monday, May 5, 2025 11:19 AM
To: 'Michael Pesicka' <mpesicka@douglas.co.us>
Cc: Ted Pitney <tpitney@dlaa.com>
Subject: RE: Douglas County Land Use Application Referral

Hi Mike,

I think that's possible. Ted is out today but I should be able to touch base with him in the morning and get something to you.

Will be in touch shortly.

William D. Hesser P.E.
Senior Acoustical Consultant



May 19, 2025

Douglas County Department of Community Development
100 Third Street
Castle Rock, CO 80104

Attn: Mike Pesicka

RE: Support for Rezoning – US2024-011 (327 Inverness Dr S, Englewood, CO 80112)

Dear Mr. Pesicka,

On behalf of Branches Company LLC d/b/a Joyful Light, the largest tenant at 327 Inverness Drive South, I am writing to express our full support for the rezoning of a portion of the third floor of the building to allow multifamily residential use.

We moved into the building in December 2024 and operate a children's theater group that generates significant community engagement and foot traffic. We have worked diligently to be respectful neighbors and have made every reasonable effort to honor the parking and drive lane easements in place between 327 and 325 Inverness Dr S.

Unfortunately, despite our best efforts to initiate open and neighborly dialogue with the tenant at 325 Inverness, those efforts have been met with limited to no constructive response. We have experienced firsthand the challenges of trying to cooperate with a party that appears unwilling to collaborate. That said, our landlord has consistently acted in good faith—addressing any concerns raised by Radix promptly and respectfully—and we, as tenants, have done the same.

In terms of parking and drive lane usage, any issues are infrequent. The vast majority of the time, there are no concerns at all. When someone mistakenly parks in the wrong lot, the error is promptly and respectfully addressed—typically without incident.

It is our view that Radix's opposition is not rooted in actual, persistent violations but rather in discomfort stemming from no longer having a 100% vacant building next door. We understand change can be challenging, especially after a prolonged period of building vacancy, but that does not negate our rights as tenants or the rights of the property owner under valid easement agreements or the need to bring vibrancy back to Inverness.

Importantly, the proposed residential conversion aligns with thoughtful, mixed-use development principles that benefit the wider community. We believe the landlord has demonstrated a commitment to responsible property stewardship and the concerns voiced by Radix do not accurately reflect the reality of the situation. There is residential use right across the street and an awesome school immediately to the south. The character of Inverness is changing for the better and life is coming back to a dead office park. We wanted to be part of that transformation so we located our amazing Christian community theater to 327 Inverness. We are excited to see more vibrancy both brought to 327 Inverness and to the area as a whole.

At Joyful Light, we strongly believe that this rezoning will benefit the broader community. Residential density will not only support local businesses including ours, it will also bring in

additional tax revenue to the County. Right now, significant square footage in the area remains vacant, and the area lacks the energy and appeal needed to attract and retain businesses long-term.

It is also important to note that the Inverness Office Park area currently has the highest office vacancy rate of any Denver suburb. A mixed-use approach that includes non-traditional tenants like Branches Company and Overtime Fitness, as well as the proposed residential component, helps diversify and stabilize the area's economic base. This zoning change would contribute to revitalizing a neighborhood that currently suffers from underutilization and lack of vibrancy.

We ask that the County fairly consider the facts and the strong support among tenants for the proposed rezoning. We are fully committed to working with the ownership of 325 Inverness to collaborate on any concerns they may have. In fact, I gave them my cell phone number. Despite promising to send me their number, they have yet to send it over.

Sincerely,

DocuSigned by:

C3D2E5B1A27C428...
Bryan Park

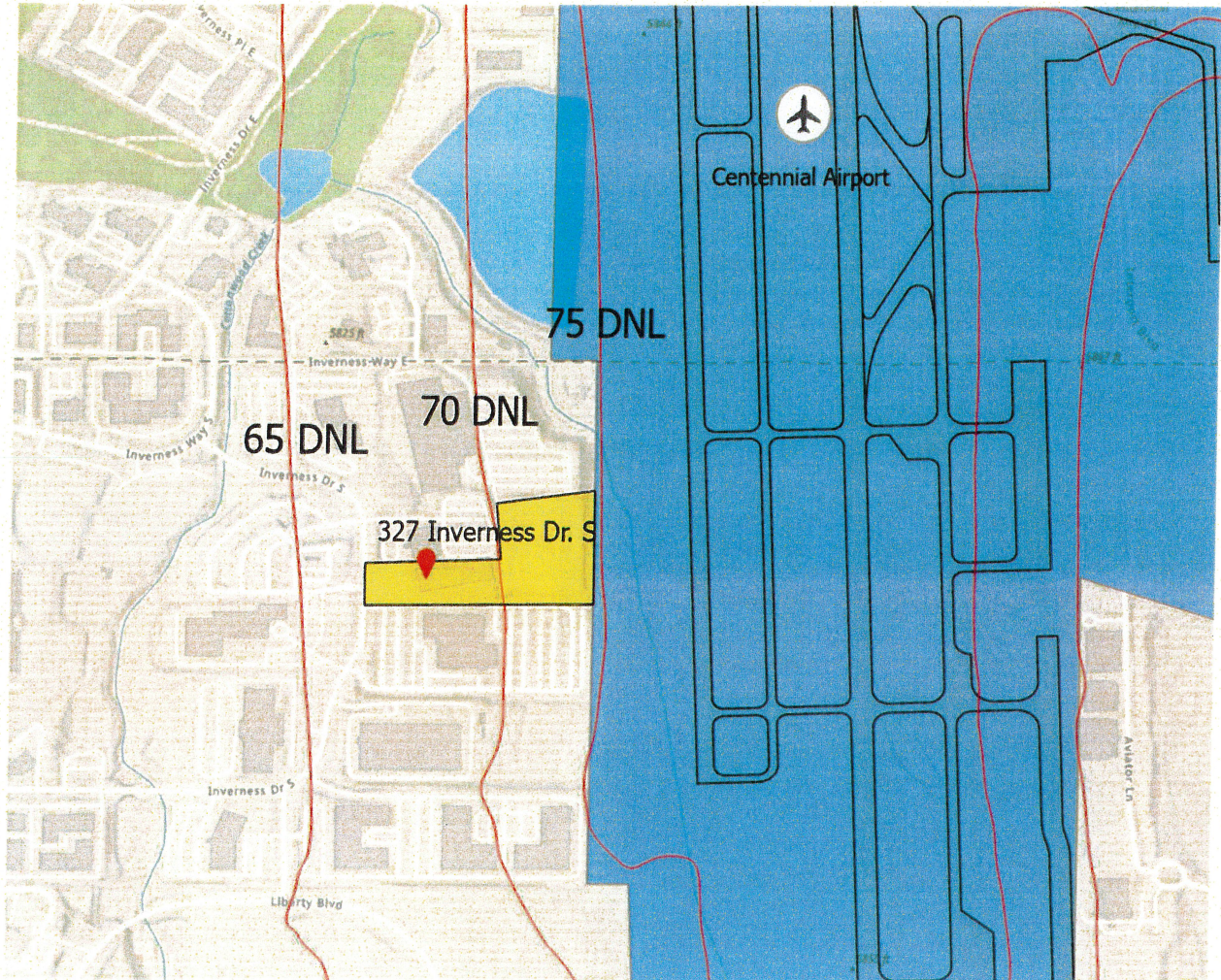
Branches Company LLC d/b/a Joyful Light
327 Inverness Dr S, Suite 104
Englewood, CO 80112



CENTENNIAL AIRPORT
ARAPAHOE COUNTY PUBLIC AIRPORT AUTHORITY
7565 South Peoria Street, Unit D9
Englewood, Colorado 80112
main: 303.790.0598
fax: 303.790.2129
www.centennialairport.com

Exh. 1 for the record.

**US2024-011 – Zoning Resolution Waiver for Inverness Filing 9, Lot 3
(327 Inverness Dr. South)**



In July of 2024, which was the busiest month of 2024, 327 Inverness Dr. S saw the following number of overflights within 1/4 mile of the property:

Operation Type:	Number of Operations:
Arrivals:	328
Departures:	120
Training Flights:	14,694
Total Overflights:	15,142



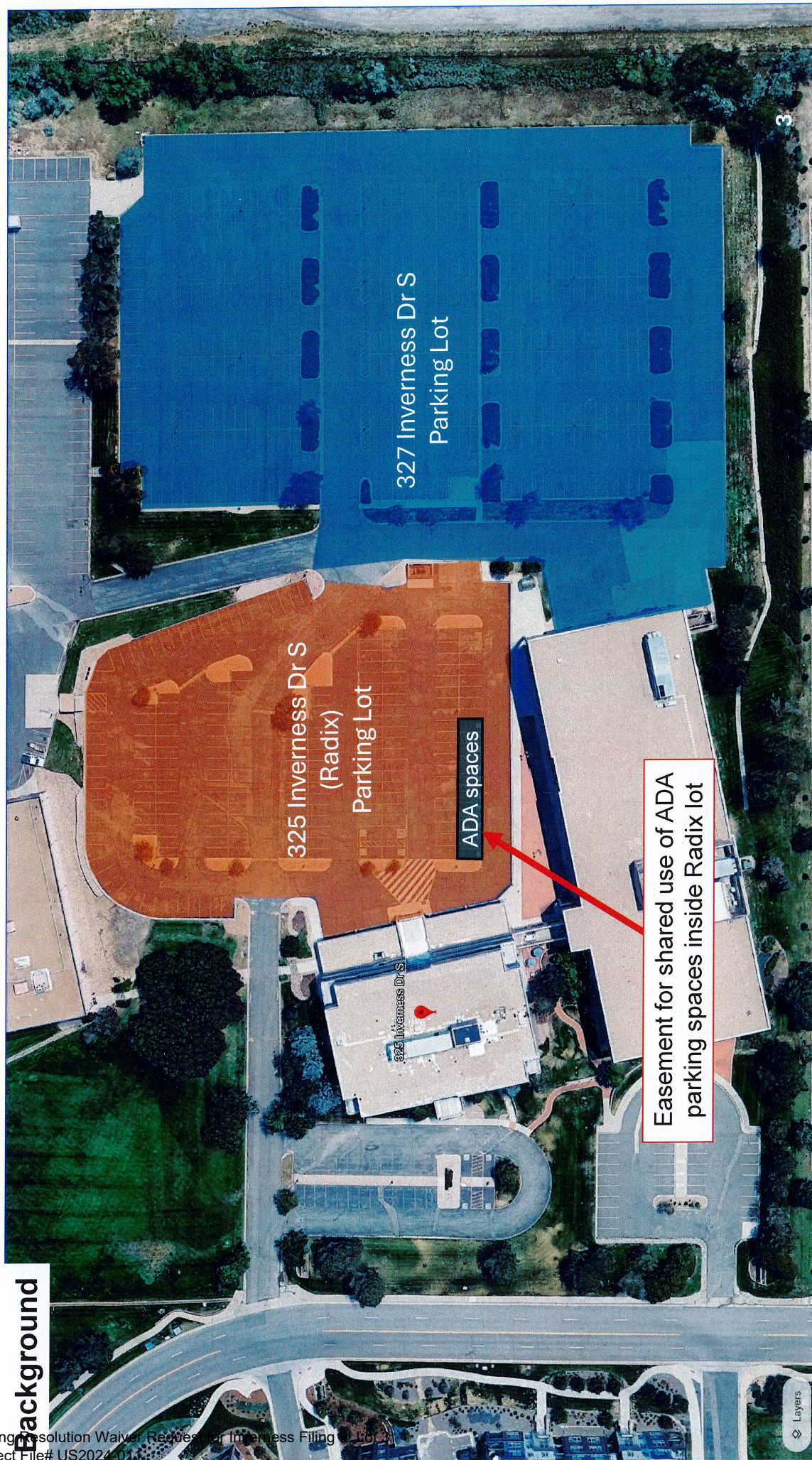
Exh. 2

1. Background
2. Reasons This Variance Should Not be Granted
 - Incompatibility of Use
 - Hardship is Self-Imposed
 - Inadequate Setback Distance
 - Easement Will be Overburdened
 - Creates Undue Hardship
3. Developer Plans Cannot be Legally Executed
4. Existing Problems Will be Further Intensified

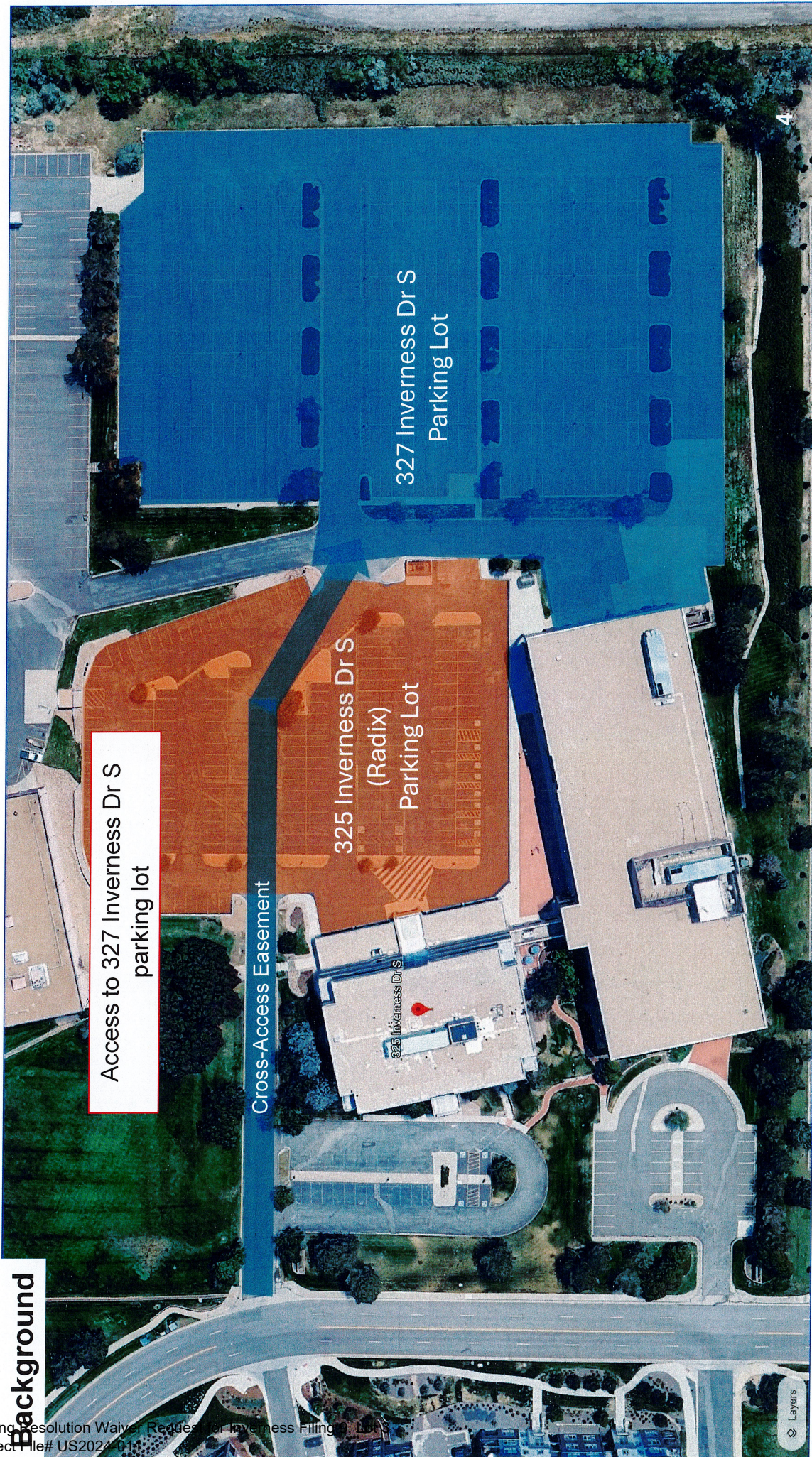
Background

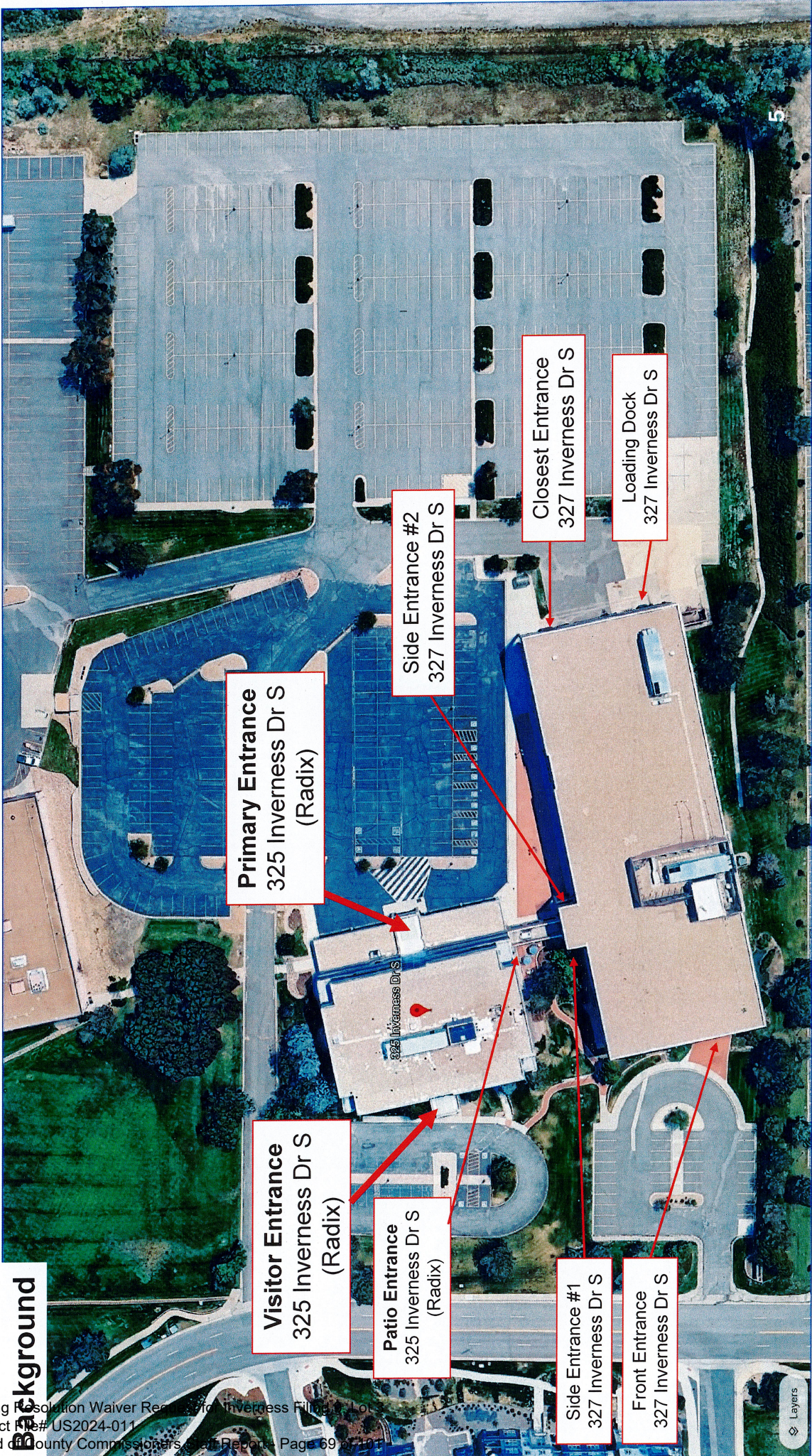


Background



Background





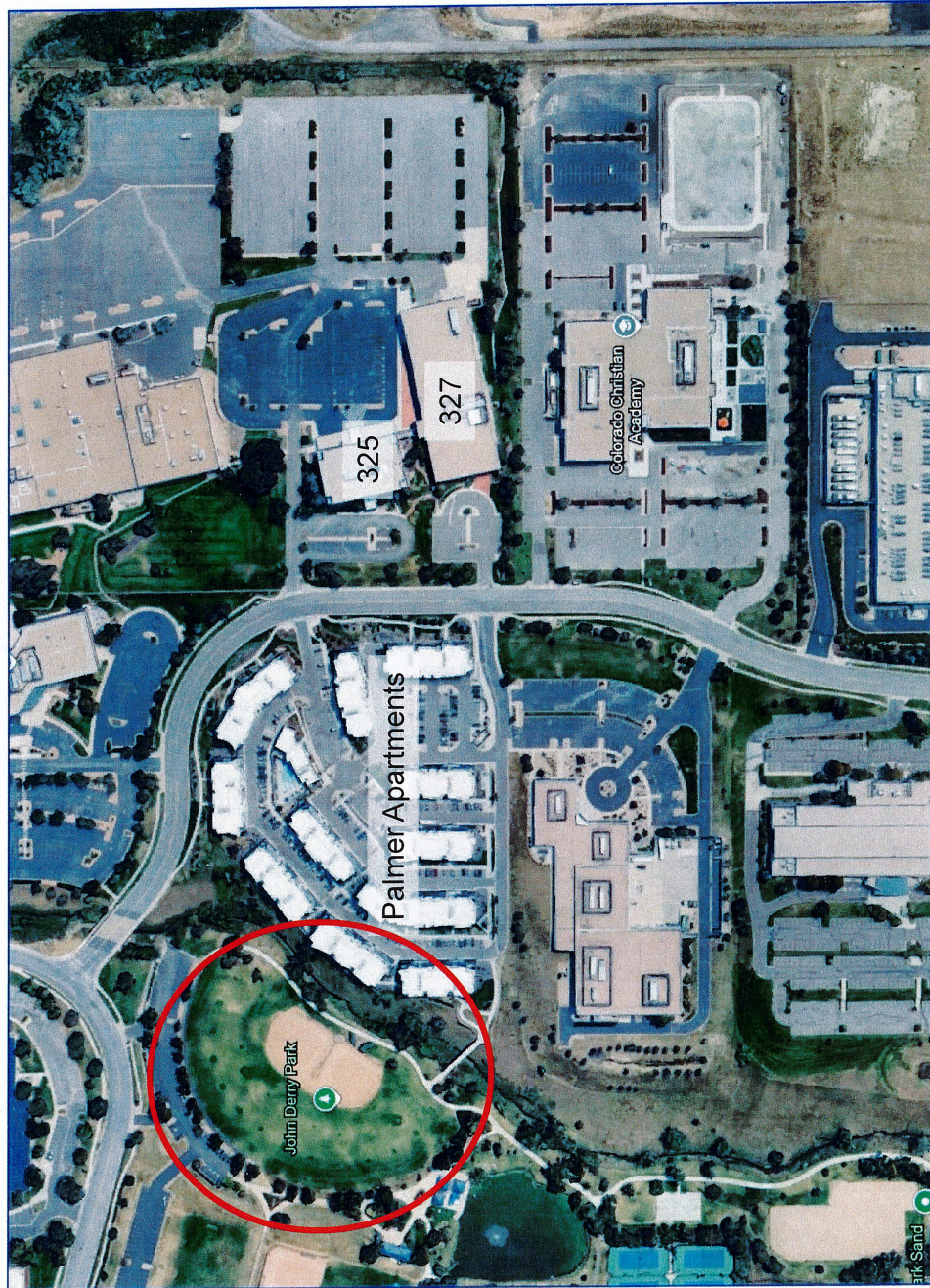
Background

Reasons This Variance Should Not be Granted

- **Incompatibility of use (DCZR §2102.04)**
The proposed residential development is inconsistent with the allowed uses for this commercial zone
- **Hardship is self-imposed (DCZR §2603.02)**
The applicant knowingly purchased industrial-zoned property, and any difficulty in developing it residentially is self-imposed
- **Setback requirements are not met (DCZR §1312, DCZR §2102.10)**
The development encroaches into required setback areas, violating basic zoning standards
- **Easement will be overburdened (DCZR §2102.06)**
The easement through our parking lot was granted for commercial access; adding 818 daily residential trips exceeds the scope and intensity of use that was originally intended and agreed upon
- **Creates undue hardship on neighboring property (DCZR §2603.03)**
The incompatible use could disrupt neighboring businesses and reduce commercial property utility

Compatibility of Use

Nearest public green space is across Inverness Drive South
Nearest crosswalks (north & south) are each nearly 1,500 feet away



Noise Sensitive Zone

Military use of airstrip
 • Substantial audible impact at Radix
 (Dev Site + 82 meters)
 • Other residential: Palmer Apartments
 (Dev Site + 200 meters)



Hardship is Self-Imposed

Development challenges are based on applicant's **own actions and decisions**

- Property has been zoned for Light Industrial since construction
- Variance not based on conditions inherent to the property
- Applicants knew a variance would be required at time of purchase

Variance Approval:

- Contrary to zoning variance standards
- Sets a precedent that undermines predictability for other businesses in the area

Overburdening the Easement

Beyond the Scope of the Easement

- **Original scope and intent** of the easement was established to support limited commercial access
- New use was **not reasonably foreseeable** at the time the easement was created

Material Change in Use

- The zoning change introduces a **material change in use** that fundamentally **alters the impact** on the servient property (Radix) and exceeds the rights granted under the easement

Substantial Increase in Burden

- Residential development would impose a **substantial increase in the burden** on the servient estate (Radix), contrary to the original intent of the easement agreement

Overburdening the Easement

SM Rocha's Traffic Report: development project will "generate approximately 818 daily trips with 101 of those occurring during the morning peak hour and 98 during the afternoon peak hour."



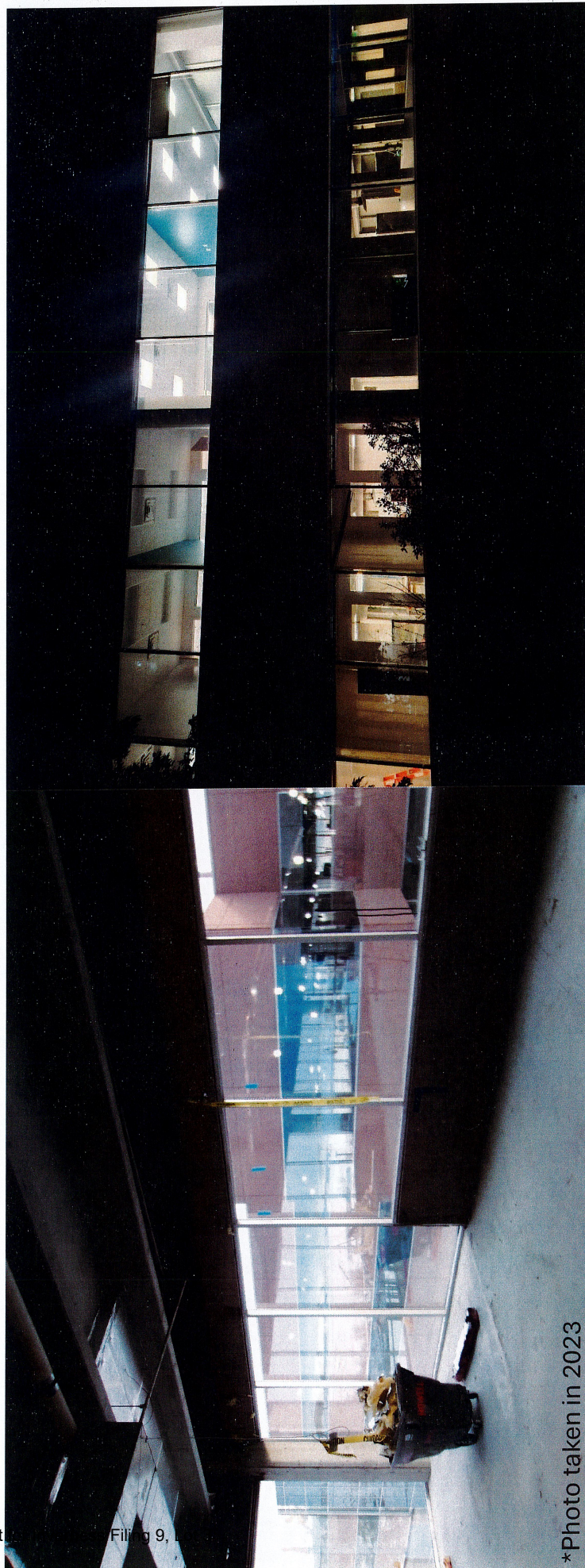
Inadequate Setback Distance



Inadequate Setback Distance

Proximity will compromise privacy and comfort of both residential tenants **and** Radix business offices

Mirrored window finish affords **no privacy** when it's dark outside



*Photo taken in 2023

Undue Hardship on Neighboring Property

As a defense contractor, Radix Metasystems' operations are subject to strict federal security requirements, including compliance with the Defense Counterintelligence and Security Agency (DCSA) guidelines, and those levied by various other government agencies.

Federal regulations compel us to implement and maintain **security-in-depth** measures (layered physical, personnel, and procedural controls to prevent unauthorized access to sensitive areas and information).

Critical impairment in our ability to control the immediate area surrounding our facility:

- Increase in the presence of unknown individuals behaving erratically (*already occurring*)
- Unpredictable nature of juveniles (attempts at property damage, *already witnessed*)
- Unsafe conditions in our parking lot (children skateboarding between parking spaces, tenants running alongside our vehicles and attempting to block moving traffic, *already occurring*)
- Varied guests demanding entry into our facility, *already occurring*)

May trigger heightened federal government scrutiny or necessitate **costly enforcement actions**.

Ensuring a secure and predictable operating environment
is not just a business priority for our company, it is a
national security requirement

Undue Hardship on Neighboring Property

1. Pattern of failure to discourage trespassing:
 - 327 tenants were falsely instructed to park in Radix's parking lot
 - Posted maps inside 327's lobby showing inaccurate parking diagrams
 - Temporary traffic flow signage erected by tenants does not align with easement
 - Vendors, tradespeople, and visitor vehicles block the fire lane and fire hydrant daily
 - Residential parking overflow (including unknown numbers of visitors, deliveries, etc.) will encroach further into Radix parking lot
2. Burden of resolution continues to fall on Radix
3. Attempts to enforce our property rights have been met with legal threats from **both** 327 ownership and their tenants
3. Costs to enforce our property rights are already accruing and ***will be exacerbated***
 - Legal costs
 - Cost to erect 8 *additional* parking signs

Architectural design proposal is **not within the developer's authority to execute**
Demonstrates willful disdain for Radix property rights



Existing Problems Will be Further Intensified





From: John Doe <bdward13@gmail.com>
Sent: Sunday, May 18, 2025 6:02 PM
To: info@centennialairportnoise.com
Cc: Dan Avery <DAvery@douglas.co.us>; BOCC <BOCC@douglas.co.us>; Planning Commission <PlanningCommission@douglas.co.us>
Subject: Airport Land Use (Again) Within the 65 and 60 DNL Contours

Members of the Roundtable,

Keeping track of land use around the airport has become quite the hobby. So, two new incompatible land use projects in Douglas County that will be heard at tomorrow's night zoning board meeting. Won't be able to go since I am working.

1. Zoning Resolution Waiver for Inverness Filing 9, Lot 3 (US2024-011)

This is a plan for 53 residential units on the 2nd and 3rd floor of a building at the site of an office building located at 327 Inverness Drive. I have personally been to this site, and just like Summit at Meridian, I was greeted with airplane noise as soon as I opened the car door from both the traffic pattern and a jet that happened to be idling on the taxiway. This property goes right up to the airport fence and it is adjacent to an apartment complex that seems to have a lot of noise complaints coming out of it. **THIS PROPERTY LIES COMPLETELY WITHIN THE 65 DNL CONTOUR!** Is this a good idea to let people live here? Absolutely not. The FAA has **STRONGLY** objected to this development (see attachments).

2. Castle View Filing 1, 2nd Amendment, Lots 1-A and 2-A – Use by Special Review (US2024-0090

This is a plan for 317- unit multi-family residential development on S. Valley Highway between E-470 and County Line Road. This is another location that will receive constant airplane noise. It lies just on the border of the 55 and 60 DNL contours.

The bottom line is this- as I have said before, the issue of noise around the airport WILL NOT be solved if residential housing and schools keep being built in places that will be impacted by airport operations. This is another one of those areas that again, no voluntary noise abatement procedures will help. A certain Douglas County Commissioner that is absent from his seat on the roundtable and airport board, but mysteriously shows up the the quarterly Pilots/Controllers/Airport Admins meeting told me this directly;

"We (Douglas County) will not stop approving projects the market demands"

He then went on and on about how he was woken up by planes and how he gets so many complaints about airplanes from people who live around the airport and how he has "no sympathy" for people who moved next to the airport and complain about airport noise. But in the same breath he told all of us to "Fly better, quieter, and to find a solution to the problem." Make that make sense. They "want a solution", but are not willing to fix the one thing that will cause more and more problems- land use around the airport. I do not think the market is demanding housing that will be subject to 24/7/365 airplane noise and vibrations. If you do not want a new set of people coming in to complain, then somebody needs to get the local municipalities onboard to respect the AIA zoning.

Attachments (PLEASE READ THEM)

1. KAPAs Land Use Referral and Opposition to 327 Inverness **(US2024-011)**
2. KAPAs Land Use Referral and Opposition to 374 Inverness **(ZR2023-012)**
3. KAPAs Land Use Referral and Opposition to S. Valley Highway **(US2024-009)**
4. FAAs Denver Airport Office Objection to 327 Inverness **(US2024-011)**
5. Site maps for 327 Inverness and S. Valley Highway

Thank You,

--

Bill Ward
Certified Flight Instructor
703-772-7227 (Cell)
bdward13@gmail.com

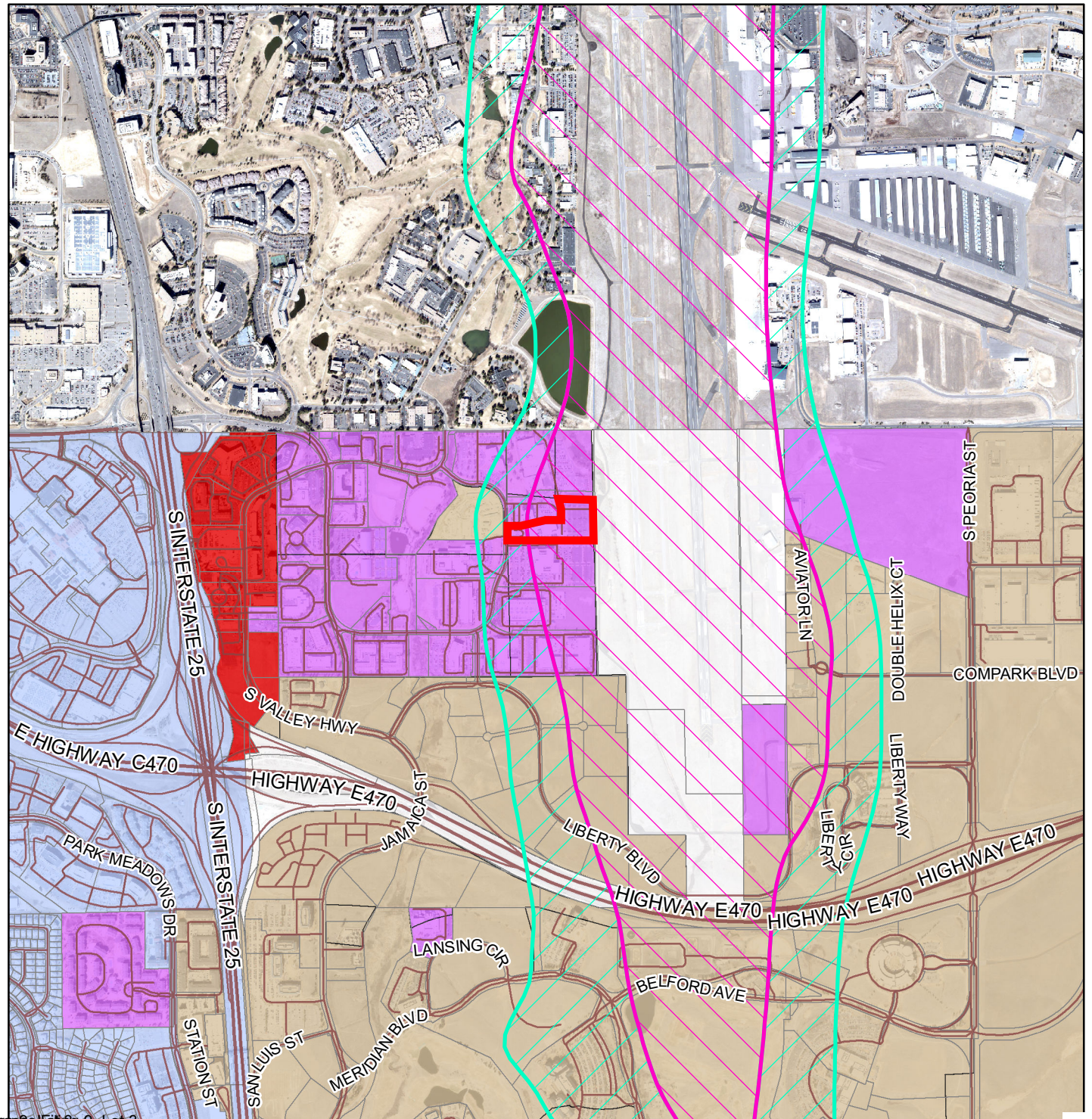
INVERNESS SUBDIVISION FILING 9, LOT 3

US2024-011
ZONING MAP



LEGEND

- PROJECT SITE
- CARA - NOISE MITIGATION ZONE
- CARA - NOISE SENSITIVE ZONE
- MAJOR ROADS
- OTHER ROADS
- ZONE DISTRICT**
- A1 - AGRICULTURAL ONE
- LRR - LARGE RURAL RESIDENTIAL
- RR - RURAL RESIDENTIAL
- ER - ESTATE RESIDENTIAL
- SR - SUBURBAN RESIDENTIAL
- MF - MULTIFAMILY
- LSB - LIMITED SERVICE BUSINESS
- B - BUSINESS
- C - COMMERCIAL
- LI - LIGHT INDUSTRIAL
- GI - GENERAL INDUSTRIAL
- CMTY - SEDALIA COMMUNITY
- D - SEDALIA DOWNTOWN
- HC - SEDALIA HIGHWAY COMMERCIAL
- MI - SEDALIA MIXED INDUSTRIAL
- PD - PLANNED DEVELOPMENT
- OS - OPEN SPACE CONSERVATION
- NF - NATIONAL FOREST
- INCORPORATED AREAS






INVERNESS
SUBDIVISION
FILING 9, LOT 3

US2024-011
AERIAL MAP



LEGEND

-  PROJECT SITE
-  MAJOR ROADS
-  OTHER ROADS



REVIEW AREA OVERLAY DISTRICT AND NOISE ZONES

DISCLAIMER:
All data and information ("Products") contained herein are for informational purposes only. Although such Products are believed to be accurate at the time of printing, Douglas County does not warrant that such Products are error free. Douglas County provides these Products on an "as is" basis without warranties of any kind, either express or implied, including, but not limited to, warranties of title or implied warranties of merchantability or fitness for a particular purpose. Douglas County shall not be liable for any direct, indirect, incidental, special or consequential damages or for any use of or misuse of such Products, or the inability to use such Products or out of any breach of any warranty. The user acknowledges and agrees that the user's such Products is at the sole risk of the user.

General questions about this or any other Douglas County GIS products, including errors, omissions, corrections and/or updates should be directed to the Douglas County GIS Division at (303) 660-7416.

Douglas County GIS Division
Philip S. Miller Bldg., 100 Third St.
Castle Rock, Colorado 80104

Project Site

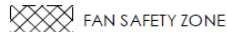
IMAGINARY SURFACE
ELEVATIONS {AS DEFINED BY
FEDERAL AVIATION REGULATION
(FAR) PART 77 SURFACES}

●●●● CENTENNIAL AIRPORT REVIEW AREA


RUNWAYS

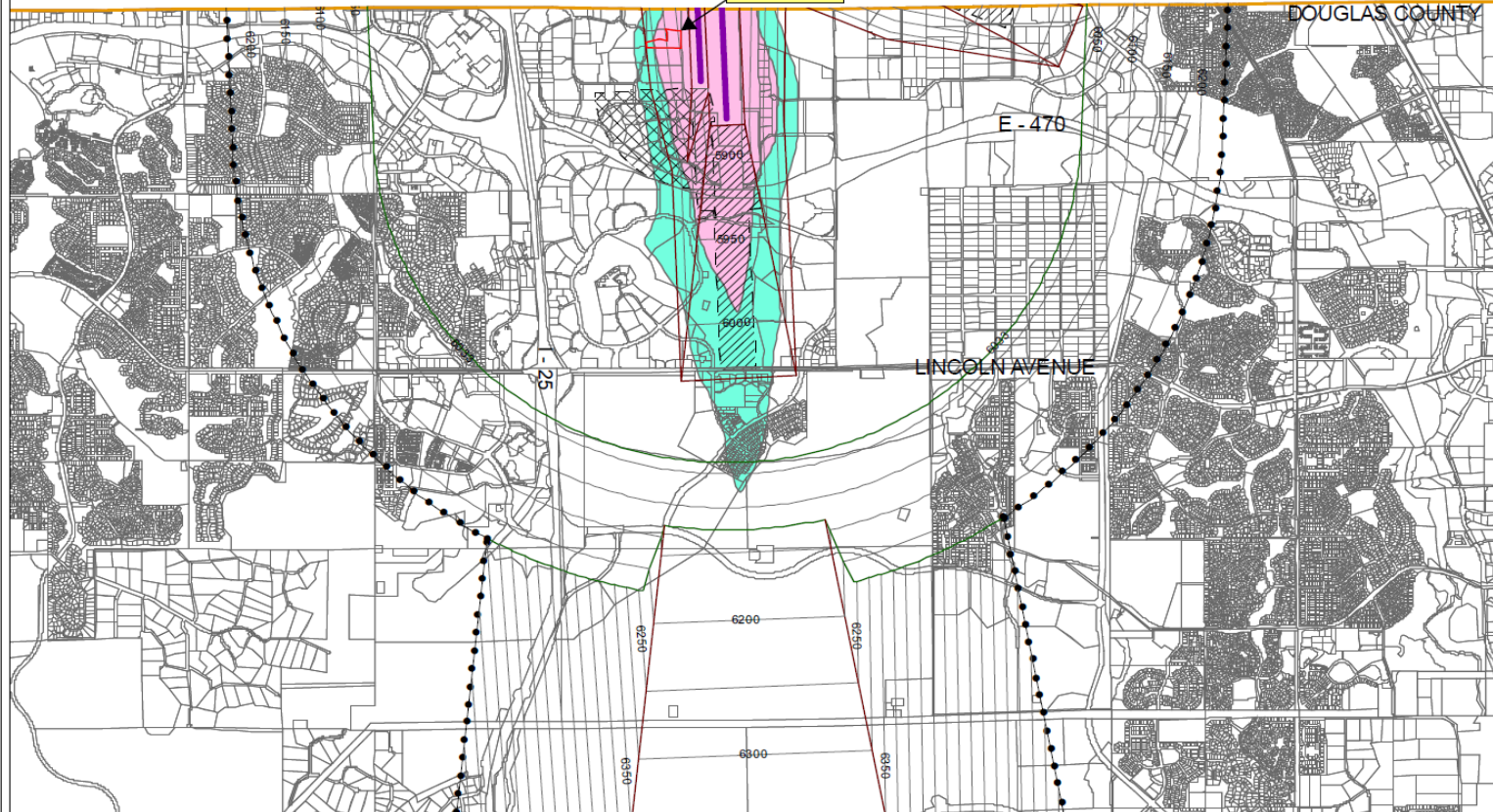
COUNTY BOUNDARY

PARCELS

 RUNWAY SAFETY ZONE

NOISE MITIGATION ZONE

 NOISE SENSITIVE ZONE





U.S. Department
of Transportation
**Federal Aviation
Administration**

Denver Airports District Office
26805 E. 68th Avenue, Room 224
Denver, Colorado 80249
303-342-1250; FAX 303-342-1260

December 4, 2024

Mike Pesicka
Douglas County Community Development Department
100 Third St.
Castle Rock, CO 80104

Re: US2024-011 – 327 Inverness Dr. S; Inverness Filing 9, Lot 3 USR

Dear Mr. Pesicka:

The Federal Aviation Administration, Denver Airports District Office (FAA) was notified by Centennial Airport concerning the above referenced residential development. Due to the close proximity of this proposed development to Centennial Airport's 17R/35L, FAA strongly opposes this proposed development because of the potential negative impacts this development may have on persons and property on the ground and the safety and utility of the National Airspace System. Additionally, residential developments in such area have been identified as incompatible with airport operations.

Centennial Airport (APA) serves approx. 332,000 aircraft operations (a take-off or landing) per year and is utilized by a variety of aircraft, ranging from small, single-engine propeller airplanes up to large, jet aircraft. The airport is a Federally-funded, public use airport that is required by Federal law to remain open to all types of aircraft 24 hours a day, 7 days a week. APA plays a major role in the Colorado and national airport system.

The Federal Government has made a significant investment of public funds in Centennial Airport. Under the current Federal airport aid program, the FAA has provided over \$103 million in development and planning grants to this airport. This is in addition to Federal funds and resources invested in the construction, maintenance and staffing of a Federal air traffic control tower and aircraft navigational systems. When accepting these Federal funds, Arapahoe County, as the airport sponsor, agreed to certain Federal obligations, known as Federal grant assurances, which among many other requirements, requires the county to preserve and operate Centennial Airport in accordance with FAA regulations and standards and to protect the airport from non-compatible land uses. FAA considers residential development adjacent an airport to be a non-compatible land use (see FAA Order 5190.6B, Airport Compliance Manual, Chapter 20, *Compatible Land Use and Airspace Protection*).

The proposed development lies inside the 65 Day-Night Average Sound Level (dNL) noise contour and just outside the 70 dNL noise contour. The Federal Aviation Administration (FAA) considers any residential development within the 65 dNL contour to be incompatible. The FAA defines 65 dNL to be the significant level of noise where repeated exposure to this noise level prohibits quiet living environments and considers it significantly disruptive. The proposed development lies 0.16 miles from the nearest runway at Centennial Airport and within the Restricted Development Area (RDA) of the Airport Influence Area

(AIA). Based on the Airport's Land Use Guidelines, all new residential and other noise sensitive developments are prohibited within the RDA. Additionally, the proposed residences are adjacent to the departure end of runway 17R and the arrival side of runway 35L, making them subject to numerous aircraft over flights at low altitudes and their associated effects. These effects include, but are not limited to noise, smoke, dust, fumes and vibrations. Not only is this proposed development 0.16 miles from the Airports busiest training runway, but the property also shares a fence line with the airport.

Incompatible land use at or near airports may result in the creation of hazards to air navigation and reductions in airport utility due to obstructions to flight paths or noise-related incompatible land use caused by residential construction development too close to the airport. For these reasons, FAA requires Federally obligated airport sponsors to restrict residential encroachment near their airports, including the adoption of zoning requirements to restrict non-compatible land uses in an area surrounding the airport. Such zoning requirements also ensure compliance with Colorado state laws that require governmental entities with zoning and build permit authority, such as Douglas County, to address safety, noise and compatible land uses around airports (see Colorado Revised Statute 24-65.1-202, Criteria for Administration of Areas of State Interest, and 43-10-133, Safe Operating Areas Around Airports).

Moreover, Douglas County is a member of the Centennial Noise Round Table Committee and its representatives on the committee are well aware of local communities' concerns with aircraft noise and the thousands of noise complaints the Centennial Airport receives every year from individuals that live under the airport's flight paths. To prevent further conflict, it would seem in the County's best interest to protect the welfare of its citizens by restricting residential development in Centennial Airport's approach and departure areas.

In accordance with Title 14 of the Code of Federal Regulations (14 CFR) Part 77, *Safe, Efficient Use, and Preservation of the Navigable Airspace*, and Colorado state law, Douglas County also must ensure the developer of the proposed development requests an airspace analysis to determine potential aeronautical hazards in advance of construction to prevent or minimize the adverse impacts to the safe and efficient use of navigable airspace.

FAA reviews construction proposals through the submittal of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*. If any portion of the proposal is located within 20,000 feet of a public use runway (and breaks a 100:1 plane coming off the nearest point of the nearest runway); or is more than 200 feet above ground level at any location, the FAA requires the project's proponent to file a Form 7460-1. If the proposal does not meet any of the criteria above, it may still be necessary to file a Form 7460-1 if the structure requires an FCC license or there is a potential for navigational equipment interference. The FAA uses information provided on this form to conduct an aeronautical review to determine if the proposal will pose an aeronautical hazard and to minimize the adverse effects to aviation. FAA Form 7460-1 can be filed electronically at www.oaaaa.faa.gov.

For the reasons discussed above, the FAA cannot support the construction of residences so close to Centennial Airport. We recommend the Douglas County not approve this development as proposed and explore alternative uses of this land that better conform with Federal, state and industry recommendations for compatible land uses near airports.

If you have questions regarding the above comments or would like to meet to discuss our concerns, please contact me at (406) 441-5409.

Sincerely,

Joe Nye
Acting Manager
FAA/Denver Airports District Office



CENTENNIAL AIRPORT
ARAPAHOE COUNTY AIRPORT AUTHORITY

7565 South Peoria Street, Unit D9
Englewood, Colorado 80112
main: 303-790-0598 | fax: 303-790-2129
www.centennialairport.com

December 2nd, 2024

Mike Pesicka
Douglas County Community Development Department
100 Third St.
Castle Rock, CO 80104

Re: US2024-011 – 327 Inverness Dr. S; Inverness Filing 9, Lot 3 USR

Dear Mr. Pesicka,

Thank you for the opportunity to review the site plan. Due to the location of the proposed residential development and its proximity to the Airport, the Arapahoe County Public Airport Authority opposes this development. As stipulated in Section 1906.02.1 (2) of the Douglas County Zoning Resolution (DCZR), developments of this nature are prohibited within the Noise Sensitive Zone (NSZ) of the Centennial Airport Review Area (CARA), as defined in Section 19 of the DCZR. Moreover, the proposed development is situated at the edge of the Fan Safety Zone (FSZ), where Section 1906.01.2 (1) of the DCZR prohibits residential uses due to the increased risk of aircraft accidents in close proximity to flight paths and the airport. As such, the proposed development is inconsistent with zoning regulations and raises serious concerns related to safety and noise. In addition to the zoning conflict, the proposed site violates several key Airport Land Use Guidelines, outlined below.

The proposed development lies inside the 65 dNL noise contour and just outside the 70 dNL noise contour. The Federal Aviation Administration (FAA) considers any residential development within the 65 dNL contour to be incompatible. The FAA defines 65 dNL to be the significant level of noise where repeated exposure to this noise level prohibits quiet living environments and considers it significantly disruptive. The proposed development lies 0.16 miles from the nearest runway at Centennial Airport and within the Restricted Development Area (RDA) of the Airport Influence Area (AIA). Based on the Airport's Land Use Guidelines, all new residential and other noise sensitive developments are prohibited within the RDA.

This development is being opposed by the Airport Authority because the new residences are adjacent to the departure end of runway 17R and the arrival side of runway 35L, therefore will be subjected to numerous aircraft over flights at low altitudes and their associated effects. These effects include, but are not limited to: noise, smoke, dust, fumes and vibrations. Not only is this proposed development 0.16 miles from the Airports busiest training runway, the property shares a fence line with the airport. Again this development not only causes concerns with the Airport's Land Use Guidelines but is also inconsistent with provisions set forth in Section 19 of the Douglas County Zoning Resolution.

However, should the County grant this use by special review, which is highly inadvisable due to potential safety and health effects, we request that following be implemented:

- Avigation Easements are required for residential development within the AIA. These documents ensure that home buyers understand that they are buying a house that is in close proximity to an airport. Book and page number of the avigation easement must be included on all plats and plans. Please forward a copy of the executed avigation easement and disclosure statement to our office for our records. Overflight disclosure language should be included in all lease documents as well as posted in a conspicuous place in leasing offices.
- A residential 7-day noise test is recommended using single noise event levels (SEL). It is highly recommended for this proposed development, if approved, to have verified interior noise attenuation at or below 45 dnl.
- Any objects on the site (including cranes used during construction) that penetrate a 100:1 slope from the nearest point of the nearest runway, penetrates the FAA Part 77 airspace surfaces, impede signals associated with navigational equipment or any other reason the FAA deems necessary will require the filing and approval of FAA Form 7460-1. This form may take 90 days or more for approval. Please visit <https://oeaaa.faa.gov> to utilize the notice criteria tool to confirm filing requirements and to file the FAA Form 7460-1. **Please note that this is a State and Federal regulatory requirement.** Runway endpoint data is available from the Airport for engineering calculations. In addition, please have crane operators advise Airport Operations (303-877-7307) prior to erecting any cranes.
- Please include the Airport on the vicinity map.

Please feel free to call me if you have any questions.

Sincerely,



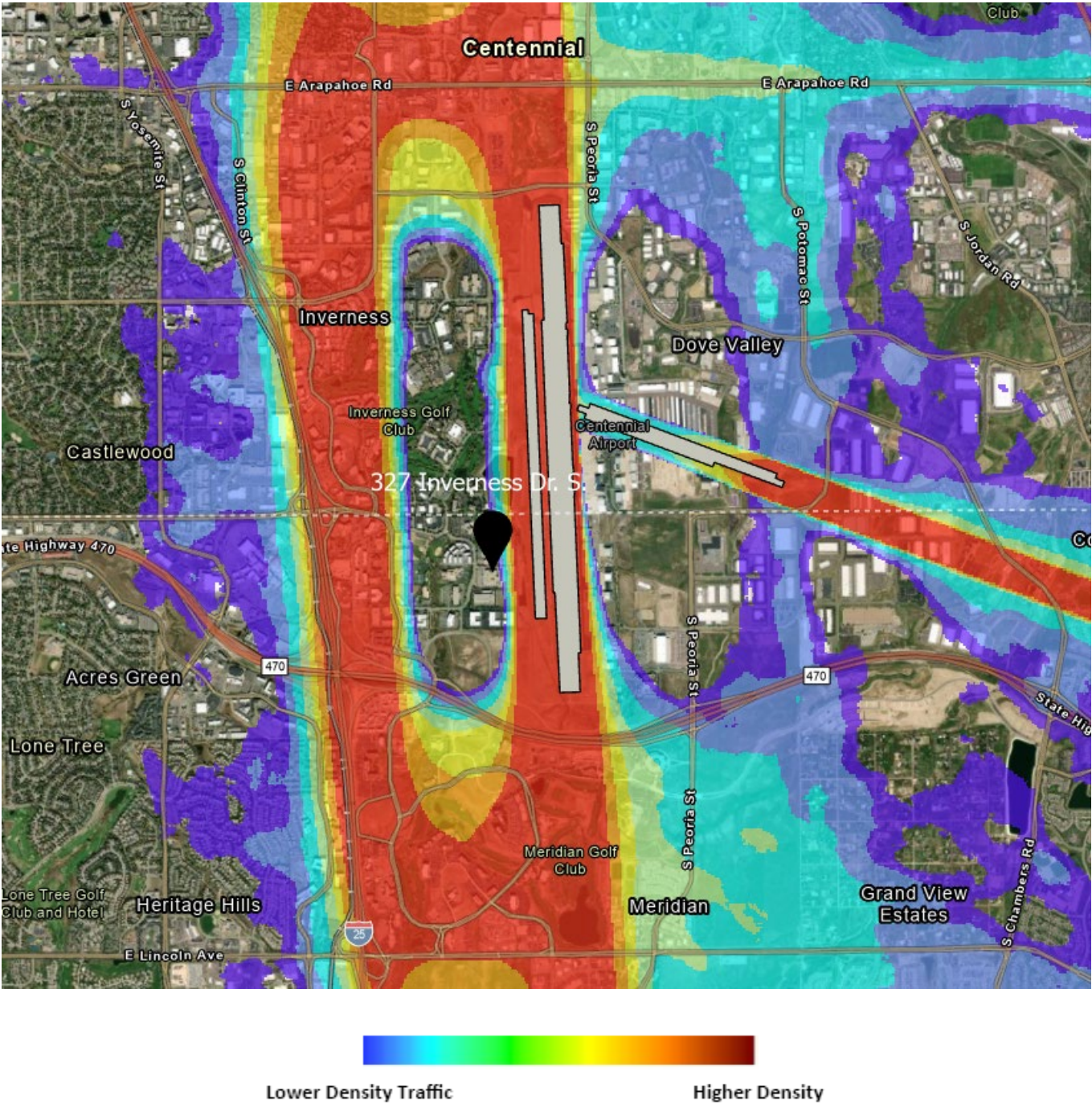
Zachary Gabehart
Planning Specialist - Noise & Environmental

In July of 2024, which was the busiest month of 2024, 327 Inverness Dr. S saw the following number of overflights within 1/4 mile of the property:

Operation Type:	Number of Operations:
Arrivals:	328
Departures:	120
Training Flights:	14,694
Total Overflights:	15,142



The below heat map demonstrates the close proximity of the property to high density operation areas.



STANDARD AVIGATION AND HAZARD EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that

WHEREAS, _____

_____,
who collectively shall hereinafter be referred to as the "Grantors," all own an interest in a part of that certain tract of land in Section _____, Township _____, Range _____ of the _____, County of _____, State of Colorado, more particularly described in Exhibit A attached hereto.

NOW, THEREFORE, in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantors, for themselves, their heirs, personal representatives, successors and assigns, do hereby grant, bargain, sell and convey unto Arapahoe County Public Airport Authority, its successors and assigns, hereinafter referred to as the "Grantee," for the use and benefit of the public, an easement and right of way, appurtenant to the Centennial Airport, for the unobstructed passage of all aircraft, ("aircraft" being defined for the purposes of this instrument as any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air) by whomsoever owned and operated in the air space above Grantors' property to an infinite height, together with the right to cause, in all air space above the surface of Grantors' property, such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused by the operation or aircraft landing at, taking off from, or operating at or on said Centennial Airport.

Grantors do hereby waive, remise and release any right or cause of action which they may now have or which they may have in the future against Grantee, its successors and assigns, with respect to Grantors' property due to such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused or may have been caused by the operation or aircraft landing at, taking off from, or operating at or on said Centennial Airport. Nothing stated in the foregoing waiver, grant and release shall release any person from liability for damages or divest the Grantors, their heirs, personal representatives, successors and assigns from any right or cause of action for damages to any person or property resulting from the unlawful or negligent operation of any aircraft at any altitude over and across Grantors' property.

The easement and right-of-way hereby granted includes the continuing right in the Grantee to prevent the erection or growth upon Grantors' property of any building, structure, tree or other object extending into the air space above a mean sea level of _____ feet, and to remove from said air space, or at the sole option of the Grantee, as an alternative, to mark and light as obstructions to air navigation, any such building, structure, tree or other object now upon, or which in the future may be upon Grantors' property, together with the right of reasonable ingress to, egress from, and passage over Grantors' property for the above purposes.

TO HAVE AND TO HOLD said easement and right-of-way, and all rights appertaining thereto unto the Grantee, its successors and assigns, until Arapahoe County Public Airport Authority shall cease to use said Centennial Airport for public airport purposes.

AND for the consideration hereinabove set forth, the Grantors, for themselves, their heirs, personal representatives, successors and assigns, do hereby agree that for and during the life of said easement and right-of-way, they will not hereafter erect, permit the erection or growth of, or permit or suffer to remain upon Grantors' property any building, structure, tree or other object extending into the aforesaid prohibited air space, and that they shall not hereafter use or permit or suffer the use of Grantors' property in such a manner as to create electrical interference with radio communication between any installation upon said airport and aircraft, or as to make it difficult for flyers to distinguish between airport lights and others, or as to impair visibility in the vicinity of the airport, or as otherwise to endanger the landing, taking off or maneuvering of aircraft. It is understood and agreed that the aforesaid covenants and agreements shall run with the land.

This Avigation and Hazard Easement may be signed in counterpart copies each of which shall be fully binding on the party or parties executing same as if all signatories signed a single copy.

IN WITNESS WHEREOF, the Grantors have executed this Avigation and Hazard Easement as of this _____ day of _____, 19____.

(Grantor)

By _____

ATTEST:

Legal Acknowledgment for each Grantor.

REFERRAL RESPONSE REQUEST

Date Sent: October 5, 2023

 Comments due by: **October 26, 2023**
Project Name: 374 Inverness Planned Development – PD Rezoning

Project File #: ZR2023-012

Project Summary:

The applicant, Holland Acquisition Co., LLC, is requesting approval of a Planned Development (PD) rezoning to establish the 374 Inverness PD. The request will rezone the property from Light Industrial (LI) to PD. The PD will establish a residential component of up to 325 dwelling units. The subject property is 10.00 acres in size and is located approximately 550 feet north of the intersection of Inverness Parkway and Inverness Drive South.

Information on the identified development proposal located in Douglas County is enclosed. Please review and comment in the space provided.

<input type="checkbox"/> No Comment	
<input type="checkbox"/> Please be advised of the following concerns: 	
<input checked="" type="checkbox"/> See letter attached for detail.	
Agency: Arapahoe County Public Airport Authority	Phone #: 303-218-2922
Your Name: Samantha Blymyer (please print)	Your Signature: <i>Samantha Blymyer</i>
	Date: 10/24/23

Agencies should be advised that failure to submit written comments prior to the due date, or to obtain the applicant's written approval of an extension, will result in written comments being accepted for informational purposes only.

Sincerely,

Mike Pesicka

Mike Pesicka, Principal Planner



CENTENNIAL AIRPORT
ARAPAHOE COUNTY AIRPORT AUTHORITY

7565 South Peoria Street, Unit D9
Englewood, Colorado 80112
main: 303-790-0598 | fax: 303-790-2129
www.centennialairport.com

October 24th, 2023

Mike Pesicka
Douglas County Department of Community Development
100 Third Street
Castle Rock, CO 80104

Re: ZR2023-012; 374 Inverness Planned Development – PD Rezoning

Dear Mr. Pesicka,

Thank you for the opportunity to review the rezoning plan. Centennial Airport recognizes that this proposal is a Transit Oriented Development (TOD-within a ½ mile of a light rail station). Due to this, the airport does not object to this development, but we do not wish to deviate from standards unless it is clearly within the public's interest. The airport has found several contradictions between the goals stated in the 374 Inverness Planned Development Narrative and the reality of developing residential property within close proximity to the Airport. Sufficient protections must be implemented to maintain quality of life for future residents. With that in mind, we have the following comments to make on the project:

- The proposed development lies within the Restricted Development Area (RDA) of the Airport Influence Area (AIA), approx. ½ mile of the nearest runway at the Airport, and underneath the touch & go traffic pattern that can be utilized 24/7/365. Based on the Airport's Land Use Guidelines, all new residential and other noise sensitive developments are prohibited within the RDA. On page 6 of the 374 Inverness Planned Development Narrative, Policy 2-6A.3 states, "Locate residential development away from intensive industrial uses that emit noise, dust, fumes, odors, refuse, smoke, vapor, lights, and vibration, including wastewater treatment plants, environmentally hazardous areas, or other land uses that pose a threat to public health and safety." Any development in such close proximity to the Airport and directly under the touch & go pattern will be subject to the effects of continuous low-flying aircraft. These effects include, but are not limited to: noise, smoke, dust, fumes and vibrations.
- On page 10 of the 374 Inverness Planned Development Narrative, Goal 6-6 states to "Achieve compatibility between the railways, other transportation corridors, and surrounding land uses", yet disregards aircraft transportation and only mentions achieving land use compatibility with railway noise. The noise from propeller touch & go pattern traffic will be significant. A residential 7-day noise test is recommended using single noise event levels (SEL). It is highly recommended for this proposed development, if approved, to have verified interior noise attenuation at or below 45 DNL.
- Avigation Easements are required for residential development within the AIA. These documents ensure that home buyers understand that they are buying a house that is in close proximity to an airport. Book and page number of the avigation easement must be included on all plats and plans. Please forward a copy of the executed avigation easement and disclosure statement to our office for our records.
- Any objects on the site (including cranes used during construction) that penetrate a 100:1 slope from the nearest point of the nearest runway, penetrates the FAA Part 77 airspace surfaces, impede signals associated with navigational equipment or any other reason the FAA deems necessary will require the filing and approval of FAA Form 7460-1. This form may take 90 days or more for approval. Please visit <https://oeaaa.faa.gov> to utilize the notice criteria tool to confirm filing requirements and to file the FAA Form 7460-1. **Please note that this is a State and Federal regulatory requirement.** Runway endpoint data is available from the Airport for engineering calculations. In addition, please have crane operators advise Airport Operations (303-877-7307) prior to erecting any cranes.
- Please include the Airport runways on the vicinity map.

Please feel free to call me if you have any questions.

Sincerely,

Samantha Blymyer
Planning Specialist - Noise & Environmental

Connecting people, places, and product

STANDARD AVIGATION AND HAZARD EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that

WHEREAS, _____

_____,
who collectively shall hereinafter be referred to as the "Grantors," all own an interest in a part of that certain tract of land in Section _____, Township _____, Range _____ of the _____, County of _____, State of Colorado, more particularly described in Exhibit A attached hereto.

NOW, THEREFORE, in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantors, for themselves, their heirs, personal representatives, successors and assigns, do hereby grant, bargain, sell and convey unto Arapahoe County Public Airport Authority, its successors and assigns, hereinafter referred to as the "Grantee," for the use and benefit of the public, an easement and right of way, appurtenant to the Centennial Airport, for the unobstructed passage of all aircraft, ("aircraft" being defined for the purposes of this instrument as any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air) by whomsoever owned and operated in the air space above Grantors' property to an infinite height, together with the right to cause, in all air space above the surface of Grantors' property, such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused by the operation or aircraft landing at, taking off from, or operating at or on said Centennial Airport.

Grantors do hereby waive, remise and release any right or cause of action which they may now have or which they may have in the future against Grantee, its successors and assigns, with respect to Grantors' property due to such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused or may have been caused by the operation or aircraft landing at, taking off from, or operating at or on said Centennial Airport. Nothing stated in the foregoing waiver, grant and release shall release any person from liability for damages or divest the Grantors, their heirs, personal representatives, successors and assigns from any right or cause of action for damages to any person or property resulting from the unlawful or negligent operation of any aircraft at any altitude over and across Grantors' property.

The easement and right-of-way hereby granted includes the continuing right in the Grantee to prevent the erection or growth upon Grantors' property of any building, structure, tree or other object extending into the air space above a mean sea level of _____ feet, and to remove from said air space, or at the sole option of the Grantee, as an alternative, to mark and light as obstructions to air navigation, any such building, structure, tree or other object now upon, or which in the future may be upon Grantors' property, together with the right of reasonable ingress to, egress from, and passage over Grantors' property for the above purposes.

TO HAVE AND TO HOLD said easement and right-of-way, and all rights appertaining thereto unto the Grantee, its successors and assigns, until Arapahoe County Public Airport Authority shall cease to use said Centennial Airport for public airport purposes.

AND for the consideration hereinabove set forth, the Grantors, for themselves, their heirs, personal representatives, successors and assigns, do hereby agree that for and during the life of said easement and right-of-way, they will not hereafter erect, permit the erection or growth of, or permit or suffer to remain upon Grantors' property any building, structure, tree or other object extending into the aforesaid prohibited air space, and that they shall not hereafter use or permit or suffer the use of Grantors' property in such a manner as to create electrical interference with radio communication between any installation upon said airport and aircraft, or as to make it difficult for flyers to distinguish between airport lights and others, or as to impair visibility in the vicinity of the airport, or as otherwise to endanger the landing, taking off or maneuvering of aircraft. It is understood and agreed that the aforesaid covenants and agreements shall run with the land.

This Avigation and Hazard Easement may be signed in counterpart copies each of which shall be fully binding on the party or parties executing same as if all signatories signed a single copy.

IN WITNESS WHEREOF, the Grantors have executed this Avigation and Hazard Easement as of this _____ day of _____, 19____.

(Grantor)

By _____

ATTEST:

Legal Acknowledgment for each Grantor.

Thank you Pamela, I have got this to the Planner directly to add to the file. Sorry you were unable to get your microphone to operate. Just let me know if you want me to add anything additional to your comment before this discussion is over, as I am happy to do so.

from Pamela Thompson (privately): 7:21 PM

I am on the Centennial Airport Community Noise Roundtable. Touch and Go's which are 50% of the flights are our #1 concern with neighboring Greenwood Village residents - 4.8 miles away. Lead tests have been done on their neighborhood school playground equipment with not acceptable results. The 7 day test would experience spikes every 50 seconds. 45 DNL is an acceptable level for short periods of time; not for continuous levels of noise in a residential setting. As your presenter stated some units experience higher levels which is a huge concern. Currently there are NO ZERO homes in the 65 DNL contour. Yet we receive 12,000 noise complaints per year. These complaints are not 1.6 miles from the runway. They are from various areas all around the metro. As the school stated it can be LOUD although they are not present 24/7/365 days a year. Best practices will not help this. Please for the health, safety and welfare of your community please reject this proposal.

DECLARATION OF RECIPROCAL EASEMENT AGREEMENT

THIS DECLARATION OF RECIPROCAL EASEMENT AGREEMENT (this "Agreement") is granted this 3rd day of MAY, 2003, by IHS PROPERTY MANAGEMENT, INC., a Delaware corporation ("Declarant").

RECITALS:

Declarant is the owner of three (3) parcels of land located in Inverness Subdivision Filing No. 9, a Part of Section 2, Township 6 South, Range 67 West of the 6th P.M., County of Douglas, State of Colorado ("Inverness Subdivision Filing No. 9").

Declarant is the owner of that certain parcel of land located in Douglas County, Colorado, more particularly described as Lot 1, Inverness Subdivision Filing No. 9 ("Parcel 1").

Declarant is the owner of that certain parcel of land located adjacent to Parcel 1, more particularly described as Lot 2, Inverness Subdivision Filing No. 9 ("Parcel 2").

Declarant is the owner of that certain parcel of land located adjacent to Parcel 1 and Parcel 2, more particularly described as Lot 3, Inverness Subdivision Filing No. 9 ("Parcel 3").

Declarant desires to grant to itself and any future owners of Parcel 1, Parcel 2 and Parcel 3 reciprocal access easements over and across a portion of Parcel 1, a portion of Parcel 2 and a portion of Parcel 3 to serve Parcel 1, Parcel 2 and Parcel 3 according to the terms set forth herein.

Declarant desires to grant to itself and any future owner of Parcel 3 a parking easement for the use of certain handicapped parking spaces on Parcel 2, according to the terms set forth herein.

NOW, THEREFORE, in consideration of the sum of Ten Dollars and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Conveyance of Access Easements. Subject to the terms and conditions hereof, Declarant hereby grants unto itself and to any future owners of Parcel 1, Parcel 2 and Parcel 3 for their use and the use of their agents, tenants, employees, customers, licensees, invitees, successors and assigns, and the agents, employees, customers, licensees, invitees and successors and assigns of said tenants, a non-exclusive perpetual easement appurtenant to Parcel 1, Parcel 2 and Parcel 3 over and across any portion of the other respective parcels, now existing or hereafter designated as entrances, driveways, driving lanes and sidewalks for the sole purpose of providing pedestrian and vehicular access, ingress and egress (but not for parking, except as otherwise set forth herein) to and from public rights-of-way and each of Parcel 1, Parcel 2 and Parcel 3 (including without limitation the right to access, ingress and egress for any and all emergency vehicles).

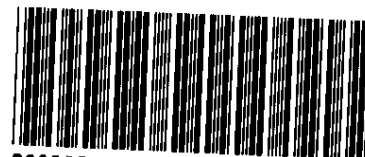
OFFICIAL RECORDS
DOUGLAS COUNTY CO
CAROLE R. MURRAY
CLERK & RECORDER
RECORDING FEE:

\$26.00
5 PGS

A.A0122683.DOC;3}

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2003065325
05/05/2003 09:55 AM



2003065325 5 PGS

2. Grant of Parking Easement to Parcel 3. Declarant hereby grants and conveys unto itself and to any future owners of Parcel 3 for their use and the use of their tenants, customers, guests, employees, business invitees, successors and assigns, as an appurtenance to Parcel 3, and subject to the terms, covenants, agreements and conditions of this Agreement, a non-exclusive easement for the use of those certain nine (9) handicapped parking spaces (accommodating 7 cars and 2 vans) located within the parking lot which is located on Parcel 2, as depicted on the Partial Site Plan attached hereto as Exhibit A and incorporated herein by this reference, as such parking lot is currently configured, or may from time to time be reconfigured (which reconfiguration shall not abrogate the aforesaid for handicapped parking requirements), and for vehicular and foot traffic across such parking lot in order to permit access to and egress from the parking spaces located within the parking lot (referred to hereinafter as the "Parking Easement"). Declarant, as the owner of Parcel 3, for itself, its successors and assigns, covenants and agrees to permit the relocation of the Parking Easement provided that the relocation is undertaken as a part of the redevelopment of Parcel 2, and such relocation will not unreasonably interfere with the use and enjoyment of Parcel 3 by Declarant or any future owner of Parcel 3. Declarant or any future owner of Parcel 2 shall bear the costs and expenses of any such relocation.

3. Maintenance and Repair.

(a) Declarant, as the owner of Parcel 1, for itself, its successors and assigns, covenants and agrees to maintain and repair the entrances, driving lanes, driveways and sidewalks, from time to time located on Parcel 1, at all times, and to keep the same properly surfaced, painted, striped and cleaned, and free from ice, snow, weeds, trash and debris in accordance with standard practice in the Inverness Business Park, Douglas County, Colorado. The owner of Parcel 1 is not obligated to maintain or repair Parcel 2 or Parcel 3.

(b) Declarant, as the owner of Parcel 2, for itself, its successors and assigns, covenants and agrees to maintain and repair the entrances, driving lanes, driveways, sidewalks and parking spaces, including without limitation the Parking Easement, from time to time located on Parcel 2, at all times and to keep the same properly surfaced, painted, striped and cleaned, and free from ice, snow, weeds, trash and debris in accordance with standard practice in the Inverness Business Park, Douglas County, Colorado. The owner of Parcel 2 is not obligated to maintain or repair Parcel 1 or Parcel 3.

(c) Declarant, as the owner of Parcel 3, for itself, its successors and assigns, covenants and agrees to maintain and repair the entrances, driving lanes, driveways and sidewalks, from time to time located on Parcel 3, at all times, and to keep the same properly surfaced, painted, striped and cleaned, and free from ice, snow, weeds, trash and debris in accordance with standard practice in the Inverness Business Park, Douglas County, Colorado. The owner of Parcel 3 is not obligated to maintain or repair Parcel 1 or Parcel 2.

4. Default. In the event the owner of Parcel 1, the owner of Parcel 2 or the owner of Parcel 3 fails to fulfill its obligations pursuant to this Agreement, the owner who is not in default hereunder ("Nondefaulting Party") shall give the defaulting party ("Defaulting Party") written notice of such default ("Default Notice"). In the event the Defaulting Party fails to cure such

default within thirty (30) days of the date of the Default Notice, the Nondefaulting Party shall be entitled to take such action as is reasonably necessary to cure such default and the Defaulting Party shall be liable for all costs and expenses reasonably incurred by the Nondefaulting Party in affecting such cure, with interest at the rate of eighteen percent (18%) per annum from the date such expenses were incurred. In the event the Defaulting Party fails to reimburse the Nondefaulting Party for such costs within thirty (30) days of the date of invoice, therefor, the Nondefaulting Party shall, in addition to all other remedies available at law or in equity, be entitled to file a lien against the property of the Defaulting Party, and foreclose such lien in accordance with applicable law.

5. Non-Interference. Neither Declarant, nor its successors and assigns, will erect, maintain, place or leave any obstruction, fence or barricade on or across the easements granted herein, which in any way would obstruct or hinder the passage of either pedestrian or vehicular ingress and egress over and across such easements.

6. Covenants Running With the Land. Each covenant and undertaking in this Agreement and each and every one of the benefits and burdens hereunder shall run with the land and shall inure to and be binding upon the respective legal representatives, heirs, successors, assigns, tenants, customers, invitees and guests of Declarant and any future owners of Parcel 1, Parcel 2 and Parcel 3.

7. No Rights in Public Generally. This Agreement is not intended to benefit the general public and shall not be construed as creating rights in and for the benefit of the general public, nor shall it be construed to be a dedication to the general public.

8. Termination of Covenant Liability. Whenever a transfer of ownership of either parcel takes place, the transferor shall have no liability for any breach hereof occurring subsequent to such transfer.

9. Severability. A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

10. Governing Law. This Agreement shall be governed by the laws of the State of Colorado.

11. Amendment. The provisions of this Agreement may be terminated, abrogated, modified, rescinded or amended in whole or in part only by the then current owners of Parcel 1, Parcel 2 and Parcel 3 by written instrument, duly executed and recorded in the real property records of Douglas County, Colorado.

12. Entire Agreement. The above and foregoing constitute all terms and conditions of this grant and no additional or different oral representation, promise or agreement shall be binding on Declarant and its successor and assigns with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF, this Agreement is executed by the Declarant on the day and year first above written.

IHS PROPERTY MANAGEMENT, INC.,
a Delaware corporation

By: Michael J. Smer
Its: CFO - FASG

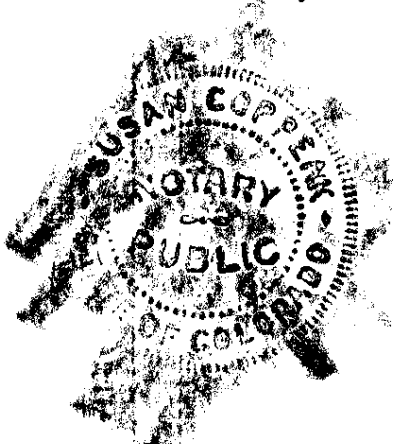
STATE OF COLORADO)
COUNTY OF Douglas) ss.

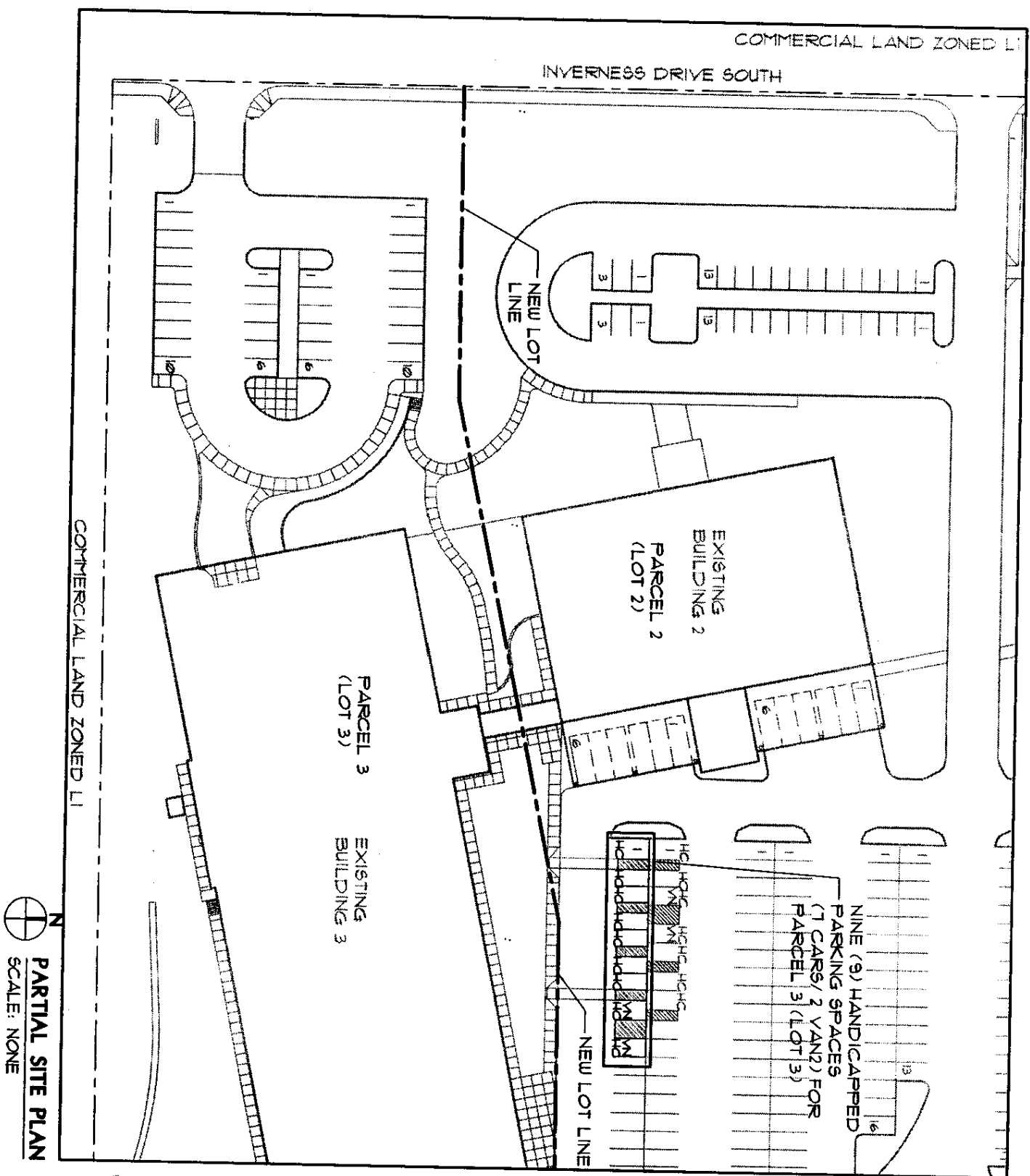
The foregoing instrument was acknowledged before me this 1st day of May, 2003, by Michael J. Sullivan as CFO of IHS Group of IHS PROPERTY MANAGEMENT, INC., a Delaware corporation.

WITNESS my hand and official seal.

My commission expires: July 22, 2003

Susan Cooper
Notary Public





SDM Architects Inc

Date • 2/24/03

Project No • 02021.00

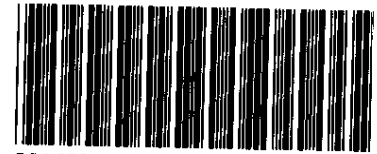
Project Name • INVERNESS SUBDIVISION FILING NO. 9 / SB02-051

EXHIBIT A

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

Panattoni Law Firm
1770 Moriah Woods Blvd.
Suite 12A
Memphis, TN 38117
Attn: Melody Oliver

FOR RECORDER'S



2004052352 15 PGS

OFFICIAL RECORDS
DOUGLAS COUNTY CO
CAROLE R. MURRAY
CLERK & RECORDER
RECORDING FEE: \$76.00
15 PGS

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05/21/2004 02:35 PM

DECLARATION OF EASEMENT
(Parking)

This Declaration of Easement (the "Declaration") is made as of May 20, 2004, by DEVELOPMENTAL PATHWAYS, INCORPORATED, a Colorado non-profit corporation ("Developmental Pathways"), having an address of 325 Inverness Drive South, Englewood, Colorado 80112, on the one hand, and CARMEL RIVER, LLC, a Delaware limited liability company, and HAGAN INVESTMENTS LLC, a Colorado limited liability company (collectively, "Carmel/Hagan"), having an address of 8401 Jackson Avenue, Sacramento, California 95826, on the other hand.

RECITALS

- A. Carmel/Hagan is the owner of that certain real property located in the County of Douglas, State of Colorado, being Lot 3 ("Lot 3"), Inverness Subdivision Filing No. 9, commonly known as 327 Inverness Drive South, Building C, as more particularly depicted on Exhibit "A", attached hereto and made a part hereof.
- B. Developmental Pathways is the owner of that certain real property located in the County of Douglas, State of Colorado, being Lot 2 ("Lot 2"), Inverness Subdivision Filing No. 9, commonly known as 325 Inverness Drive South, Building B, as more particularly depicted on Exhibit "A", attached hereto and made a part hereof.
- C. Developmental Pathways, for itself and its successors and assigns, intends to provide Carmel/Hagan and its successors and assigns, an exclusive parking easement ("Parking Easement") over and upon that certain portion of Lot 2 depicted within the cross hatched area on Exhibit "B" and legally described on Exhibit "C" (the "Exclusive Easement Area"), attached hereto and made a part hereof.

NOW, THEREFORE, in consideration of the above Recitals, Carmel/Hagan and Developmental Pathways declare as follows:

1. **Declaration of Easement.** Developmental Pathways, for itself, and its successors and assigns, hereby declares and grants, for the benefit of Carmel/Hagan, its successors and assigns, without any representation or warranty whatsoever, an exclusive parking easement over the Exclusive Easement Area for the sole purpose of vehicle parking, and a non-exclusive access easement for reasonable and necessary vehicular and pedestrian ingress and egress over and upon a portion of Lot 2 for the purpose of access to the Exclusive Easement Area (the exclusive parking easement and the non-exclusive access easement being sometimes referred to herein collectively as the "Parking Easement"). The Parking Easement shall be for the sole purpose of automobile parking by the tenant in the building located on Lot 3, Aurora Loan Services, Inc., its successors and assigns ("Aurora Loan"), its employees and invitees, twenty-four (24) hours a day, seven (7) days per week and ingress-egress thereto. The Parking Easement is exclusive as to parking rights, but Developmental Pathways retains the right to use the Exclusive Easement Area for any purpose that is not inconsistent with the grant of this Parking Easement. Carmel/Hagan agrees that neither Carmel/Hagan nor Aurora Loan or Aurora Loan's lessees, licensees, invitees, agents, employees or contractors (collectively, the "Other Parties") shall interfere with the use of the balance of Developmental Pathways' property or the business operations thereon, other than the Parking Easement area.
2. **Duration.** The term of the Parking Easement shall commence on the date hereof and shall continue until November 1, 2026, provided that the Parking Easement shall terminate upon the earlier expiration or termination of the aforesaid lease.
3. **No Construction/Storage.** Carmel/Hagan and Developmental Pathways, its successors and assigns, shall not construct or erect any buildings or other structures, or store any equipment, vehicles or materials, which interfere with, hinder, obstruct, block, encroach upon, or detract from use of the Exclusive Easement Area described in Section 1 above. Carmel/Hagan shall not make or permit any additions, alterations or improvements of any kind to the Exclusive Easement Area, except Carmel/Hagan, at its own cost and expense, shall reseal and restripe all parking spaces, driveways and drive lanes located on Lot 2, in accordance with a restriping plan to be approved by Developmental Pathways within 30 days from the date hereof. Carmel/Hagan shall post signs clearly indicating the parking spaces subject to the Parking Easement and will use reasonable means to restrict Aurora Loan and the Other Parties from parking in that portion of Lot 2 which is not the Exclusive Easement Area.
4. **Repair and Maintenance.** Developmental Pathways shall at all times maintain in good repair all parking improvements located in the Exclusive Easement Area; however, if Developmental Pathways fails to maintain in good repair Carmel/Hagan shall have the right to do so at Carmel/Hagan's sole cost and expense. Carmel/Hagan, its successors and assigns, will share in the expenses associated with the repair and maintenance of all parking spaces, driveways and driving lanes located on Lot 2, and in the repair, maintenance and utility costs associated with lighting such areas, based on the proportion that the number of parking spaces covered by the Parking Easement bears to the total number of parking spaces located on Lot 2 at the time such maintenance or repair is conducted.

5. **Indemnification.** Carmel/Hagan, jointly and severally shall indemnify, defend and hold harmless Developmental Pathways, its officers, directors, managers, members, employees, agents, successors and assigns (collectively, "Developmental Pathways' Indemnified Parties") from and against damages or claims arising from personal injury, death or property damage, or other loss or expense, including reasonable attorneys' fees, suffered or incurred by Developmental Pathways' Indemnified Parties in connection with the use of the Parking Easement area by Carmel/Hagan, Aurora Loan or Other Parties, provided, however, the foregoing indemnification, hold harmless and defense obligations shall not include claims, liabilities, losses, costs, expenses or damages to the extent such claims, liabilities, losses, costs, expenses and damages result from the gross negligence or willful misconduct of Developmental Pathways' Indemnified Parties or their employees, tenants, subtenants, licensees, invitees, agents or contractors.

Developmental Pathways shall indemnify, defend and hold harmless Carmel/Hagan, its managers, members, employees, agents, successors and assigns (collectively, "Carmel/Hagan's Indemnified Parties") from and against damages or claims arising from personal injury, death or property damage, or other loss or expense, including reasonable attorneys' fees, suffered or incurred by Carmel/Hagan's Indemnified Parties in connection with the use of the Parking Easement area by Developmental Pathways, provided, however, the foregoing indemnification, hold harmless and defense obligations shall not include claims, liabilities, losses, costs, expenses or damages to the extent such claims, liabilities, losses, costs, expenses or damages result from the gross negligence or willful misconduct of Carmel/Hagan's Indemnified Parties or their employees, tenants, subtenants, licensees, invitees, agents or contractors.

Carmel/Hagan shall maintain, at its cost and expense, commercial general liability insurance, naming Developmental Pathways Indemnified Parties as additional insureds, relating to the use of the Parking Easement and covering such risks as shall be commercially available and reasonably satisfactory to Carmel/Hagan and Developmental Pathways, in such amount as shall be commercially available and reasonably satisfactory to Carmel/Hagan and Developmental Pathways, and Carmel/Hagan shall furnish Developmental Pathways with an insurance certificate evidencing the same prior to any use of the Parking Easement.

6. **Assignment.** This Declaration and the Parking Easement shall be assignable by Carmel/Hagan to any purchaser of Lot 3 so long as such purchaser assumes in writing the obligations of Carmel/Hagan under this Declaration, in which event Carmel/Hagan shall be released of all liability hereunder accruing from and after the date Lot 3 is transferred to the purchaser. Carmel/Hagan will notify Developmental Pathways in writing promptly following the sale of the aforesaid Lot 3 and shall promptly provide Developmental Pathways with a copy of any assignment of this Declaration and the Parking Easement in connection with any such sale.
7. **Termination.** The termination of this Declaration and the Parking Easement upon its expiration or earlier termination as provided above shall be self-operative, provided that

Carmel/Hagan or its successor in title, as the case may be, shall promptly execute such termination agreement in recordable form with respect to this Declaration and the Parking Easement as Developmental Pathways may request. Promptly following the expiration or earlier termination of the aforesaid lease, Carmel/Hagan will notify Developmental Pathways of such expiration or termination in writing at its address set forth above, or at such other address as Developmental Pathways may provide to Carmel/Hagan in writing.

8. **Severability.** If any clause, sentence, or other portion of the terms, conditions, covenants, and restrictions of this Declaration become illegal, null, or void for any reason, or be held by any court of competent jurisdiction to be so, the remaining portions will remain in full force and effect.
9. **Governing Law.** This Declaration shall be subject to and construed in accordance with the laws of the State of Colorado.
10. **Binding on Heirs.** This Declaration shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the undersigned, and shall remain in full force and effect, and shall obligate, inure to and pass with each and every portion of the herein described real property. This Declaration shall be for the sole benefit of the parties to this Declaration and shall not benefit any other party. Nothing contained in this Declaration shall be deemed to be a dedication of the Parking Easement to the general public, it being the intention of the parties that use of the Parking Easement be strictly limited to and for the purposes express in this Declaration.
11. **Captions.** The captions heading the various sections of this Declaration are for the convenience and identification only, and shall not be deemed to limit or define contents of the respective sections.
12. **Terms.** This Declaration and all the terms contained herein, shall be recorded and run with the herein described real property and be binding upon the owners of the herein described real property.
13. **Mortgage.** Any violation of the provisions contained herein shall not defeat or render invalid the lien of any mortgage or Deed of Trust made in good faith and for value, however, the buyer under any foreclosure sale under a Deed of Trust shall take title subject to this Declaration.
14. **Non-Merger.** No joint or common ownership of Lot 2 and Lot 3 and adjoining parcels shall create a merger so as to render invalid the effect of the easement created herein.
15. **Counterparts.** This Declaration may be executed in any number of counterparts all of which together shall constitute one and the same instrument.

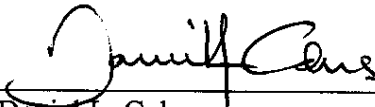
16. **Attorney's Fees.** In the event that any party commences any action or proceeding against the other in order to enforce the provisions hereof or in order to obtain damages for the alleged breach of any of the provisions hereof, the prevailing party as determined by a court of competent jurisdiction therein shall be awarded, in addition to any amounts or relief otherwise awarded, all reasonable costs incurred in connection therewith, including reasonable attorney's fees and litigation expenses.
17. **Declaration of Reciprocal Easement.** Carmel/Hagan and Developmental Pathways acknowledge that the terms and conditions contained in that certain Declaration of Reciprocal Easement Agreement granted by IHS Property Management, Inc., a Delaware corporation, recorded May 5, 2003 at Reception No. 2003065325 of the records of the Douglas County Clerk and Recorder (the "Reciprocal Easement") shall in no event supercede the terms and conditions contained in this Declaration, but may be used as a supplement hereto. The foregoing notwithstanding, Carmel/Hagan and Developmental Pathways agree that the non-exclusive parking easement for the use of nine handicapped spaces granted in the Reciprocal Easement will be located in the Exclusive Easement Area and Carmel/Hagan covenants and agrees to maintain handicapped parking spaces to accommodate at least seven cars and two vans in the Exclusive Easement Area during the term of the Parking Easement. Developmental Pathways will not have a right to use any parking spaces located in the Exclusive Easement Area, but will provide for handicapped parking for its tenants, customers, guests, employees, business invitees, successors and assigns elsewhere on Lot 2.

[Signatures Begin On Next Page]

SIGNATURE PAGE

IN WITNESS WHEREOF, Developmental Pathways and Carmel/Hagan have executed this Declaration as of the date first written above.

DEVELOPMENTAL PATHWAYS, INCORPORATED,
a Colorado non-profit corporation

By: 
Daniel L. Cohrs
Associate Executive Director and Chief Financial
Officer

CARMEL RIVER, LLC, a Delaware limited liability
company

By: *Countersigned*
Carl D. Panattoni, Trustee of Panattoni Living Trust,
dated April 8, 1998, Sole Member

HAGAN INVESTMENTS LLC, a Colorado limited liability
company

By: *Countersigned*
David Hagan, Sole and Managing Member

SIGNATURE PAGE

IN WITNESS WHEREOF, Developmental Pathways and Carmel/Hagan have executed this Declaration as of the date first written above.

DEVELOPMENTAL PATHWAYS, INCORPORATED,
a Colorado non-profit corporation

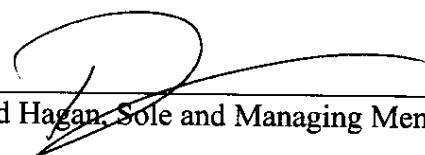
Countersigned

By: _____
Daniel L. Cohrs
Associate Executive Director and Chief Financial
Officer

CARMEL RIVER, LLC, a Delaware limited liability
company

By:  _____
Carl D. Panattoni, Trustee of Panattoni Living Trust,
dated April 8, 1998, Sole Member

HAGAN INVESTMENTS LLC, a Colorado limited liability
company

By:  _____
David Hagan, Sole and Managing Member

STATE OF COLORADO)

COUNTY OF Jeane)

The foregoing instrument was acknowledged before me on this 30 day of May, 2004, by Daniel L. Cohrs as Associate Executive Director and Chief Financial Officer of Developmental Pathways, Incorporated.

WITNESS my official hand and seal.

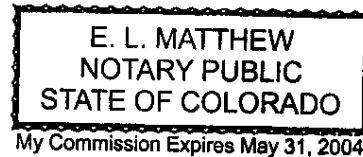
My commission expires: 5-31-04

Notary Public

[SEAL]

STATE OF California)

COUNTY OF Sacramento)

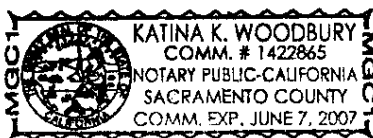


The foregoing instrument was acknowledged before me on this 17th day of May, 2004, by Carl D. Panattoni, Trustee of Panattoni Living Trust, dated April 8, 1998, as the Sole Member of Carmel River, LLC.

WITNESS my official hand and seal.

My commission expires: June 7, 2007

[SEAL]



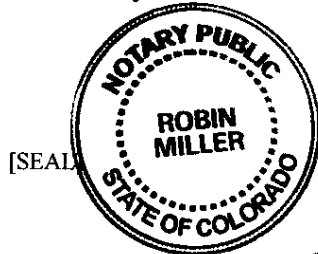
Notary Public

STATE OF Colorado)
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me on this 19th day of May, 2004, by David Hagan as Sole and Managing Member of Hagan Investments LLC.

WITNESS my official hand and seal.

My commission expires: July 3, 2005



Robin Miller
Notary Public

My Commission Expires July 3, 2005

Inverness Subdivision Filing No. 9

Exhibit "A"

Inverness Subdivision Filing No. 9

1-48 272

INVERNESS SUBDIVISION FILING NO. 9

A PART OF SECTION 2, TOWNSHIP 6 SOUTH,
 RANGE 67 WEST OF THE 8TH P.M.,
 COUNTY OF DOUGLAS, STATE OF COLORADO
 28.03 ACRES 3 NON-RESIDENTAL LOTS 5262-657

ARAPAHOE COUNTY
DOUGLAS COUNTY

LOT 1

LOT 2

LOT

SKLD	LG	172.20.254.185	D\$	71425-2003.002
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EXHIBIT "B"
Exclusive Easement Area

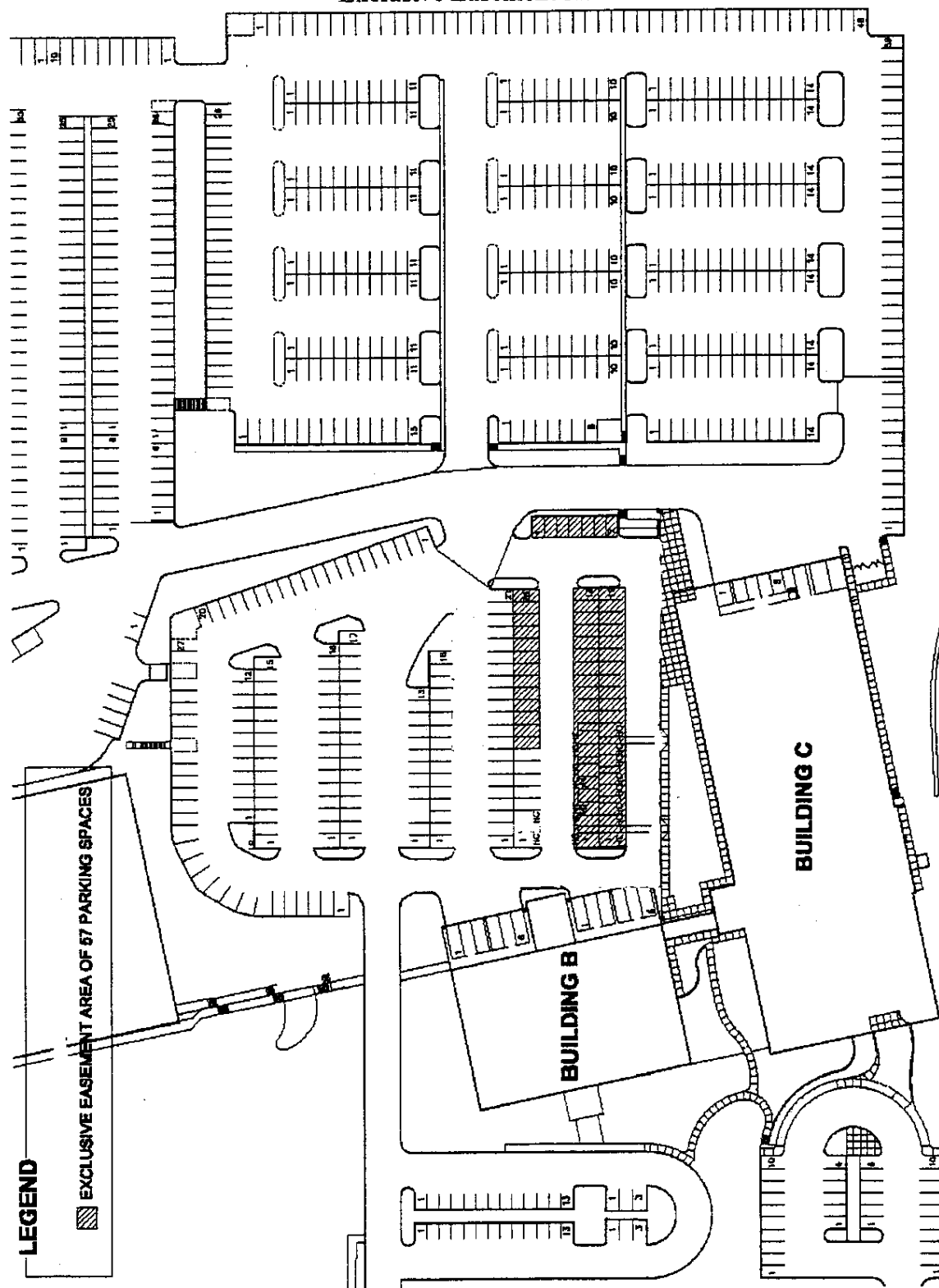


EXHIBIT "C"

PARKING AREA #1

13 PARKING SPACES

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 6 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 2, FROM THE CENTER 1/4 CORNER TO THE NORTH 1/4 CORNER IS ASSUMED TO BEAR N 00°25'30" W;

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 2; THENCE S 24°50'03" E A DISTANCE OF 1,038.10 FEET TO THE POINT OF BEGINNING;

THENCE S 89°46'20" E A DISTANCE OF 115.76 FEET;

THENCE S 00°13'40" W A DISTANCE OF 18.00 FEET;

THENCE N 89°46'20" W A DISTANCE OF 115.76 FEET;

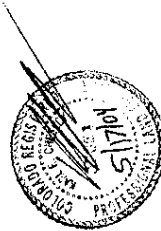
THENCE N 00°13'40" E A DISTANCE OF 18.00 FEET TO THE POINT OF BEGINNING;

CONTAINING AN AREA OF 2,084 SQUARE FEET OR 0.048 ACRES MORE OR LESS.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE ATTACHED PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

KARLE E. CHESLEY
COLORADO PLS 37054
FOR AND ON BEHALF OF
MANHARD CONSULTING, LTD.
8232 EAST PARK MEADOWS DRIVE
LITTLETON, CO. 80124



April 20, 2004
P:\file\document\Legal\Description\parking area 1.doc

1-4

PARKING AREA #2

37 PARKING SPACES

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 6 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 2, FROM THE CENTER 1/4 CORNER TO THE NORTH 1/4 CORNER IS ASSUMED TO BEAR N 00°25'30" W;

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 2; THENCE S 20°20'02" E A DISTANCE OF 1,049.21 FEET TO THE POINT OF BEGINNING;

THENCE S 89°46'20" E A DISTANCE OF 187.00 FEET;

THENCE S 00°13'40" W A DISTANCE OF 36.50 FEET;

THENCE N 89°46'20" W A DISTANCE OF 187.00 FEET;

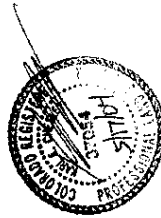
THENCE N 00°13'40" E A DISTANCE OF 36.50 FEET TO THE POINT OF BEGINNING;

CONTAINING AN AREA OF 6,826 SQUARE FEET OR 0.157 ACRES MORE OR LESS.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE ATTACHED PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

KARL E. CHESLEY
COLORADO PLS 37054
FOR AND ON BEHALF OF
MANHARD CONSULTING, LTD.
8232 EAST PARK MEADOWS DRIVE
LITTLETON, CO. 80124



April 20, 2004
P:\Bldg\Documents\Legal\Description parking area 2.doc

2-4

PARKING AREA #3

7 PARKING SPACES

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 2, TOWNSHIP 6 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 2, FROM THE CENTER 1/4 CORNER TO THE NORTH 1/4 CORNER IS ASSUMED TO BEAR N 00°25'30" W;

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 2; THENCE S 31°24'00" E A DISTANCE OF 1,125.60 FEET TO THE POINT OF BEGINNING;

THENCE S 89°46'20" E A DISTANCE OF 18.00 FEET;
THENCE S 00°13'40" W A DISTANCE OF 60.45 FEET;
THENCE N 89°46'20" W A DISTANCE OF 18.00 FEET;

THENCE N 00°13'40" E A DISTANCE OF 60.45 FEET TO THE POINT OF BEGINNING;

CONTAINING AN AREA OF 1,088 SQUARE FEET OR 0.025 ACRES MORE OR LESS.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE ATTACHED PROPERTY DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

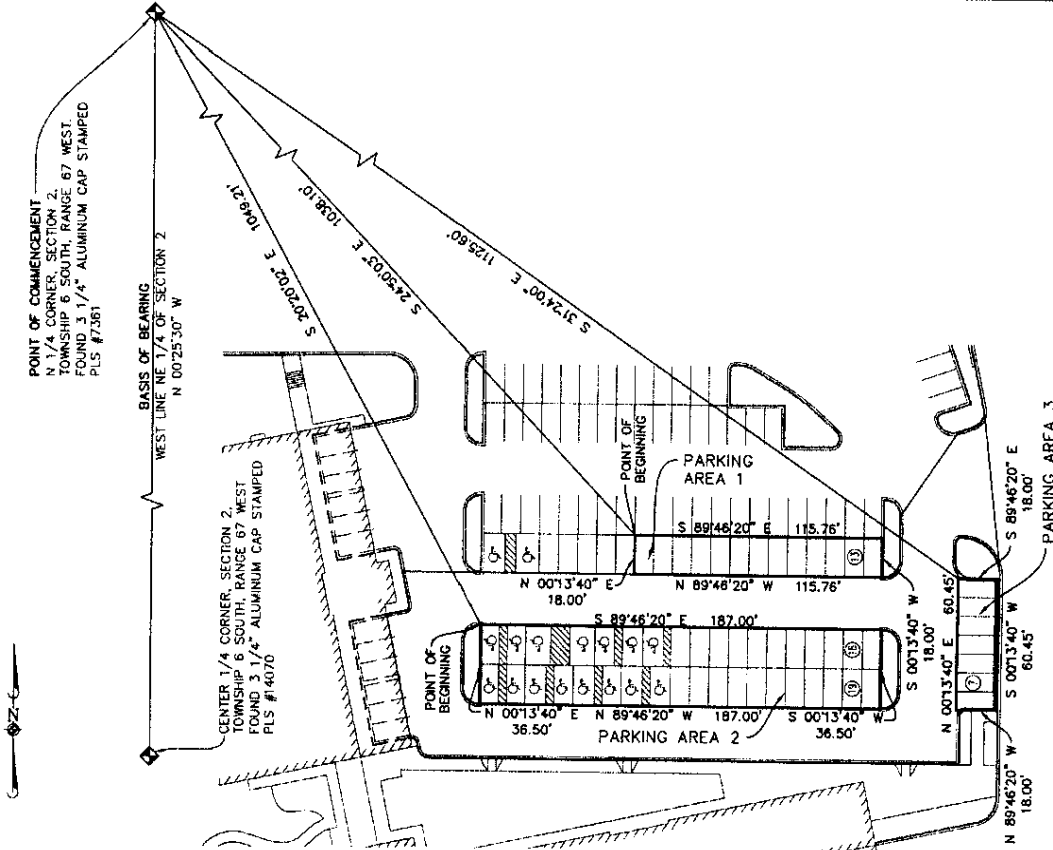
KARL E. CHESLEY
COLORADO PLS 37034
FOR AND ON BEHALF OF
MANHARD CONSULTING, LTD.
8232 EAST PARK MEADOWS DRIVE
LITTLETON, CO. 80124



April 10, 2004
P:\66\chessley\manhard\Legal\Description\parking area 3.doc

INVERNESS SUBDIVISION FILING NO. 9

A PART OF THE NORTH EAST 1/4 OF SECTION 2, TOWNSHIP 6 SOUTH,
RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN
COUNTY OF DOUGLAS, STATE OF COLORADO



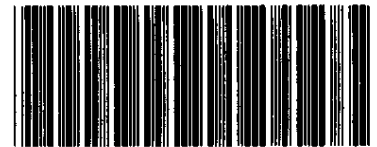
THIS SURVEY DOES NOT
REPRESENT A MONUMENTED
SURVEY. IT IS INTENDED
TO DESCRIBE THE ATTACHED
DESCRIPTION.

MANHARD CONSULTING, INC.
ENGINEERS - SURVEYORS
ENVIRONMENTAL SCIENTISTS
8233 E. Park Meadows Dr., Littleton, Colorado 80120
TEL: 303/798-6566 FAX: 303/798-4988 M/F/WWW.MANHARD.COM

INVERNESS SUBDIVISION FILING NO. 9
COUNTY OF DOUGLAS, STATE OF COLORADO
PARKING AREA EXHIBIT

DATE: 04/21/04 SCALE: 1"=50' DRAWN BY: J.C. DATE: 04/21/04 CHECKED BY: J.C. DATE: 04/21/04

4-4



2004052353 10 PGS

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

Panattoni Law Firm
1770 Moriah Woods Blvd.
Suite 12A
Memphis, TN 38117
Attn: Melody Oliver

FOR RECORDER'S USE ONLY

OFFICIAL RECORDS
DOUGLAS COUNTY CO
CAROLE R. MURRAY
CLERK & RECORDER
RECORDING FEE: \$51.00
10 PGS

2004052353
05/21/2004 02:35 PM

DECLARATION OF EASEMENT
(Utilities)

This Declaration of Easement (the "Declaration") is made as of May 20, 2004, between DEVELOPMENTAL PATHWAYS, INCORPORATED, a Colorado non-profit corporation ("Developmental Pathways"), having an address of 325 Inverness Drive South, Englewood, Colorado 80112, on the one hand, and CARMEL RIVER, LLC, a Delaware limited liability company, and HAGAN INVESTMENTS LLC, a Colorado limited liability company, (collectively, "Carmel/Hagan"), having an address of 8401 Jackson Avenue, Sacramento, California 95826, on the other hand.

RECITALS

A. Carmel/Hagan is the owner of that certain real property located in the County of Douglas, State of Colorado, being Lot 3 ("Lot 3"), Inverness Subdivision Filing No. 9, commonly known as 327 Inverness Drive South, Building C, as more particularly depicted on Exhibit "A", attached hereto and made a part hereof.

B. Developmental Pathways is the owner of that certain real property located in the County of Douglas, State of Colorado, being Lot 2 ("Lot 2"), Inverness Subdivision Filing No. 9, commonly known as 325 Inverness Drive South, Building B, as more particularly depicted on Exhibit "A", attached hereto and made a part hereof.

C. The parties wish to establish an easement for certain existing utilities located on Lot 3 which may serve Building B and related landscaping and parking areas located on Lot 2, and for certain existing utilities located on Lot 2 which may serve Building C and related landscaping and parking areas located on Lot 3, and to memorialize their agreement regarding any shared utilities.

NOW, THEREFORE, in consideration of the above Recitals, Carmel/Hagan and Developmental Pathways declare as follows:

1. **Declaration of Easements.** Developmental Pathways, for itself, and its successors and assigns, hereby declares and grants, for the benefit of Carmel/Hagan, its successors and assigns, without any representation or warranty whatsoever, a non-exclusive, perpetual utility easement

over, under and across Lot 2 for any existing electrical, gas, water, sewer, cable television, fiber optic, telephone or other utility line, pipe, cable, manhole, pedestal, valve, vault, conduit or other utility structure located on Lot 2 which provides utility service to the Building C and related landscaping and parking areas located on Lot 3. Carmel/Hagan, for itself and its successors and assigns, hereby declares and grants, for the benefit of Development Pathways, its successors and assigns, without any representation or warranty whatsoever, a non-exclusive, perpetual utility easement over, under and across Lot 3 for any existing electrical, gas, water, sewer, cable television, fiber optic, telephone or other utility line, pipe, cable, manhole, pedestal, valve, vault, conduit or other utility structure located on Lot 3 which provides utility service to the Building B and related landscaping and parking areas located on Lot 2. Any utilities subject to the easements granted in this paragraph are called "Existing Utilities". To the extent a public or private utility company is responsible for repairing, maintaining and operating an Existing Utility or is the owner of an Existing Utility, the easement for such Existing Utility contained in this Declaration will be deemed to be granted to the utility company and will constitute a perpetual easement in gross that is assignable to the successor of any such utility company. The width of the easement for any Existing Utility granted herein will be the minimum width necessary for the beneficiary of the easement to be able to repair, maintain, service, reconstruct, replace and operate the Existing Utility.

2. **Non-Disturbance and Relocation.** Developmental Pathways will take no action and will not permit any lessee, licensee, invitee, agent, employee or contractor of Developmental Pathways to take any action, which may disturb any Existing Utility located on Lot 2, or which may interfere with the repair, maintenance, service, reconstruction, replacement or operation of any Existing Utility. Notwithstanding the foregoing, Developmental Pathways shall be entitled, at its sole cost and expense, to relocate any Existing Utility located on Lot 2 so long as such relocation does not unreasonably disrupt utility service to Building C and Lot 3. Carmel/Hagan will take no action and will not permit any lessee, licensee, invitee, agent, employee or contractor of Carmel/Hagan to take any action, which may disturb any Existing Utility located on Lot 3, or which may interfere with the repair, maintenance, service, reconstruction, replacement or operation of any Existing Utility. Notwithstanding the foregoing, Carmel/Hagan shall be entitled, at its sole cost and expense, to relocate any Existing Utility located on Lot 3 so long as such relocation does not unreasonably disrupt utility service to Building B and Lot 2.

3. **Shared Utilities.** To the extent, if any, utilities serving Building C and the related landscaping and parking areas located on Lot 3 are metered or otherwise charged to the owner of Lot 2, or utilities serving Building B and the related landscaping and parking areas located on Lot 2 are metered or otherwise charged to the owner of Lot 3, any of the foregoing being called a "Shared Utility", the parties agree to develop a fair and equitable formula for apportioning the cost of the Shared Utility between Lots 2 and 3, based on usage, and to memorialize the agreement regarding such apportionment by executing and recording an amendment to this Declaration. The parties acknowledge that a fair and equitable formula for allocating the cost of one Shared Utility may not be an appropriate allocation based on usage for another Shared Utility. The party owning the lot on which a Shared Utility is located shall maintain or cause the utility company to maintain in good working order the portion of the Shared Utility located on such lot so as to minimize leakage and waste. In the event the owners of Lots 2 and 3 are unable to agree on a method of apportioning any Shared Utility, either lot owner may refer the matter to binding arbitration before a single arbitrator in Denver, Colorado. The arbitration shall be

conducted by The Judicial Arbiter Group, Inc. or, if The Judicial Arbiter Group, Inc. is not available, by the American Arbitration Association or another arbitral body agreed upon by the parties to the dispute. The arbitrator shall have authority to order specific performance and injunctive relief. The party against whom an action for specific performance or injunctive relief is brought hereby waives the claim or defense that an adequate remedy at law exists. The decision of the arbitrator will be final and binding judgment on the decision, including a monetary award, may be entered by any court of competent jurisdiction. This agreement to arbitrate shall be specifically enforceable. The prevailing party in any arbitration shall be awarded all costs and expenses, including fees of the arbitrator and reasonable attorneys' fees incurred in connection with the arbitration.

4. **Separation of Utilities.** Either party may undertake a physical separation of any Shared Utility at that party's sole cost and expense, with reasonable prior written notice to the other party. Any party exercising its right to separate a Shared Utility ("Exercising Party") shall be required, at its sole cost and expense (a) to repair any damage caused by such separation, (b) to restore the other party's "(Non-Exercising Party's)" parking areas, driveways, building and grounds, and (c) to create a closed utility system for the Shared Utility located entirely on the Non-Exercising Party's lot, including, to the extent required, purchasing utility meters and taps. The excavation, construction, separation, repair and restoration work in connection with the separation of any Shared Utility (the "Work") shall be performed in accordance with plans and specifications previously approved by the Non-Exercising Party, in its reasonable discretion, and in a good and workmanlike manner, and shall comply with all applicable code requirements. The Exercising Party shall use its best efforts to minimize any interruption of or interference with the business activities of the Non-Exercising Party resulting from the Work.

If the Non-Exercising Party so requires, the Exercising Party shall post a bond or other security for the benefit of the Non-Exercising Party and its lender in an amount equal to one hundred thirty percent (130%) times the cost of the Work, including costs for the excavation, construction, reconstruction, restoration, repair and landscaping work for the entire project (e.g., the costs associated with the Work to be performed on both lots), application and permitting costs, and the cost of engineers and other consultants. The Exercising Party shall keep the lot of the Non-Exercising Party free and clear of all mechanic's and materialmen's liens associated with the Work and shall indemnify and hold harmless the Non-Exercising Party and its lender from and against any and all damages, claims, losses, costs, liabilities and expenses whatsoever, including reasonable attorneys' fees, arising out of, or in any way relating to, a breach by the Exercising Party of the provisions of this paragraph 4. If, as a result of an application for site plan review, lot line adjustment, variance, building permit or other request for authorization or approval made by Developmental Pathways or Carmel/Hagan to Douglas County, the Inverness Park Architectural Control Committee or other private or public authorities having jurisdiction over Lots 2 and 3, a requirement for separation of a Shared Utility is imposed, the party making such application or request will be deemed the Exercising Party for purposes of this Agreement.

5. **Indemnification.** Carmel/Hagan, jointly and severally, shall indemnify, defend and hold harmless Developmental Pathways, its officers, directors, managers, members, employees, agents, successors and assigns (collectively, "Developmental Pathways' Indemnified Parties") from and against damages or claims arising from personal injury, death or property damage, or other loss or expense, including reasonable attorneys' fees, suffered or incurred by

Developmental Pathways' Indemnified Parties in connection with the damage to or disruption of transmission, distribution or service of Shared Utilities by Carmel/Hagan or Aurora Loan Services, Inc., its successors and assigns and its employees and invitees, provided, however, the foregoing indemnification, hold harmless and defense obligations shall not include claims, liabilities, losses, costs, expenses or damages to the extent such claims, liabilities, losses, costs, expenses and damages result from the gross negligence or willful misconduct of Developmental Pathways' Indemnified Parties or their employees, tenants, subtenants, licensees, invitees, agents or contractors.

Developmental Pathways shall indemnify, defend and hold harmless Carmel/Hagan, its managers, members, employees, agents, successors and assigns (collectively, "Carmel/Hagan's Indemnified Parties") from and against damages or claims arising from personal injury, death or property damage, or other loss or expense, including reasonable attorneys' fees, suffered or incurred by Carmel/Hagan's Indemnified Parties in connection with damage to or disruption of transmission, distribution or service of Shared Utilities by Developmental Pathways, provided, however, the foregoing indemnification, hold harmless and defense obligations shall not include claims, liabilities, losses, costs, expenses or damages to the extent such claims, liabilities, losses, costs, expenses or damages result from the gross negligence or willful misconduct of Carmel/Hagan's Indemnified Parties or their employees, tenants, subtenants, licensees, invitees, agents or contractors.

6. **Severability.** If any clause, sentence, or other portion of the terms, conditions, covenants, and restrictions of this Declaration become illegal, null, or void for any reason, or be held by any court of competent jurisdiction to be so, the remaining portions will remain in full force and effect.

7. **Governing Law.** This Declaration shall be subject to and construed in accordance with the laws of the State of Colorado.

8. **Binding on Heirs.** This Declaration shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the undersigned, and shall remain in full force and effect, and shall obligate, inure to and pass with each and every portion of the herein described real property. This Declaration shall be for the sole benefit of the parties to this Declaration and shall not benefit any other party. Nothing contained in this Declaration shall be deemed to be a dedication of any utility easements to the general public, it being the intention of the parties that use of any utility easements granted herein be strictly limited to and for the purposes express in this Declaration.

9. **Captions.** The captions heading the various sections of this Declaration are for the convenience and identification only, and shall not be deemed to limit or define contents of the respective sections. Terms used with initial capital letters will have the meanings specified, applicable to both singular and plural forms, for all purposes.

10. **Terms.** This Declaration and all the terms contained herein, shall be recorded and run with the herein described real property and be binding upon the owners of the herein described real property.


11. **Mortgage.** Any violation of the provisions contained herein shall not defeat or render invalid the lien of any mortgage or Deed of Trust made in good faith and for value, however, the buyer under any foreclosure sale under a Deed of Trust shall take title subject to this Declaration.
12. **Non-Merger.** No joint or common ownership of Lot 2 and Lot 3 and adjoining parcels shall create a merger so as to render invalid the effect of the easement created herein.
13. **Counterparts.** This Declaration may be executed in any number of counterparts all of which together shall constitute one and the same instrument.
14. **Attorney's Fees.** In the event that any party commences any action or proceeding against the other in order to enforce the provisions hereof or in order to obtain damages for the alleged breach of any of the provisions hereof, the prevailing party as determined by a court of competent jurisdiction therein shall be awarded, in addition to any amounts or relief otherwise awarded, all reasonable costs incurred in connection therewith, including reasonable attorney's fees and litigation expenses.

[Signatures Begin On Next Page]

SIGNATURE PAGE

IN WITNESS WHEREOF, Developmental Pathways and Carmel/Hagan, have executed this Declaration as of the date first written above.

DEVELOPMENTAL PATHWAYS, INCORPORATED,
a Colorado non-profit corporation

By: 
Daniel L. Cohrs
Associate Executive Director and Chief Financial
Officer

CARMEL RIVER, LLC,
a Delaware limited liability company

Countersigned

By: _____
Carl D. Panattoni, Trustee of Panattoni Living
Trust, dated April 8, 1998, Sole Member

HAGAN INVESTMENTS LLC, a Colorado limited
liability company

Countersigned

By: _____
David Hagan, Sole and Managing Member

SIGNATURE PAGE


IN WITNESS WHEREOF, Developmental Pathways and Carmel/Hagan, have executed this Declaration as of the date first written above.

DEVELOPMENTAL PATHWAYS, INCORPORATED,
a Colorado non-profit corporation


Countersigned

By: _____
Daniel L. Cohrs
Associate Executive Director and Chief Financial
Officer

CARMEL RIVER, LLC,
a Delaware limited liability company

By:  _____
Carl D. Panattoni, Trustee of Panattoni Living
Trust, dated April 8, 1998, Sole Member

HAGAN INVESTMENTS LLC, a Colorado limited
liability company

By:  _____
David Hagan, Sole and Managing Member

STATE OF COLORADO)
COUNTY OF San Juan)

The foregoing instrument was acknowledged before me on this 20 day of May, 2004, by Daniel L. Cohrs as Associate Executive Director and Chief Financial Officer of Developmental Pathways, Incorporated.

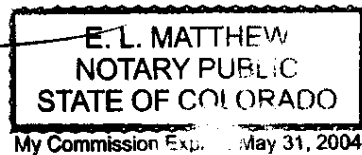
WITNESS my official hand and seal.

My commission expires: 5-31-04

[SEAL]

STATE OF _____)
COUNTY OF _____)

Notary Public



The foregoing instrument was acknowledged before me on this _____ day of May, 2004, by Carl D. Panattoni, Trustee of Panattoni Living Trust, dated April 8, 1998, as the Sole Member of Carmel River, LLC.

WITNESS my official hand and seal.

Countersigned

My commission expires: _____

Notary Public

[SEAL]

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this _____ day of May, 2004, by David Hagan as Sole and Managing Member of Hagan Investments LLC.

WITNESS my official hand and seal.

My commission expires: _____

Countersigned

Notary Public

[SEAL]

STATE OF COLORADO)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this _____ day of May, 2004, by Daniel L. Cohrs as Associate Executive Director and Chief Financial Officer of Developmental Pathways, Incorporated.

WITNESS my official hand and seal.

My commission expires: _____

Countersigned

[SEAL]

Notary Public

STATE OF California)
)
COUNTY OF Sacramento)

The foregoing instrument was acknowledged before me on this 17th day of May, 2004, by Carl D. Panattoni, Trustee of Panattoni Living Trust, dated April 8, 1998, as the Sole Member of Carmel River, LLC.

WITNESS my official hand and seal.

My commission expires: June 7, 2007



Katina K. Woodbury
Notary Public

[SEAL]

STATE OF Colorado)
)
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me on this 19th day of May, 2004, by David Hagan as Sole and Managing Member of Hagan Investments LLC.

WITNESS my official hand and seal.

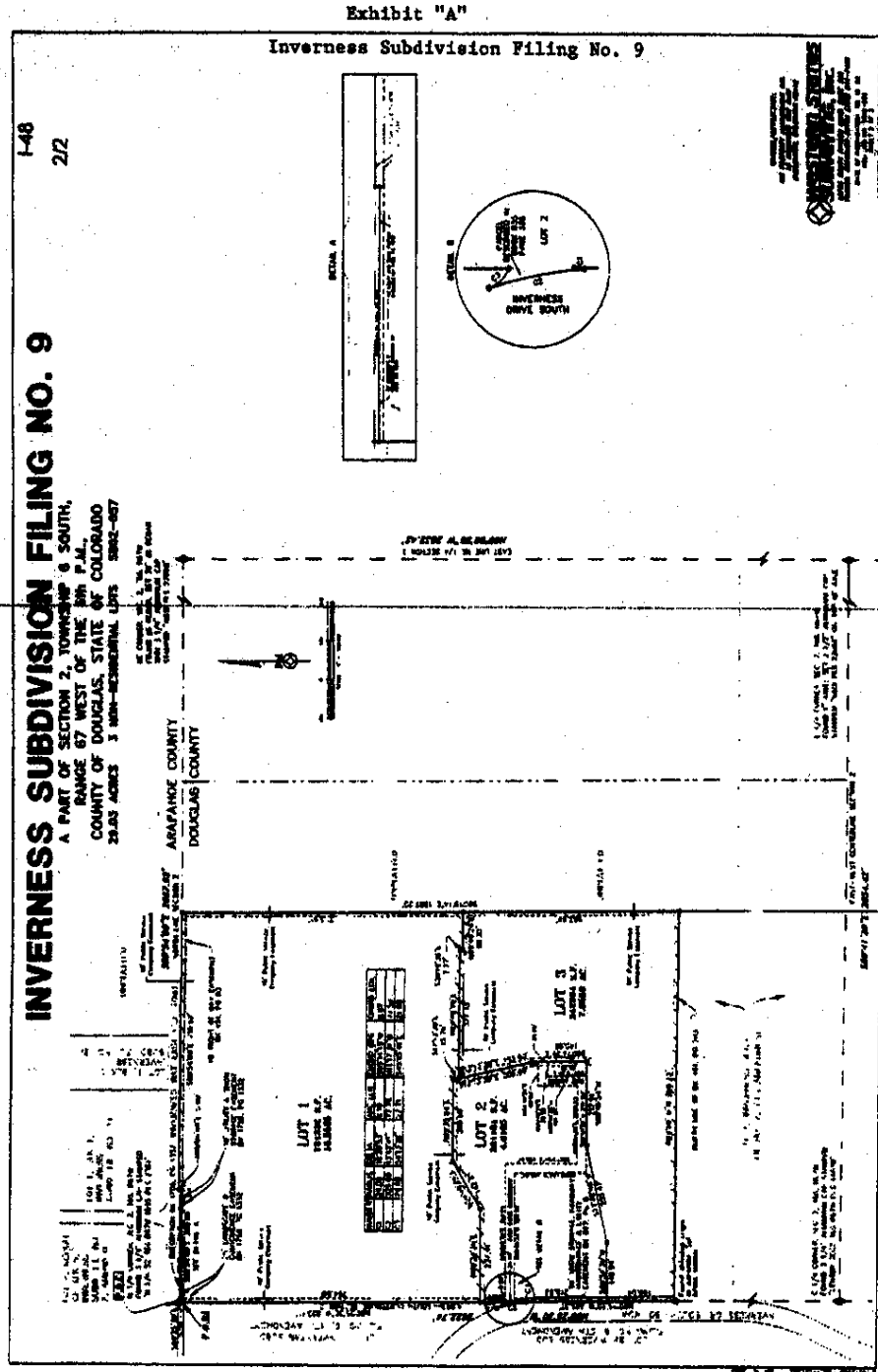
My commission expires: July 3, 2005



Robin Miller
Notary Public

[SEAL]

EXHIBIT "A" **Inverness Subdivision Filing No. 9**



SKLD LG 172.20.254.185 DS 71425-2003.002

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

Panattoni Law Firm
1770 Moriah Woods Blvd.
Suite 12A
Memphis, TN 38117
Attn: Melody Oliver

FOR RECORDER'S



2004052354 9 PGS

OFFICIAL RECORDS
DOUGLAS COUNTY CO
CAROLE R. MURRAY
CLERK & RECORDER
RECORDING FEE: \$46.00
9 PGS

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05/21/2004 02:35 PM

AGREEMENT REGARDING BUILDING CONNECTOR

This Agreement Regarding Building Connector (this "Agreement") is made as of May 20, 2004 between DEVELOPMENTAL PATHWAYS, INCORPORATED, a Colorado non-profit corporation ("Developmental Pathways"), having an address of 325 Inverness Drive South, Englewood, Colorado 80112, on the one hand, and CARMEL RIVER, LLC, a Delaware limited liability company, and HAGAN INVESTMENTS LLC, a Colorado limited liability company (collectively, "Carmel/Hagan"), having an address of 8401 Jackson Avenue, Sacramento, California 95826, on the other hand.

RECITALS

A. Carmel/Hagan is the owner of that certain real property located in the County of Douglas, State of Colorado, being Lot 3 ("Lot 3"), Inverness Subdivision Filing No. 9, commonly known as 327 Inverness Drive South, including the office building commonly known as Building C ("Building C"), as more particularly depicted on Exhibit "A", attached hereto and made a part hereof.

B. Developmental Pathways is the owner of that certain real property located in the County of Douglas, State of Colorado, being Lot 2 ("Lot 2"), Inverness Subdivision Filing No. 9, commonly known as 325 Inverness Drive South, including the office building commonly known as Building B ("Building B"), as more particularly depicted on Exhibit "A", attached hereto and made a part hereof.

C. Building C and Building B are connected by an enclosed corridor which is permanently attached to the buildings (the "Building Connector"). One portion of the Building Connector lies on Lot 2 and the remaining portion of the Building Connector lies on Lot 3.

D. The parties wish to memorialize their agreements and understandings regarding the Building Connector.

NOW THEREFORE, in consideration of the above Recitals, Developmental Pathways and Carmel/Hagan agree as follows:

AGREEMENTS

1. Restriction of Access. Developmental Pathways and Carmel/Hagan each agrees to prohibit access to the Building Connector by employees, tenants, subtenants, licensees,

invitees, agents, and contractors who seek to enter the Building Connector at the point it is attached to its building. Developmental Pathways will keep the door between Building B and the Building Connector locked at all times. Carmel/Hagan will keep the door between Building C and the Building Connector locked at all times. In addition, each party will have a right, but no obligation, to install drywall or another permanent barrier across the portion of the Building Connector which attaches to its building so long as such installation complies with all applicable fire and building codes. Neither Developmental Pathways nor Carmel/Hagan will permit any furniture, equipment or other property to be stored in the Building Connector.

2. Insurance. Each party will keep the portion of the Building Connector located on its lot insured at 100% of replacement cost on an "All Risk" policy form covering such risks as shall be commercially available and mutually satisfactory to Developmental Pathways and Carmel/Hagan. Each party shall furnish the other with an insurance certificate evidencing such coverage within ten days following the date of this Agreement and on each annual anniversary of this Agreement thereafter. Developmental Pathways and Carmel/Hagan each waives any and all rights to recover against the other or their respective officers, directors, managers, members, employees and agents, for any loss or damage to such waiving party, arising from any cause, to the extent covered by any valid and collectible property insurance required to be carried under this Agreement or any other property damage insurance actually carried by such party. Such waiver shall be effective only to the extent covered by property damage policies in force and in effect with respect to such damage or loss and provided that such release does not adversely affect or impair such policies or prejudice the right of the releasing party to recover under such policies. Developmental Pathways and Carmel/Hagan shall arrange for endorsements waiving subrogation rights to be issued by their insurers, if such waiver is not already included in their respective property insurance policies.

3. Removal of Building Connector. Each party to this Agreement shall have a right, but not an obligation, at any time but with reasonable prior notice to the other party, to remove the Building Connector at its sole cost and expense. Any party exercising its right to remove the Building Connector (an "Exercising Party") shall be required, at its sole cost and expense, to repair any damage to the other party's ("Non-Exercising Party's") building and grounds caused by such removal. Such repair shall include the installation of a permanent "fill-in" wall where the Building Connector had been attached that is constructed of the same materials and matched to the interior and exterior finishes of adjacent construction in the Non-Exercising Party's building and meets all applicable code requirements. In addition, the Exercising Party must improve the portion of the Non-Exercising Party's lot where the Building Connector was located with irrigated landscaping, patio, sidewalk or other material acceptable to such Non-Exercising Party in its reasonable discretion, all at the Exercising Party's cost and expense. All work in connection with the removal of the Building Connector and restoration and repair of the buildings and grounds following such removal (collectively, the "Work") shall be performed in a good and workmanlike manner in accordance with plans and specifications previously approved by the Non-Exercising Party in its reasonable discretion. If the Non-Exercising Party so requires, the Exercising Party shall post a bond or other security for the benefit of the Non-Exercising Party and its lender in an amount equal to one hundred thirty percent (130%) times the cost of the Work, including costs for the demolition, removal, reconstruction, repair and landscaping work for the entire project (e.g., the costs associated with the Work to be performed on both lots), application and permitting costs, and the costs of engineers and other consultants.

The Exercising Party shall keep the lot of the Non-Exercising Party free and clear of all mechanic's and materialmen's liens associated with the Work and shall indemnify and hold harmless the Non-Exercising Party and its lender from and against any and all damages, claims, losses, costs, liabilities and expenses whatsoever, including reasonable attorneys fees, arising out of, or in any way relating to, a breach by the Exercising Party of the provisions of this paragraph 3. If, as a result of an application for site plan review, lot line adjustment, variance, building permit or other request for authorization or approval made by Developmental Pathways or Carmel/Hagan to Douglas County, the Inverness Park Architectural Control Committee or other private or public authorities having jurisdiction over Lots 2 and 3, a requirement for removal of the Building Connector is imposed, the party making such application or request will be deemed the Exercising Party for purposes of this Agreement.

4. Termination. This Agreement shall continue in perpetuity unless and until the Building Connector is removed in accordance with the requirements of paragraph 3. If and when the Building Connector is removed in accordance with said paragraph 3, this Agreement shall terminate automatically. Developmental Pathways and Carmel/Hagan agree to execute a termination agreement in recordable form, if at any time the Building Connector is removed.

5. Compliance by Other Parties. Developmental Pathways and Carmel/Hagan each will cause their employees, tenants, subtenants, licensees, invitees, agents and contractors, to comply with the provisions of paragraph 1 of this Agreement.

6. Miscellaneous.

(a) This Agreement will be binding upon, and inure to the benefit of, the parties to this Agreement and their respective successors and assigns, shall remain in full force and effect, and shall obligate, inure to and pass with each and every portion of Lots 2 and 3, and the owners of such land, unless and until this Agreement is terminated in accordance with paragraph 4. This Agreement shall be recorded in the Douglas County real estate records.

(b) This Agreement may be amended or modified only by a written document that is designated as an amendment and is signed by Developmental Pathways and Carmel/Hagan.

(c) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado, without giving effect to conflicts of law principles.

(d) This Agreement contains the entire agreement of the parties and supercedes all prior understandings and agreements, whether oral or written, relating to the subject matter of this Agreement.

(e) This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but such counterparts when taken together shall constitute but one Agreement.

(f) No course of dealing will be deemed to amend or discharge any provision of this Agreement. No delay in the exercise of any right will operate as a waiver of such right. No single or partial exercise of any right will preclude its further exercise. A waiver of any right

on any one occasion will not be construed as a bar to, or waiver of, any such right on any other occasion.

(g) Wherever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law. However, if for any reason any one or more of the provisions of this Agreement are held to be invalid, illegal or unenforceable in any respect, such action will not affect any other provision of this Agreement. In that event, this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained in it.

(h) Any violation of the provisions of this Agreement shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, however, the buyer at any foreclosure sale under a deed of trust shall take title subject to this Agreement.

(i) Article and section titles have been inserted for convenience of reference only. They are not intended to affect the meaning or interpretation of this Agreement.

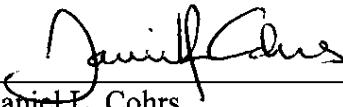
(j) In the event that any party commences any action or proceeding against the other in order to enforce the provisions hereof or in order to obtain damages for the alleged breach of any of the provisions hereof, the prevailing party, as determined by a court of competent jurisdiction therein, shall be awarded, in addition to any amounts or relief otherwise awarded, all reasonable costs incurred in connection therewith, including reasonable attorney's fees and litigation expenses.

[Signatures Begin On Next Page]

SIGNATURE PAGE

IN WITNESS WHEREOF, Developmental Pathways and Carmel/Hagan have executed this Declaration as of the date first written above.

DEVELOPMENTAL PATHWAYS, INCORPORATED,
a Colorado non-profit corporation

By: 
Daniel L. Cohrs
Associate Executive Director and Chief Financial
Officer

CARMEL RIVER, LLC, a Delaware limited liability
company

Countersigned

By: _____
Carl D. Panattoni, Trustee of Panattoni Living
Trust, dated April 8, 1998, Sole Member

HAGAN INVESTMENTS LLC, a Colorado limited
liability company

Countersigned

By: _____
David Hagan, Sole and Managing Member

SIGNATURE PAGE


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DEVELOPMENTAL PATHWAYS, INCORPORATED,
a Colorado non-profit corporation


Countersigned

By: _____
Daniel L. Cohrs
Associate Executive Director and Chief Financial
Officer

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company

By:  _____
Carl D. Panattoni, Trustee of Panattoni Living
Trust, dated April 8, 1998, Sole Member

HAGAN INVESTMENTS LLC, a Colorado limited
liability company

By:  _____
David Hagan, Sole and Managing Member

STATE OF COLORADO)
COUNTY OF JEANES)

The foregoing instrument was acknowledged before me on this 20 day of May, 2004, by Daniel L. Cohrs as Associate Executive Director and Chief Financial Officer of Developmental Pathways, Incorporated.

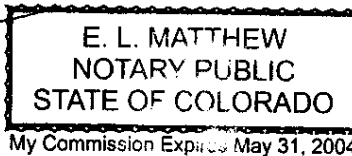
WITNESS my official hand and seal.

My commission expires: 5-31-04

[SEAL]

STATE OF _____)
COUNTY OF _____)

Notary Public



The foregoing instrument was acknowledged before me on this _____ day of May, 2004, by Carl D. Panattoni, Trustee of Panattoni Living Trust, dated April 8, 1998, as the Sole Member of Carmel River, LLC.

WITNESS my official hand and seal.

My commission expires: _____

Countersigned

Notary Public

[SEAL]

STATE OF _____)
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this _____ day of May, 2004, by David Hagan as Sole and Managing Member of Hagan Investments LLC.

WITNESS my official hand and seal.

My commission expires: _____

Countersigned

Notary Public

[SEAL]

STATE OF COLORADO)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this _____ day of May, 2004, by Daniel L. Cohrs as Associate Executive Director and Chief Financial Officer of Developmental Pathways, Incorporated.

WITNESS my official hand and seal.

My commission expires: _____

Countersigned

Notary Public

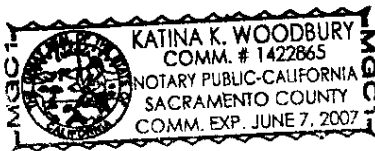
[SEAL]

STATE OF California)
)
COUNTY OF Sacramento)

The foregoing instrument was acknowledged before me on this 17th day of May, 2004, by Carl D. Panattoni, Trustee of Panattoni Living Trust, dated April 8, 1998, as the Sole Member of Carmel River, LLC.

WITNESS my official hand and seal.

My commission expires: June 7, 2007



Kat K Woodbury
Notary Public

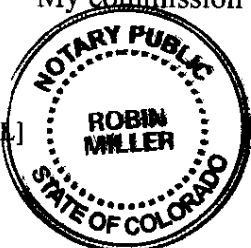
[SEAL]

STATE OF Colorado)
)
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me on this 19th day of May, 2004, by David Hagan as Sole and Managing Member of Hagan Investments LLC.

WITNESS my official hand and seal.

My commission expires: July 3, 2005

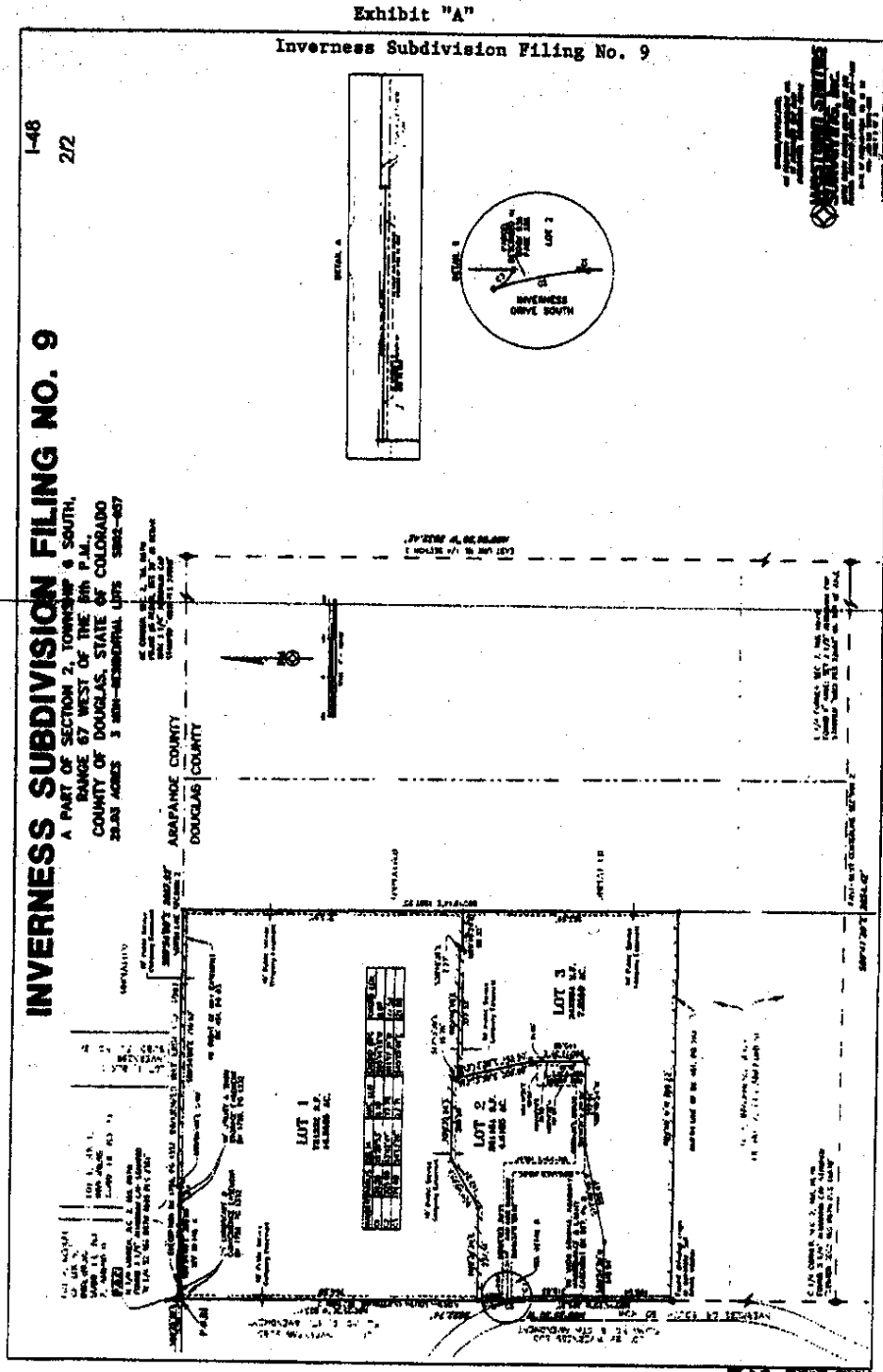


Robin Miller
Notary Public

[SEAL]

My Commission Expires July 3, 2005

EXHIBIT "A" **Inverness Subdivision Filing No. 9**



SKLD LG 172.20.254.185 DS 71425-2003.002

Fwd: Re: Trespassing Must Stop Immediately

1 message

Mike Swisher <mike@homeland.com>
To: Craig Clark <craig@pillows.com>

Fri, Mar 21, 2025 at 11:17 AM

On Mar 21, 2025, at 10:42 AM, Alan Hamor <alan.hamor@radixmeta.com> wrote:

Mike,

I don't believe that you understand; "frustrations" does not come close to describing how I feel, nor does it seem that you took me seriously when I stated that I expect a written response from you in addressing this matter. The good will and polite requests have had no positive effect, the owners and managers of 327 have caused injury to the owners of 325, so the polite requests have become a demand for action. There is nothing to discuss or negotiate on this matter, so there will be no in-person meeting about it. (1) Visitors and/or occupants of your building have been trespassing repeatedly over the past many months, (2) you have been notified repeatedly with no apparent change in this behavior, (3) the owners of 325 have contracted with a towing company and you have been notified of this fact. A written response from you acknowledging these assertions and describing how you will correct it is what is needed.

On Wed, Mar 19, 2025 at 8:14 AM Mike Swisher <mike@homeland.com> wrote:

Hi Alan,

We understand your frustrations and want to get the issues resolved. We think it might be best to move to an in person meeting for these discussions instead of email correspondence. Are there any day and time windows that would work for your team? We can have building ownership for 327 in attendance as well.

Best,

Mike Swisher | Chief Executive Officer

303.883.2054

2200 S. Valentia Street

Denver, CO 80231



On Tue, Mar 18, 2025 at 4:57 PM Alan Hamor <alan.hamor@radixmeta.com> wrote:

Mr. Swisher,

I have returned from extended vacation and learned that trespassing in our parking lot has continued, even worsened to some extent. This must stop entirely and immediately. The only spaces in our parking lot that vehicles visiting 327 Inverness Drive S are allowed to use are the ADA spaces governed by the active easement granted by the owners of 325 Inverness Drive S, which are those ADA spaces closest to the 327 building (all vehicles using these spaces must display a Colorado recognized ADA vehicle identification or else they will be towed at the owner's expense). No other vehicles are allowed to park, or to stop and offload personnel or equipment, on the 325 Inverness Drive S property.

Radix leadership forwarded to me all the internal and external communication going back to the first engagement with you on this subject.

I was particularly unhappy about some of what I read. This started with your response to Mr. Kritenbrink on January 6, 2025. The inherent liability to the owners of 325 that is incurred when vehicles and workers are on our property and the wear and tear to our parking lot (no matter how slight each instance may be) was ignored. You asserted or insinuated that the owners of 325 would somehow be unreasonable or unneighborly by not allowing your workers and trucks on our property. This tone was more than a little irritating to me.

My irritation was compounded by several other communications that described and depicted with photos the repeated incidents of your visitors using our parking lot, with another one happening on March 17, 2025. This has been consuming time from the managers of Radix at a significant cost to the company. The most egregious of these incidents happened on Feb 20, 2025, when the Facilities Manager of Radix Metasystems was verbally assaulted by the driver of an HVAC truck who was parked on 325 property when she asked him to move his vehicle. This propelled these incidents of trespassing far beyond irritating. Had I known about this at the time that it happened then I would have contacted law enforcement and filed charges. As a company with a duty to protect our employees, I do not take such incidents lightly.

Some of the latest in the ongoing trespassing on 325 property by visitors to 327 is happening in the evenings. Investigation has shown that it seems these vehicles are driven by people who are involved in activities conducted by "Joyful Light".

As stated in the first paragraph of this email; all trespassing on 325 property by vehicles visiting the 327 building must stop immediately. The owners of 325 Inverness Drive S have contracted with a towing company, and they are instructed to tow unauthorized vehicles from the 325 property.

You must take immediate and effective action to prevent this trespassing on our property. Your actions to date in response to our complaints have not produced any changes in the behavior of visitors to your building.

The discussion about possibly trading spaces in each other's parking lots is entirely separate from this ongoing topic of trespassing. The trespassing must be addressed and acted on immediately by the owners and managers of 327 Inverness Drive S. I expect and will appreciate a written response from you addressing this matter before the end of this week.

Respectfully,

--

Alan Hamor
Radix Metasystems, Inc
alan.hamor@radixmeta.com

--
Alan Hamor
Radix Metasystems, Inc
alan.hamor@radixmeta.com



Craig Clark <craig@pillows.com>

Fwd: 327 Inverness Drive South

1 message

Craig Clark <craig@pillows.com>
To: aPeter Molina <pete.molina@radixmeta.com>

Mon, Mar 24, 2025 at 6:56 AM

Good Morning Peter-

I hope you are doing well. I wanted to reach out to you directly owner to owner to try and work on the friction we are seeing between 325 and 327 Inverness Dr. S regarding our mutual easement. I sent the email below to Alan after he and Mike had gone back and forth. I am sure Alan sent this to you and I suspect my email frustrated him more even though my intent was to convey there are matters to be discussed on both sides while avoiding escalating the situation by litigating the issue by email. The reality is that for whatever reason, Alan and Mikes' work has seemed to stall out. Mike requested to have a meeting and Alan refused to have a meeting to discuss the matter. This stall prompted me to send the email.

To move this towards resolution, if you are willing, I would love to meet to discuss the matter. I am sure we can create rules we can give to our tenants and vendors that clarify their access to our property via the easement. And, I would propose a mutual indemnification relating to the easement access to address your liability concerns.

Let me know if you are interested. Have a great week.

Kind Regards.

Craig Clark
Chairman, Pillows.com and Homeland.com
Executive Officer, 4th Civil Affairs Group

p: 720-840-7634
civilian: craig@pillows.com
military: craig.w.clark@usmc.mil

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----- Forwarded message -----

From: **Craig Clark** <craig@pillows.com>
Date: Fri, Mar 21, 2025 at 5:56 PM
Subject: 327 Inverness Drive South
To: <alan.hamor@radixmeta.com>
Cc: Mike Swisher <mike@homeland.com>, Abby Clark <abbysclark@yahoo.com>, Emma O <emma@homeland.com>

Good Evening Mr. Hamor-

I hope this finds you well. I am the Managing Member of Tower 22 LLC, which owns 327 Inverness Dr S.

For your reference attached is the easement that impacts the relationship between 327 and 325 Inverness Dr. S. as well as parcel 1 nearby. Please note that all three of these properties have mutual pedestrian and vehicle access easements across all entrances, driveways, driving lanes, and sidewalks. These mutual easements specifically allow for vehicle and pedestrian access as well as vehicle and pedestrian ingress and egress from public rights of way.

Moreover, our parcel has an entirely separate, non-exclusive parking easement for nine handicapped parking spaces on your parcel.

It is clear from your email that your understanding of the rights conveyed by this easement, as well as Colorado law, is fundamentally different from ours. Our approach across the many properties we own is to try to work professionally and

amicably with our neighbors to resolve any issues. To that end I am requesting to have a meeting with you and a representative of the ownership of the building to work to resolve these differences. Please let me know your and building ownership availability for such a meeting. I am available next week on Monday or Wednesday mornings as well as most of Friday.

In the interest of full disclosure and in accordance with the guidelines that govern the professional conduct of lawyers, please note that I am an attorney licensed to practice law in the State of Colorado. At this point I am not acting as an attorney representing Tower 22 LLC, but as the Managing Member of Tower 22 LLC. It is as an owner of 327 Inverness Dr. S that I am proposing to discuss these issues to hopefully achieve a mutually beneficial resolution to our respective concerns.

Respectfully Submitted,


Craig Clark
Chairman, Pillows.com and Homeland.com
Executive Officer, 4th Civil Affairs Group

p: 720-840-7634

civilian: craig@pillows.com

military: craig.w.clark@usmc.mil

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 **easement15 - In Effect.pdf**
209K



Craig Clark <craig@pillows.com>

325 and 327 Meeting

1 message

Craig Clark <craig@pillows.com>

Wed, Mar 26, 2025 at 7:58 AM

To: aPeter Molina <pete.molina@radixmeta.com>, alan.hamor@radixmeta.com

Cc: Mike Swisher <mike@homeland.com>, Emma O <emma@homeland.com>, Abby Clark <abbysclark@yahoo.com>

Good Morning Gentlemen-

I hope this email finds you well. As I have not heard back from the emails I sent on Friday to Alan and Monday to Pete I wanted to check in one more time and get your thoughts on a meeting to discuss the issues between our two buildings relating to the easements. I would appreciate it if you would let me know if you are interested in a meeting. I think that it would be preferable for all parties to try and resolve this on an owner to owner level. If you are not interested in a meeting I would also appreciate it if you would let me know that and we will proceed accordingly.

Kind Regards.

Craig Clark
Chairman, Pillows.com and Homeland.com
Executive Officer, 4th Civil Affairs Group

p: 720-840-7634
civilian: craig@pillows.com
military: craig.w.clark@usmc.mil

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Craig Clark <craig@pillows.com>

Re: Notice of Default - 325GoTo LLC

1 message

Craig Clark <craig@pillows.com>

Thu, Mar 27, 2025 at 10:17 AM

To: Peter Molina <pete.molina@radixmeta.com>

Cc: Mike Swisher <mike@homeland.com>, Emma O <emma@homeland.com>, Omar Velayudhan <omar@homeland.com>, Al Hamor <alan.hamor@radixmeta.com>, Maclain Joyce <mjoyce@messner.com>

Dear Mr. Molina-

Thank you for the reply. I look forward to hopefully having a productive discussion with your General Counsel.

Respectfully,

Craig Clark
Chairman, Pillows.com and Homeland.com
Executive Officer, 4th Civil Affairs Group
Law Office of Craig W. Clark, Esq.

p: 720-840-7634
civilian: craig@pillows.com
military: craig.w.clark@usmc.mil

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On Thu, Mar 27, 2025 at 10:09 AM Peter Molina <pete.molina@radixmeta.com> wrote:

Dear Mr. Clark-

I acknowledge receipt of your email and Notice. We have provided it to our General Counsel for review.

Kind regards,

Pete

Pete Molina

CEO/CFO
Radix Metasystems, Inc.

<http://www.radixmeta.com>
pete.molina@radixmeta.com
Cell: 303-903-9348

This message and its contents are confidential. If you received this message in error, do not use or rely upon it. Instead, please inform the sender and then delete it. Thank you.

On Wed, Mar 26, 2025 at 10:28 PM Craig Clark <craig@pillows.com> wrote:

Dear Mr. Molina-

Please see the attached Notice of Default. Unfortunately, due to your unresponsiveness, my client felt required to send this Notice of Default to protect their property rights and put a stop to the damaging conduct by the agents of 325GoTo LLC. If you would like to discuss this matter my client's offer still stands to de-escalate this matter and professionally meet to work to find a mutually satisfactory solution to the matter. If you would like to take my client up on this offer please let us know.

Re: Reply Requested 325 and 327 Inverness Easement

1 message

Craig Clark <craig@pillows.com>

Thu, May 1, 2025 at 8:42 AM

To: Maclain Joyce <mjoyce@messner.com>

Cc: Maclain Joyce <mjoyce@messner.com>, Omar Vee <omar@homeland.com>

Bcc: Mike Swisher <mike@homeland.com>, Emma O <emma@homeland.com>, Abby Clark <abbysclark@yahoo.com>

Good Morning Maclain-

I hope this finds you well. I apologize for not moving as fast as usual on this issue. I have a major legal filing due on Monday that has been all-consuming to a degree.

So far, I haven't heard of any issues this week, and I know Joyful Light is working to have any parents promptly move their cars that park in your client's lot. Hopefully, your client feels the same way and feels that the tension is decreasing. We are also working on some more sign options. I think Bryan (CEO), Footprints and Joyful Light owner, has been reasonable in the interactions with your client. Attached is the email he sent summarizing the incident in the parking lot where he was trying to talk to one of your clients. This does not seem overly dramatic to me. Also, as a courtesy, attached is the Joyful Light show schedule for April/May. After this show schedule concludes, they will go dark for a time while they get ready for their next season.

Action Being Taken/Signs

In the survey attached, we have shown how we think traffic can better flow for drop off/pick up of kids going to the theater (this is a red arrow). Having it flow this way should prevent cars from backing up adjacent to your client's building. While we understand your client does not agree that vehicular drop-off and pick-up is allowable under the easement, we hope they can see this is an attempt to decrease any impact on your client during the drop-off and pick-up period.

My client is also creating signs to go at the entrance to their east parking lot to try to bring attention to visitors to the building that they should park in that area, creating active loading/unloading only signs for the drive lane, and updating building rules to better enforce parking consistent with the existing easement we are primarily focused on. We will continue to send approved drafts to you for feedback.

In terms of what you have proposed, the signs seem to imply that the only drive lanes are those that you have designated in yellow. This is not something my client would agree to, and believes the easement is apparent that all drive lanes (as well as sidewalks) on both properties are subject to the mutual access easement. Primarily, my client is not going to concede that the drive lane adjacent to my client's property's main north lobby is not a lane that can be used as part of the easement. This is probably actually our biggest legal disagreement between our two clients. My client feels strongly that to enjoy the use of its property, particularly its main grand lobby, this drive lane must be used. Your client feels strongly that the lane should not be used for any sort of pick-up/drop-off. However, I do not think it is irreconcilable, and I propose a settlement below. We are not yet moving to print signage in the hope that we can mutually resolve the matter.

For your reference, Douglas County zoning and planning guidelines generally refer to drive lanes as:

A portion of a parking lot or development site that provides vehicular access to parking spaces and may also provide connectivity within the site or to adjacent roadways.

We have always seen drive lanes interpreted by jurisdictions when we have done property development, as every lane between parking lots. In our experience, this is a commonly accepted definition. We have never seen a narrow interpretation where only specific lanes between parking spots are drive lanes. Ultimately, this issue and the rights under the easement would likely be analyzed by a court based on the enjoyment of each party's respective properties.

Fire Lane and Property Line

For your consideration, attached is the survey we have on the property. First, please note that about 3-4' of the drive where your client is upset about the drop-off of passengers and in several cases the unloading of materials. I have highlighted this area in yellow. At a minimum, this complicates your client's position that vehicles and pedestrians accessing our building's main lobby cannot drop off passengers and/or goods in the supply lane.

In terms of the fire lane, I understand where your client is coming from, as versions of parking maps have shown this as a fire lane, and the attached survey shows this as a fire lane. But we have a significant problem here. The fire lane easement is 24' wide, but your client (or predecessor) has put parking spots and several islands in the fire lane. A fire truck could not make the turns due to the curbs, and if vehicles were parked in the conflicting spots, these would also block a truck. You can see where the fire lane runs based on the dashed line. The blocking of the fire lane by your client complicates matters and certainly complicates the argument that, because it is a fire lane, there cannot be loading and unloading. Please also note that regularly loading and unloading is done in fire lanes across Arapahoe and Douglas counties. Every elementary school that I am aware of in these counties allows active loading and unloading in marked fire lanes during morning and afternoon drop off, just no parking.

Please also reference that parking, which we both agree is the easement we are primarily focused on, is defined under Colorado law as:

CRS § 42-1-102(67):

"Park" or "parking" means the standing of a vehicle, whether occupied or not, other than very briefly for the purpose of and while actually engaged in loading or unloading property or passengers

At this point, I am not using all the above to make any sort of legal argument. I am raising these issues as the whole easement issue is not as cut and dry as your client would like it to be. From our view, the reality is that these two buildings will continue to have some friction relating to parking as a legacy of how they were subdivided in 2004. In our view, this friction can be overcome by well-intentioned positive communication. It cannot be overcome through strict interpretation and self-help enforcement.

Settlement Offer

My client is all about resolving this issue and getting back to business. On this side we understand that your client is upset about what has transpired, but we want to bring this to conclusion so all parties can focus where they should be focused, running their respective businesses and as part of that being collaborative neighbors. To that end we would like to make the following settlement offer.

1. A new easement is created where:

*there is a mutual indemnification between them with respect to the easements in place

*there is a mutual non-exclusive parking easement for the areas indicated on the drawing in red (your client adds a lot more spots that can be used and our client adds a lot more costs, it is non-exclusive so first come first serve)

*each party bears its own maintenance expense on their property

*if a competent government authority requires the parking layout to change on your client's property due to the fire lane conflict, the parties will evenly share the expense of doing this

*327 Inverness will bear any legal costs or consequences from allowing active loading and unloading in the drive lane adjacent to its main lobby entrance and indemnify your client from such usage

*the parking easement that expires in November 1, 2026 will be officially extinguished

*parking in drive lanes is strictly forbidden, active loading and unloading that does not obstruct the flow of traffic is allowed in the drive lane that runs east-west north of my client's grand lobby

*conflicts are addressed through the following mechanism

-both parties designate a parking officer, any issues are brought up through them for resolution and they are obligated to work to resolve the issue in a commercially reasonable manner

-the parking officers must check in at least once monthly by phone or electronic communication

-both parties designate an owner

-if the parking officers cannot agree on a resolution to any issue and 30 days have passed since they began working on the issue, the owners agree to meet after either parking officer declares there is an unresolvable issue in writing; within 14 days of receiving such notice in writing and the owners will work to resolve the issue in a commercially reasonable manner

-if after the owners cannot resolve the issue, upon 30 days of meeting, the issue will go to an arbitration panel made up of an individual designated by both parties and an individual from the American Arbitration Association mutually agreed to by the designated officials; whatever the panel decides will be binding, each party bears their costs and expenses of this splitting the cost of the AAA

2. A settlement agreement is executed where:

*my client pays your client \$10,000 to offset legal expenses related to this matter, so your client is made whole and not out of pocket for this conflict

*your/my client share the expense of re-stripping/labeling spots they are exchanging

*your/my client will share the expense of labeling the spots marked in yellow as Reserved v. the current lettering, which lists your client's address (we think an issue is people visiting the buildings do not understand the difference between the two addresses, but if they see "Reserved", this may help)

*this is a final resolution of the matter

I look forward to discussing this more. Please let me know if you would like to set up a call after you have a chance to talk to your client.

Have a great end to the week.

Craig Clark
Chairman/General Counsel, Pillows.com
Managing Broker/General Counsel, Homeland.com
Executive Officer, 4th Civil Affairs Group
Law Office of Craig W. Clark, Esq.

p: 720-840-7634

civilian: craig@pillows.com

military: craig.w.clark@usmc.mil

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On Thu, Apr 24, 2025 at 8:12 AM Maclain Joyce <mjoyce@messner.com> wrote:

Good morning Craig,

Following our call earlier this week, take a look at some proposed signage adjustments. One here is for purposes of discussing the temporary A-frame signage placement and one would be the interior sign updates you suggested. Let us know if a follow up chat would be useful.

You'll see that we did include a fire lane reference here. We see evidence of that on a property plat. If that doesn't jive with your understanding of the property, let us know and we can get to the bottom of it.

Thanks
Mac

MACLAIN JOYCE

Partner

Licensed in Colorado and Florida

Messner Reeves LLP

D: 303.605.1561 **O:** 303.623.1800 **E:** mjoyce@messner.com

1550 Wewatta Street, Suite 710 Denver, CO 80202

From: Craig Clark <craig@pillows.com>

Sent: Friday, April 18, 2025 11:26 AM

To: Maclain Joyce <mjoyce@messner.com>

Cc: Omar Vee <omar@homeland.com>; Mike Swisher <mike@homeland.com>; Emma O <emma@homeland.com>

Subject: Re: Reply Requested 325 and 327 Inverness Easement

[CAUTION: This Email is from an External Sender]

8:30 Tuesday and calling me directly is great. Have an awesome weekend.

Craig

Craig Clark

Chairman/General Counsel, Pillows.com

Managing Broker/General Counsel, Homeland.com

Executive Officer, 4th Civil Affairs Group

Law Office of Craig W. Clark, Esq.

p: 720-840-7634

civilian: craig@pillows.com

military: craig.w.clark@usmc.mil

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On Fri, Apr 18, 2025 at 11:22 AM Maclain Joyce <mjoyce@messner.com> wrote:

Thanks Craig,

Let's plan for Tuesday at 8:30. I'll plan to call you directly at your number listed below, unless you prefer some other method.

Thanks
Mac

MACLAIN JOYCE

Partner

Licensed in Colorado and Florida

Messner Reeves LLP

D: 303.605.1561 **O:** 303.623.1800 **E:** mjoyce@messner.com

1550 Wewatta Street, Suite 710 Denver, CO 80202

From: Craig Clark <craig@pillows.com>

Sent: Friday, April 18, 2025 8:11 AM

To: Maclain Joyce <mjoyce@messner.com>

Cc: Omar Vee <omar@homeland.com>; Mike Swisher <mike@homeland.com>; Emma O
<emma@homeland.com>

Subject: Re: Reply Requested 325 and 327 Inverness Easement

[CAUTION: This Email is from an External Sender]

Good Morning:

Thank you for the reply.

1. Attached is the sign that was in the building's lobby when my client purchased it. This, for whatever reason, implied parking allowed in 325's lot; my client had nothing to do with this sign. This was taken down months ago by my client while working with your client to address the situation. Second, attached is the new sign that my client had their sign company mock up to post in my client's lobby. My client is also working on developing exterior signage to effectuate compliance with the easement. My client would welcome your client's feedback on the new sign when they have time and will hold off on paying to have this printed until we get some feedback from your client.

2. I am available Monday 11-1 and Tuesday 8:30-9:30, 1:30-2:30; let me know what works.

I look forward to speaking about this.

Kind Regards.

Craig Clark

Chairman/General Counsel, Pillows.com

Managing Broker/General Counsel, Homeland.com

Executive Officer, 4th Civil Affairs Group

Law Office of Craig W. Clark, Esq.

p: 720-840-7634

civilian: craig@pillows.com

military: craig.w.clark@usmc.mil

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On Fri, Apr 18, 2025 at 7:22 AM Maclain Joyce <mjoyce@messner.com> wrote:

Good morning Craig,

Let's look at schedules for a discussion Monday or Tuesday of next week. At the moment, both days are relatively flexible on my end. Let me know how your availability looks.

Thanks

Mac

MACLAIN JOYCE

Partner

Licensed in Colorado and Florida

Messner Reeves LLP

D: 303.605.1561 **O:** 303.623.1800 **E:** mjoyce@messner.com

From: Craig Clark <craig@pillows.com>
Sent: Thursday, April 17, 2025 8:15 PM
To: Maclain Joyce <mjoyce@messner.com>
Cc: Omar Vee <omar@homeland.com>; Mike Swisher <mike@homeland.com>
Subject: Reply Requested 325 and 327 Inverness Easement

[CAUTION: This Email is from an External Sender]

Good Evening Maclain-

Unfortunately, this situation continues to deteriorate due to your client's intentional violation of the pertinent easement(s). This evening I received urgent communication from my client reporting that an individual purportedly representing your client who identified himself as Michael, Vice President of Operations, was engaging in blocking the drive lanes, harassing/confronting visitors to my client's building, taking pictures of visitors to my client's building, and interfering with a tenant of my client who was actually proactively working to ensure visitors to the building did not park in your client's parking lot.

This conduct was all done after regular business hours by your client's representative when your client's parking lot was empty so that even if there was a visitor of a tenant in my client's building who mistakenly parked in your client's lot in a way that violates the applicable easement(s), my client's tenant was proactively working to address this when Michael harassed them and there was absolutely no interference by these activities with your client's enjoyment of their property. The actions of Michael tonight directly interfered with my client's business operations, attempts to ensure the applicable easement(s) are being followed, and damaged my client as well as my client's tenants.

In your letter, you requested that my client and I not contact your client about matters relating to the easement(s). My client and I respectfully request the same courtesy. Please ask your client not to interfere with my client, my client's tenants, or my client's visitors to the building. Please also ask your client, should they have concerns about the easement(s), to raise them through you to me.

All of this aside, I emailed you on Tuesday to try to work to resolve this matter in good faith and did not hear back. I emailed your client directly on numerous occasions prior to your involvement in this matter with no reply. As it stands your client is not engaging in good faith to resolve this conflict despite our offer to professionally and neighborly work to resolve this.

Despite what feels like bad faith, our offer to work to professionally resolve this stands open. At this time to proactively work on the situation my client is actively working on creating mock ups for and then ordering new signage to go both inside and outside the building to clarify where visitors and tenants to/of my client's building should comply with the easement(s). In complete contrast to this, your client continues to engage in self-help policing that violates any interpretation of the easement(s). If you want to collaborate we can work together on a signage plan. This is how my client normally operates in working with neighbors, but clearly your client does not share the collaborative philosophy of my client.

At this point if you want to have a call please let me know. Otherwise, we will be proceeding to file a lawsuit seeking damages in excess of one million dollars for the damages caused to our leasing efforts of the property by your client as soon as allowable by the terms of the easement. My client has lost several leasing opportunities specifically to your client's harassment and tortious interference. I don't think litigating this is in anyone's best interest, but at this point when both you and your client refuse to engage in any dialogue my client feels like they have no other option rather than to seek compensation for the damages your client has intentionally caused and have a court enforce my client's rights under the easement(s).

If you would like to speak, let me know your availability. Otherwise, we will proceed with a lawsuit at the earliest allowable date to enforce the easement(s) and recover the extreme damages to my client.

Respectfully Submitted,

Craig Clark

Chairman/General Counsel, Pillows.com

Managing Broker/General Counsel, Homeland.com

Executive Officer, 4th Civil Affairs Group

Law Office of Craig W. Clark, Esq.

p: 720-840-7634

civilian: craig@pillows.com

military: craig.w.clark@usmc.mil

Craig Clark is an Attorney licensed to practice law in the State of Colorado and in the Military Courts of the United States. Craig Clark is a Real Estate Broker licensed in the State of Colorado with Homeland. Material in this email may be attorney/client product subject to privilege.

On Tue, Apr 15, 2025 at 8:21 AM Craig Clark <craig@pillows.com> wrote:

Good Morning Maclain-

I hope this email finds you well. I am in receipt of your letter. Would you like to set up a call to discuss the easement situation between our clients? I am currently open tomorrow (Wednesday, 4/16) from 10am-3pm.

Respectfully Submitted,

Craig Clark

Chairman/General Counsel, Pillows.com

Managing Broker/General Counsel, Homeland.com

Executive Officer, 4th Civil Affairs Group

Law Office of Craig W. Clark, Esq.

p: 720-840-7634
civilian: craig@pillows.com
military: craig.w.clark@usmc.mil

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4 attachments

Month	Case	Time
April	11	8:00 PM
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	12	8:00 AM
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Craig Clark <craig@pillows.com>

RE: Meeting Request 325 and 327 Inverness

1 message

Maclain Joyce <mjoyce@messner.com>
To: Craig Clark <craig@pillows.com>

Mon, May 12, 2025 at 2:14 PM

Hi Craig,

We won't be able to get schedules to align prior to your departure tomorrow, but let's connect when you are back. Safe travels to you.

Thanks
Mac

MACLAIN JOYCE

Partner

Licensed in Colorado and Florida

Messner Reeves LLP

D: 303.605.1561 **O:** 303.623.1800 **E:** mjoyce@messner.com

[1550 Wewatta Street, Suite 710 Denver, CO 80202](#)

From: Craig Clark <craig@pillows.com>
Sent: Friday, May 9, 2025 2:34 PM
To: Maclain Joyce <mjoyce@messner.com>
Cc: Mike Swisher <mike@homeland.com>; Omar Vee <omar@homeland.com>
Subject: Re: Meeting Request 325 and 327 Inverness

[CAUTION: This Email is from an External Sender]

Mac-

Sounds good. Just let us know if your client is willing to meet. The offer remains open.

Have a good weekend.

Craig

Sent from my iPhone

On May 9, 2025, at 14:28, Maclain Joyce <mjoyce@messner.com> wrote:

Hi Craig,

I'll enquire with the litigation team, though I'm not sure we'll get schedules to align before you go out for your week of service. If we don't connect before your departure Tuesday afternoon, we wish you safe travels.

Thanks
Mac

MACLAIN JOYCE

Partner

Licensed in Colorado and Florida

Messner Reeves LLP

D: 303.605.1561 **O:** 303.623.1800 **E:** mjoyce@messner.com

[1550 Wewatta Street, Suite 710 Denver, CO 80202](#)

From: Craig Clark <craig@pillows.com>
Sent: Friday, May 9, 2025 1:38 PM
To: Maclain Joyce <mjoyce@messner.com>
Cc: Mike Swisher <mike@homeland.com>; Omar Vee <omar@homeland.com>
Subject: Meeting Request 325 and 327 Inverness

[CAUTION: This Email is from an External Sender]

Good Afternoon Maclain:

I have been communicating with Mike Pesicka, the gentleman at Douglas County to whom your client wrote the letter opposing our zoning variance request. After that discussion and talking about the issue internally, I am requesting a meeting with your client to discuss their opposition to our variance request. I am leaving for Marine Corps Reserve duty with the 4th Civil Affairs Group in Hialeah, Florida, Tuesday afternoon through Sunday, so my availability is limited, but I am available as follows for a meeting at your office, our building, or your client's building as your client prefers:

-Monday 3pm and after

-Tuesday 8am-noon

Let me know if your client is amenable to this request.

Craig Clark

Chairman/General Counsel, Pillows.com

Managing Broker/General Counsel, Homeland.com

Executive Officer, 4th Civil Affairs Group

Law Office of Craig W. Clark, Esq.

p: 720-840-7634

civilian: craig@pillows.com

military: craig.w.clark@usmc.mil

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Emma Johnson <emma@homeland.com>

Parking Lot

Bryan Park - CEO/Founder <bpark@footprintsfloors.com>

Sat, Apr 19, 2025 at 10:26 AM

To: Kelli Park <kelliannpark@gmail.com>

Cc: Emma Johnson <emma@homeland.com>, Homeland Tenant Services <service@homeland.com>

Hi Emma,

For documentation purposes, I thought to let you know of another interaction I had just now with Michael, their VP of Operations. He was in the parking lot again this morning taking pictures (or picture) of the one vehicle in their lot. I knew who the vehicle belonged to so I had them move it shortly after my interaction with Michael. However, the story to communicate is I jogged out in the lot to talk to Michael again. When we talked Thursday, I gave him my contact information, and he said he'd send me his number so we could communicate any issues between us. I was trying to be a good neighbor. He never sent his info though. I thought it might have been an oversight on his part. So I was hoping to catch him in the lot to let him know to send me his info. However, when I got to his vehicle, he pretended not to see me, so I ran a little more up his sightline, he then waved at me and sped away nearly hitting me. He clearly didn't want to talk to me or share his information.

I say all of this entirely to have our side documented in case he tries to misconstrue the interaction as harassment of some kind. I'm happy to expand on it if necessary. I'm not upset. I'm sad for him, but I'm good otherwise. Just wanted to let you know!

I attached a picture of the lot as it sits this morning. One handicap vehicle and one blue SUV that has been here for a long time (I assume it belongs to them).

Happy Easter!

Bryan

[Quoted text hidden]



IMG_2931.HEIC
1255K

Memorandum

DATE: JUNE 4, 2025

TO: DOUGLAS J. DEBORD, COUNTY MANAGER

FROM: TERENCE T. QUINN, AICP, DIRECTOR OF COMMUNITY DEVELOPMENT

CC: MIKE PESICKA, PRINCIPAL PLANNER
JEANETTE L. BARE, AICP, CURRENT PLANNING MANAGER
STEVEN E. KOSTER, AICP, ASSISTANT DIRECTOR OF PLANNING SERVICES

**SUBJECT: ZONING RESOLUTION WAIVER FOR INERNESS FILING 9 , LOT 3 –
SUPPLEMENTAL INFORMATION**

PROJECT FILE: US2024-011

Attached are emails and access and parking easements from the applicant in response to comments from an adjacent property owner in which they stated concerns with property trespass and security concerns from existing and future tenants, and issues with off-site parking spaces.

ATTACHMENTS

Exhibit 1 – Easements
Exhibit 2 – Email Correspondence
Exhibit 3 – Tenant Incident

www.douglas.co.us

MEETING DATE: June 10, 2025

STAFF PERSON RESPONSIBLE: Trevor Bedford, AICP, Senior Planner

DESCRIPTION: Cross Mountain - Zone Map Change - Project File: DR2025-001.

SUMMARY: The request is for approval of a zone map change consisting of approximately 17.9 acres to preserve the top of Cross Mountain from future development.

STAFF ASSESSMENT: Staff has evaluated the zone map change request. The map change rezones property to Open Space Conservation to protect viewsheds and environmentally sensitive areas from future development. In staff's assessment, the request meets the eligibility criteria. After consideration, the Board of County Commissioners may approve of the zone map change and sign the resolution.

REVIEW:

Terence T Quinn - FYI	Notified - FYI	5/29/2025
Steven E Koster	Approve	5/29/2025
Jeff Garcia	Approve	6/3/2025
Andrew Copland	Approve	6/3/2025
Doug DeBord	Approve	6/4/2025
Samantha Hutchison - FYI	Notified - FYI	6/4/2025

ATTACHMENTS:

Staff Report - DR2025-001
Resolution Cross Mountain

Zone Map Change Staff Report

Date: May 28, 2025
To: Douglas County Board of County Commissioners
Through: Douglas J. DeBord, County Manager
From: Terence T. Quinn, AICP, Director of Community Development *TQ*
CC: Trevor Bedford, AICP, Senior Planner
Curtis J. Weitkunat, AICP, Long Range Planning Manager
Steven E. Koster, AICP, Assistant Director of Planning Services
Subject: **Cross Mountain Zone Map Change**
Project File: **DR2025-001**

Planning Commission Hearing:	June 2, 2025 @ 6:00 p.m.
Board of County Commissioners Hearing:	June 10, 2025 @ 2:30 p.m.

I. EXECUTIVE SUMMARY

The request is for approval of a zone map change to rezone approximately 17.9 acres of a 55.2-acre parcel from Agricultural One (A-1) zone district to the Open Space Conservation (OS) zone district in accordance with the Douglas County Zoning Resolution (DCZR) Section 112 – Zone Map Changes, under the procedure for “Rezoning of land to Open Space Conservation District.”

The proposed zone map change is located on the east side of Furrow Road in the southeast portion of the County and is intended to preserve the top of a butte, known by the property owners as Cross Mountain, from future development.

The Planning Commission is scheduled to hear the application at its June 2, 2025 public hearing. Staff will provide an update on the outcome of the Planning Commission hearing at the Board of County Commissioners’ public hearing.

II. APPLICATION INFORMATION

A. Applicants

Lee Anne Davis and Andrew Frederick Clarke
590 Bow Mountain Road
Boulder, CO 80304

B. Applicant’s Representative

Kim Davis
590 Bow Mountain Road
Boulder, CO 80304

C. Request

The applicants request approval of a zone map change consisting of approximately 17.9 acres to preserve the top of Cross Mountain from future development.

D. Process

A zone map change application is processed pursuant to Section 112 of the DCZR.

Per Section 112.06 of the DCZR, “The Board shall evaluate the proposed amendment, staff report, referral agency comments, public testimony, and the Planning Commission recommendation, and shall approve, approve with conditions, table for further study, remand to the Planning Commission or deny the map amendment.”

E. Location

The subject property is located on the east side of Furrow Road, approximately 1,650 feet south of its intersection with Lorraine Road. The northeast portion of the property is proposed to be rezoned. The attached vicinity map, zoning map, and aerial map highlight site location and existing conditions.

F. Project Description

This zone map change application is to rezone approximately 17.9 acres of a 55.2-acre property from A-1 to OS. The intent is to preserve the top of Cross Mountain from any development in the event that the property is sold in the future. The applicants have identified an area that includes the top of the butte and steep slopes to preserve as open space. If the zone map change is approved, the parcel would contain approximately 17.9 acres zoned OS and approximately 37.3 acres zoned A-1.

III. CONTEXT

A. Background

The applicants own three agriculturally-zoned parcels adjacent to each other. The subject property is approximately 55.2 acres and contains Cross Mountain. The owners wish to preserve the top of the butte from development in the event that the property is sold in the future.

B. Adjacent Land Uses and Zoning

The zone map change request is adjacent to agricultural and residential properties.

Zoning and Land Use

Direction	Zoning	Land Use
North	Agricultural One	Residential and Vacant Land
South	Agricultural One	Agricultural
East	Agricultural One	Agricultural
West	Estate Residential	Residential

IV. ZONE MAP CHANGE ELIGIBILITY

Section 112 of the DCZR allows for changes to the zoning map. The procedure is utilized for the following:

- Zoning of land disconnected from an incorporated area.
- Rezoning of land purchased with open space funds or dedicated to the County for open space.
- Correction of zoning map errors.
- Rezone of land to Open Space Conservation district.
- Rezoning of land, when requested by the landowner, to bring it into compliance with the Master Plan.

In this case, the property owners requested to rezone a portion of the property to the Open Space Conservation District. The subject property is within the Cherry Valley Subarea of the CMP. The CMP includes the following goals and policies that support the zone map change request.

- Goal 3-1: Project and conserve the natural and rural character of the nonurban area.
- Policy 3-1A.2: Preserve open space through the purchase of land or conservation easements, donations, acquisitions, partnerships, or other appropriate land conservation tools.
- Objective 3-1E: Preserve and provide for the stewardship of open space and natural areas.
- Goal 3-2: Ensure land use and design is compatible with the natural and rural character of the nonurban area.
- Objective 3-2C: Preserve the visual integrity of significant ridgelines, road viewsheds, horizon lines, views of the mountain backdrop, and other important natural features.
- Policy 3-2C.1: Locate houses, utilities, and other structures away from important ridgelines and horizon lines.
- Goal 3-3: Maintain the unique rural character of the Chatfield Valley (nonurban area), Cherry Valley, High Plateau, Indian Creek, Northeast, West Plum Creek, and Pike National Forest and Foothills Subareas.
- Policy 3-3B.6: Development in the Cherry Valley Subarea should minimize visual impacts within major viewsheds.

V. REFERRALS

This zone map change was distributed to applicable referral agencies. Larkspur Fire Protection District responded with concerns that tax revenue will decrease with this rezoning, while the private owners will still expect the same level of fire protection services from the district. If the rezoning is approved, the owners will continue to owe taxes on the property.

El Paso County Planning Division provided comments regarding landscaping requirements for developments. As no development is planned, these comments are not applicable to this project.

No other concerns were received from referral agencies. One nearby property owner submitted written support for the change.

VI. PLANNING COMMISSION

The Planning Commission is scheduled to hear the application at its June 2, 2025 public hearing. Staff will provide an update on the outcome of the Planning Commission hearing at the Board of County Commissioners’ public hearing.

VII. STAFF ASSESSMENT

Staff has evaluated the zone map change request. The map change rezones property to Open Space Conservation to protect viewsheds and environmentally sensitive areas from future development. In staff’s assessment, the request meets the eligibility criteria. After consideration, the Board of County Commissioners may approve of the zone map change and sign the resolution.

<u>ATTACHMENTS</u>	<u>PAGE</u>
Douglas County Land Use Application	5
Applicant’s Narrative	6
Comp Plan Vicinity Map	9
Zoning Map	10
Aerial Map	11
Referral Agency Response Report	12
Public Comment	18
Zoning Exhibit	19

LAND USE APPLICATION

Please fill in this application form completely. An incomplete application will not be processed.

Note: Neither the Planning Commission nor the Board of County Commissioners should be contacted regarding an open application.

OFFICE USE ONLY		PROJECT FILE #:
PROJECT NAME: _____	_____	
PROJECT TYPE: <u>DUAL ZONING TO CREATE AN OSCD</u>	PLANNING FEES: _____	
MARKETING NAME: _____	_____	
SITE ADDRESS: <u>PARCEL # 277330200002</u>	ENGINEERING FEES: _____	
OWNER(S):	TOTAL FEES: _____	
Name(s): <u>LEE ANNE DAVIS & ANDREW FREDERICK CLARKE</u>	RELATED PROJECTS: _____	
Address: <u>590 BOW MOUNTAIN RD. BOULDER, CO. 80304</u>	_____	
Phone: <u>303-588-1956</u>	_____	
Email: <u>KIMDAVISPE@COMCAST.NET</u>	_____	
AUTHORIZED REPRESENTATIVE <i>(requires notarized letter of authorization if other than owner)</i>		
Name: <u>KIM DAVIS</u>	_____	
Address: <u>590 BOW MOUNTAIN RD. BOULDER, CO. 80304</u>	_____	
Phone: <u>303-588-1956</u>	_____	
Email: <u>KIMDAVISPE@COMCAST.NET</u>	_____	

LEGAL DESCRIPTION:

Subdivision Name: CROSS MOUNTAIN ESTATES
 Filing #: _____ Lot #: _____ Block #: _____ Section #: 30 Township: 10 Range: 66

STATE PARCEL NUMBER(S): 277330200002

ZONING:

Present Zoning: RURAL RESIDENTIAL Proposed Zoning: RR / OSCD Gross Acreage: 55.2
 Gross Site Density (DU per AC): N/A # of Lots or Units Proposed: N/A

SERVICE PROVIDERS:

Fire District: LARKSPUR FPD Metro District: — Gas: BLACK HILLS
 Water: — Sewer: — Electric: MVEA
 Roads: ☒ Public ☐ Private (please explain): _____

To the best of my knowledge, the information contained on this application is true and correct. *I have received the County's information sheet regarding the Preble's Meadow Jumping Mouse.*

Kim Davis
 Applicant Signature

1-4-2025
 Date

Zone Map Change Request

To: Douglas County Planners

From: Kim Davis – Representative for Lee Anne Davis and Andrew Frederick Clarke
kimdavispe@comcast.net
303-588-1956

Parcel Number: 277330200002

Legal Description: TRACT IN NW1/4 & W1/2NE1/4 30-10-66 55.20 AM/L LSP 10006273 PARCEL A

Subdivision: Cross Mountain Estates, Parcel A

Summary of Change: The size of Parcel A is approximately 55 acres including the top of the butte which is central to the three parcels of Cross Mountain Estates. The purpose of this request is to create a dual zoning to allow the creation of an Open Space Conservation District approximately 18 acres in size on the top of the butte. Doing so will preserve the butte by not allowing the construction of any structures on its upper portion.

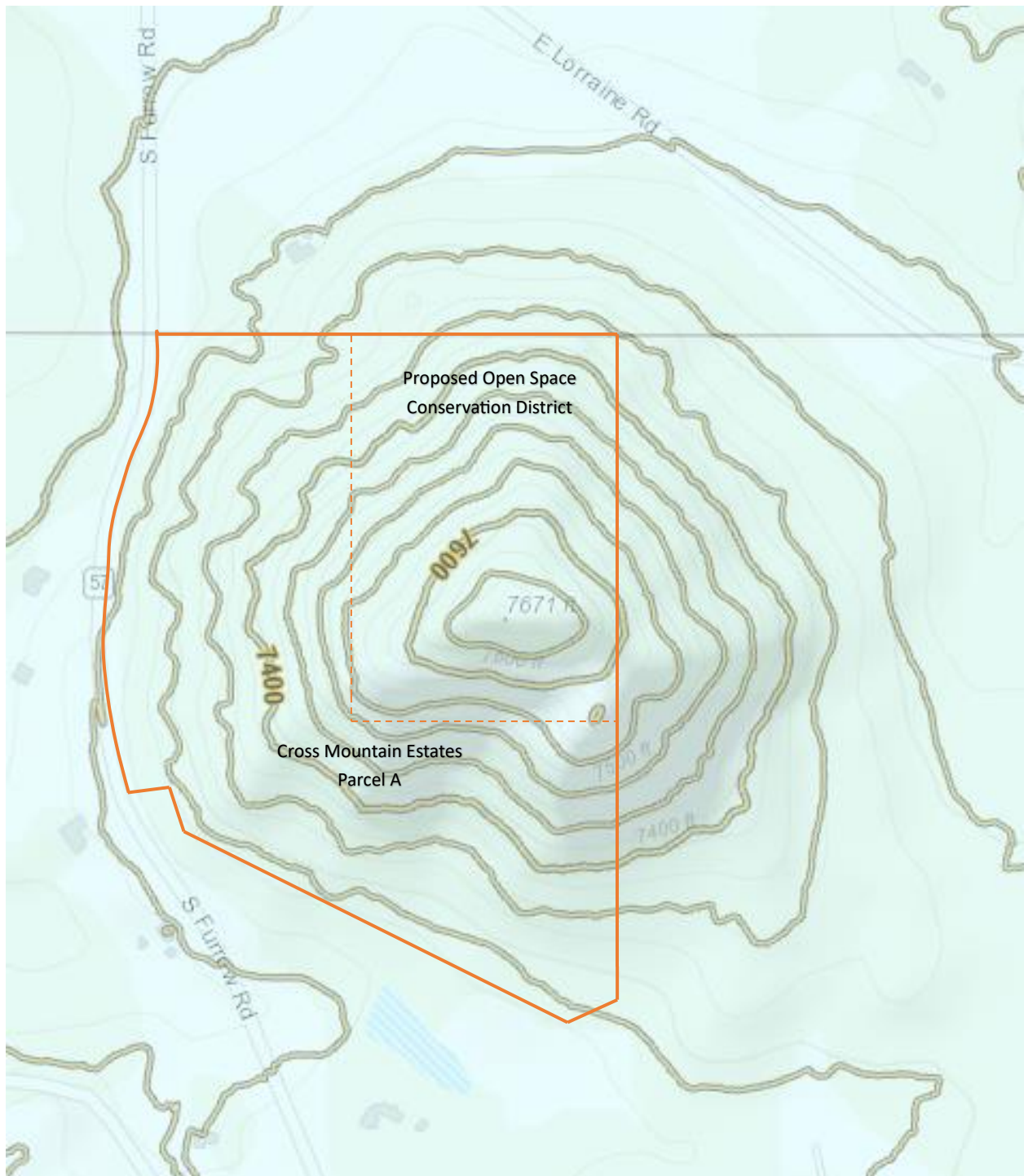
Justification of Change: Cross Mountain (as the locals have called it for several decades) has been in the possession of the Clarke/Davis Family for over 25 years. During that time we have embraced the wild nature of the property and have done our best to preserve its pristine quality. The butte and the surrounding property is stunningly beautiful and it is our intent to do everything in our power to keep it that way, not only for our neighbors, but for anyone who visits the area.

Compliance with Comprehensive Master Plan: The overarching theme of Section 3 – NONURBAN LAND USE, is to enhance the quality of life for residents by protecting the natural landscape, wildlife habitat, and viewsheds, and the conservation of the natural character of nonurban areas. This request fully supports these goals and objectives.

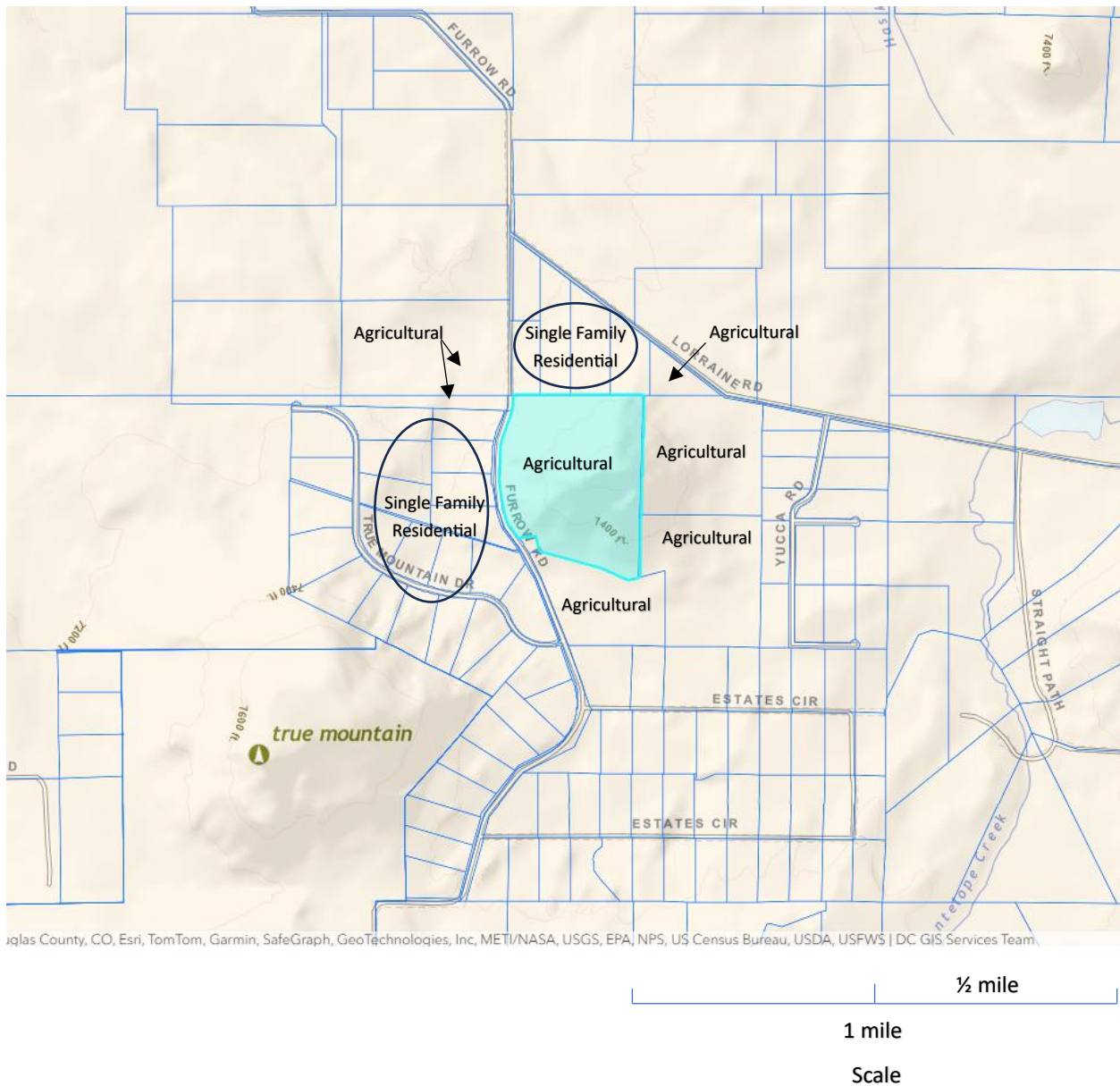
Specific areas of Section 3 which this request supports: There are two areas to be highlighted, both referencing ridgeline/viewscapes.

- Goal 3-2, Objective 3-2C, Policy 3-2C.1 – “Locate houses, utilities, and other structures away from important ridgelines and horizon lines.” Cross Mountain is a very prominent butte in the area which can easily be seen from I-25 and the Greenland Open Space. By creating this conservation district, the natural ridgeline will be preserved.
- Goal 3-3, Objective 3-3B (Cherry Valley Subarea), Policy 3-3B.6 – “Development in the Cherry Valley Subarea should minimize visual impacts within major viewsheds.”

Cross Mountain Contour Map













Cross Mountain Estates Parcel A Vicinity Map and Adjacent Zoning







Comprehensive Master Plan Land Use Reference Map

Comprehensive Master Plan Areas

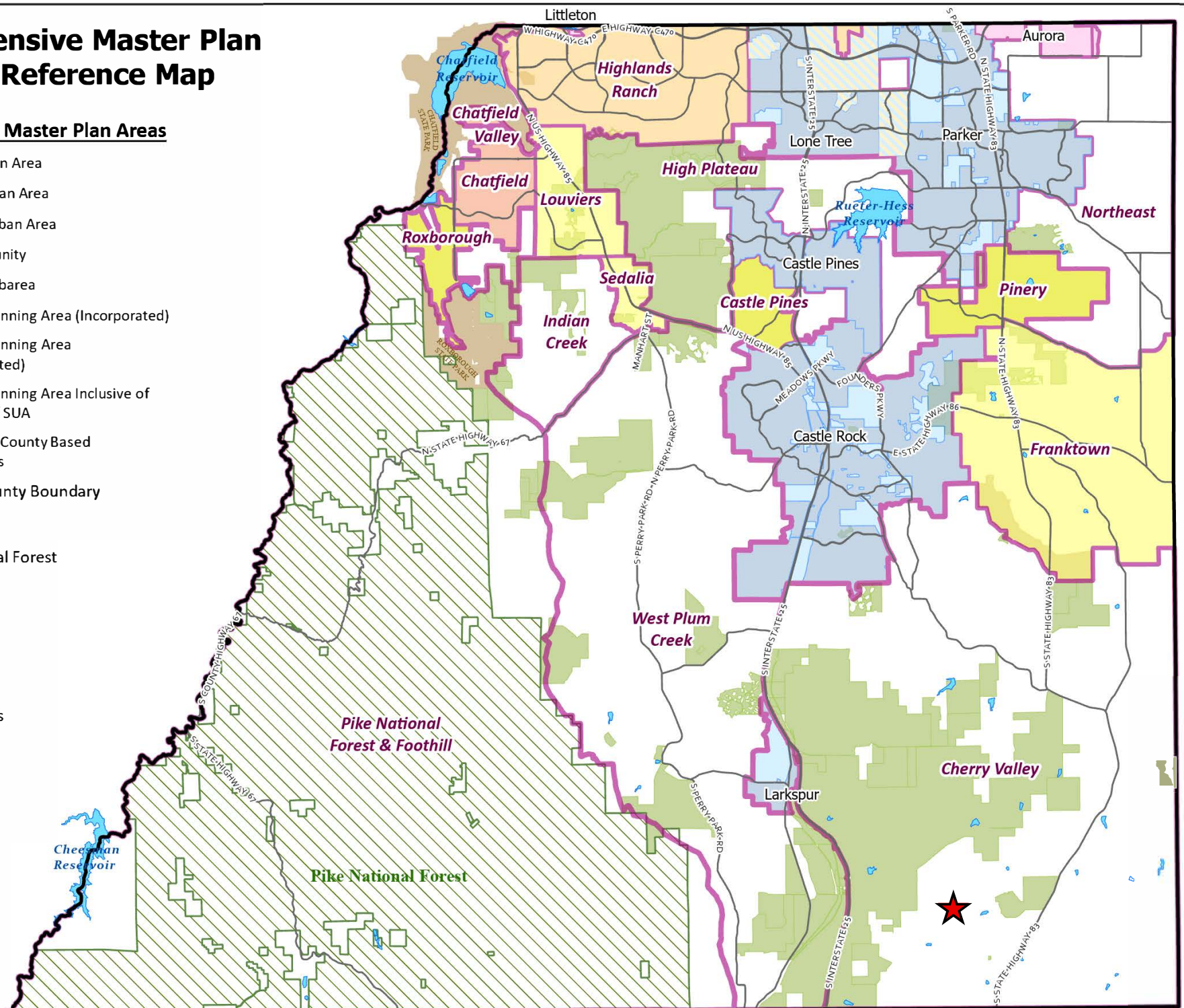
-  Primary Urban Area
-  Chatfield Urban Area
-  Separated Urban Area
-  Rural Community
-  Nonurban Subarea
-  Municipal Planning Area (Incorporated)
-  Municipal Planning Area (Unincorporated)
-  Municipal Planning Area Inclusive of County PUA / SUA
-  Non-Douglas County Based Municipalities
-  Douglas County Boundary

Parks

-  Pike National Forest
-  State Parks
-  Open Space
-  Lakes

Roadways

-  Major Roads

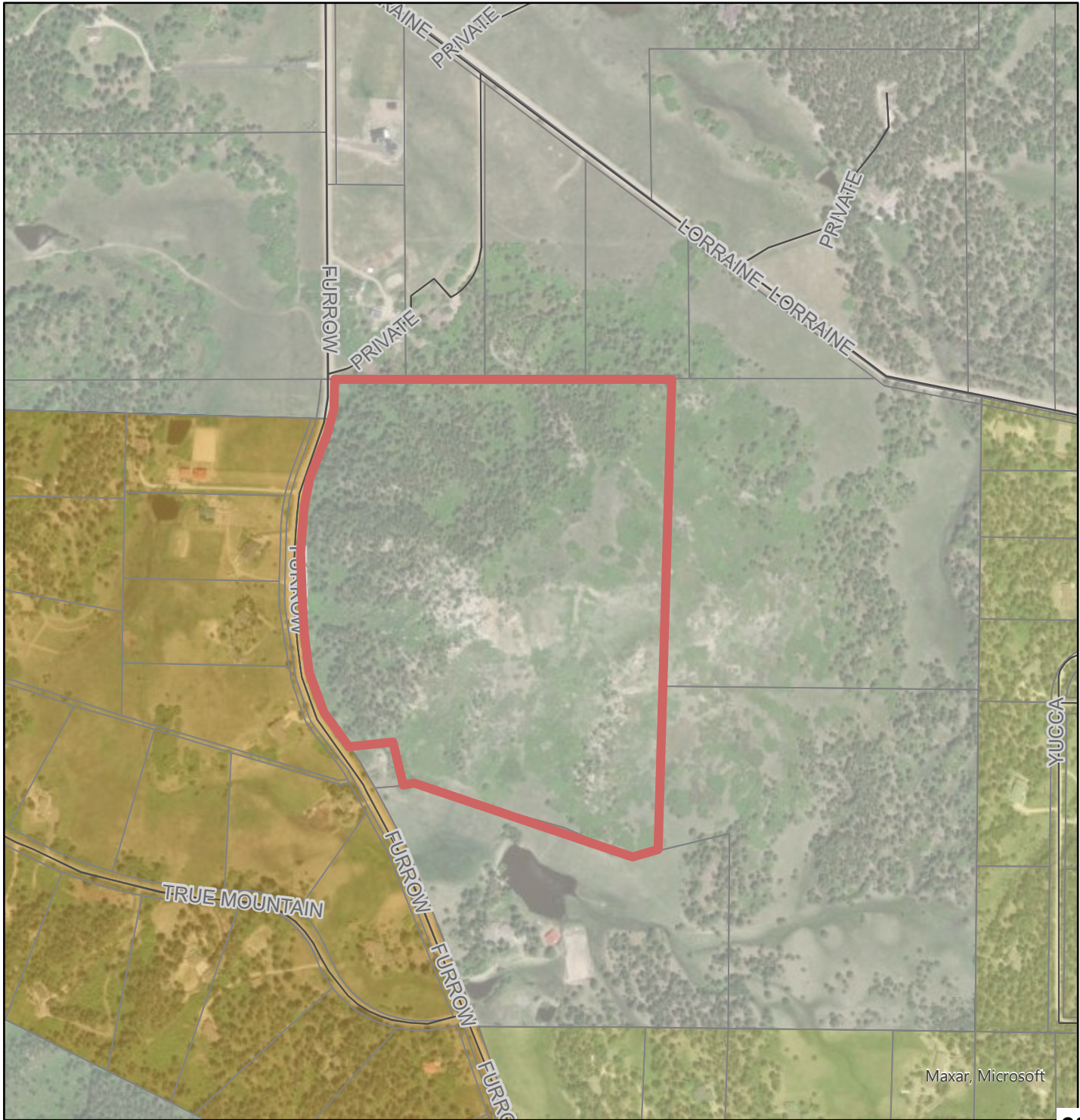


Cross Mountain

DR2025-001 Zoning Map



- LEGEND
- Roads
 - Major Roads
 - ▭ Parcels - PARCELS
 - ▭ A1 - AGRICULTURAL ONE
 - ▭ RR - RURAL RESIDENTIAL
 - ▭ ER - ESTATE RESIDENTIAL



Cross Mountain

DR2025-001
Aerial Map



- LEGEND
- Roads
 - Major Roads
 - ▭ Parcels - PARCELS



Referral Agency Response Report**Page 1 of 1****Project Name:** Cross Mountain**Project File #:** DR2025-001**Date Sent:** 04/04/2025**Date Due:** 04/25/2025

Agency	Date Received	Agency Response	Response Resolution
Addressing Analyst	04/17/2025	No Comment:	No response necessary
Assessor	04/21/2025	No Comment:	No response necessary
Building Services	04/04/2025	No Comment:	No response necessary
Douglas County Conservation District		No Response Received:	No response necessary
El Paso County Planning and Community Development Department	04/30/2025	Received: See attached letter Summary: Provided information regarding landscaping requirements for El Paso County developments	No response necessary
Engineering Services	04/11/2025	Received: The engineering review fee of \$300.00 will need to be paid prior to approval of this Zone Map Change Update 05/19/2025: No fee for a zone map change.	No response necessary
Forest Park Master Association		No Response Received:	No response necessary
Larkspur FD	04/17/2025	Received: Because the property will remain private property, it should still be subject to continued property tax assessment. The property owners would expect fire protection services for the property and should still be subject to paying for said services through annual tax assessment. For this reason, the Larkspur Fire Protection District opposes this zoning change.	Tax revenue is not considered an approval criterion for a rezoning. The property will continue to be assessed taxes if the rezoning is approved.
Office of Emergency Management	04/10/2025	Received: OEM has no issues with this project	No response necessary
Open Space and Natural Resources		No Response Received:	No response necessary
Sheriff's Office	04/14/2025	Received: Deputy Jeff Pelle reviewed this regarding security with Crime Prevention Through Environmental Design (CEPTD) concepts in mind. No comments or concerns at this time for this request from DCSO.	No response necessary
Sheriff's Office E911		No Response Received:	No response necessary
Wildfire Mitigation		No Response Received:	No response necessary

REFERRAL RESPONSE REQUEST

 Date Sent: April 4, 2025

 Comments due by: **April 25, 2025**
Project Name: Cross Mountain

Project File #: DR2025-001

Project Summary: The applicant is requesting a Zone Map Change from Agricultural One (A-1) to Open Space Conservation (OS) for approximately 17.87 acres in order to protect the top of the butte known as Cross Mountain from future development.

Information on the identified development proposal located in Douglas County is enclosed. Please review and comment in the space provided.

<input type="checkbox"/> No Comment	
<input checked="" type="checkbox"/> Please be advised of the following concerns:	
<u>The Engineering Review fee \$300.00 will need to be paid prior to our approval of this Zone Map Change</u>	
<input type="checkbox"/> See letter attached for detail.	
Agency: DC Engineering	Phone #: 303-660-7490
Your Name: Chuck Smith	Your Signature: <i>Chuck Smith</i>
(please print)	Date: 4/11/2025

Agencies should be advised that failure to submit written comments prior to the due date, or to obtain the applicant's written approval of an extension, will result in written comments being accepted for informational purposes only.

Sincerely,

Trevor Bedford, AICP, Project Planner

Enclosure

MEGGAN HERINGTON, AICP, EXECUTIVE DIRECTOR

PLANNING AND COMMUNITY DEVELOPMENT

April 18, 2025

County File: OAR254

Re: OAR : DR2025-001 Cross Mountain

To: [Douglas County Planning](#)
C Boyd (cboyd@douglas.co.us)

Planning Division

Note that El Paso County does not have land use authority over property within the City of Colorado Springs; however, it is recommended that the development follow these regulations for this site to ensure that proper measures are taken to ensure compatibility between the proposed use within Douglas County and the existing neighborhood and surrounding properties in the County.

Below are items to keep in mind when rezoning and being within a certain vicinity the EPC jurisdiction.

Section 6.2.2.B Landscape Requirements:

(B)Roadway Landscaping Requirements. Roadway landscaping areas are required. A roadway landscaping area is located along the lot, parcel or tract frontage between the road right-of-way, easement, or tract boundary lines and any building or use.

(1)Minimum Depth of Roadway Landscaping Area.

Table 6-1 lists the depth and number of trees required to be provided along any road in roadway landscaping area. Where the required setback is narrower than the depth of the required landscape area, the roadway landscaping area depth shall control. Unless otherwise approved by the ECM Administrator, the depth of roadway landscaping shall be measured from the property line. Where a roadway easement has been provided, the measurement shall be from the ROW or roadway easement. Where future ROW has been identified, the measurement should begin at the future ROW line in order avoid subsequent impairment of the landscaping.

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

Table 6-1. Roadway Landscaping Required by Roadway Classification

Road Classification	Depth of Roadway Landscaping Area	Required Trees (Trees/ Linear Foot of Frontage)
Expressway, Principal Arterial	25 feet	1 per 20 feet
Urban Interchange/Intersection	25 feet	NA
Minor Arterial	20 feet	1 per 25 feet
Non-Arterial ¹	10 feet	1 per 30 feet

¹ The required depth of the roadway landscape area shall be increased to 15 feet along a non-arterial road or public alley where the road or alley separates a non-residential use from a residential zoning district. The number of required trees shall be increased to 1 per 15 feet of linear frontage. A minimum of 1/3 of the trees shall be evergreen trees.

1 The required depth of the roadway landscape area shall be increased to 15 feet along a non-arterial road or public alley where the road or alley separates a non-residential use from a residential zoning district. The number of required trees shall be increased to 1 per 15 feet of linear frontage. A minimum of 1/3 of the trees shall be evergreen trees.

(2) Location and Type of Trees in Roadway Landscaping Area.

(a)Clustering Allowed. The roadway landscaping trees may be clustered along a road frontage. The clustering of evergreens may not be advisable in areas where the winter shade will cause unsafe conditions on an adjacent road.

(b)Type of Tree Limited. The types of roadway landscaping trees utilized shall be commonly known to grow in the Colorado Springs area and listed in the Landscape and Water Conservation.

(c)Exceeding Minimum Depth of Roadway Landscaping. The roadway landscaping trees shall be located within 50 feet of the road right-of-way, easement or tract boundary line and any building or use.

(d)Allowed in Right-of-Way if Approved. The roadway landscaping trees may be placed in a right-of-way if the right-of-way owner approves the placement and no conflicts exist, or will exist, with utility easements or any provider of utilities. Generally, trees are not allowed to be placed within any County right-of-way. Placing of the required roadway landscaping trees within the right-of-way shall not negate the requirement for the required roadway landscape area.

(e)Single-Family PUD Roadway Landscaping. Roadway landscaping is not required along local residential roadways (non-arterials) within a residential PUD.

(3)Walls and Fences in Roadway Landscape Area. Walls and fences which are 25% or more opaque shall not exceed 3 feet in height when located within a required roadway

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

WWW.ELPASOCO.COM

landscaping area. Opaque walls and fences higher than 3 feet (such as noise barriers) shall be located outside of the roadway landscaping area to maintain a landscaped appearance along the road.

Section 6.2.2.E

(E) Internal Landscaping.

The following internal landscaping is required: (1) Requirements for Multifamily Uses. The following internal landscaping is required for multifamily uses:

(a) Minimum Required Internal Landscaped Area. A minimum of 15% of the lot or parcel shall be landscaped.

(b) Minimum Number of Trees in Landscaped Area. A minimum of 1 tree shall be provided for every 500 square feet of required internal landscape area.

(2) Requirements for Non-Residential Uses. The following internal landscaping is required for non-residential uses.

(a) Minimum Required Internal Landscaped Area. A minimum of 5% of the lot or parcel shall be landscaped.

(b) Minimum Number of Trees in Landscaped Area. A minimum of 1 tree shall be provided for every 500 square feet of required internal landscape area.

(c) Trees Replaced by Shrubs. A maximum of ½ of the required trees may be substituted with shrubs adjacent to retail store fronts where the view of wall signs may be obstructed. At least 10 shrubs with a minimum container size of 5 gallons shall be provided for each tree that is replaced.

Reviewed by: Ashlyn Mathy, Planner
Ashlynmathy2@elpasoco.com

Engineering Division

EPC Engineering has no comments.

Reviewed by:

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

WWW.ELPASOCO.COM

Charlene Durham, PE

charlenedurham@elpasoco.com

County Engineer (Public Works)

Additional comments may be provided by the County Engineer.

Ashlyn Mathy, Planner
El Paso County Development Services
2880 International Circle, Colorado Springs, CO, 80910
(719) 520-6447

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

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Trevor Bedford

From: JAMES SUSAN JONES <jimsuejones@msn.com>
Sent: Tuesday, April 15, 2025 12:52 PM
To: Trevor Bedford
Subject: Cross Mountain (OS)Project

Regarding the Cross Mountain Project file #DR2025-001.

I support the request of zoning change from Agricultural One (A-1) to Open Space Conservation (OS). This seems like a reasonable and admirable use of the land. It preserves the skyline and provides space for nature.

Thanks for the information on this project.

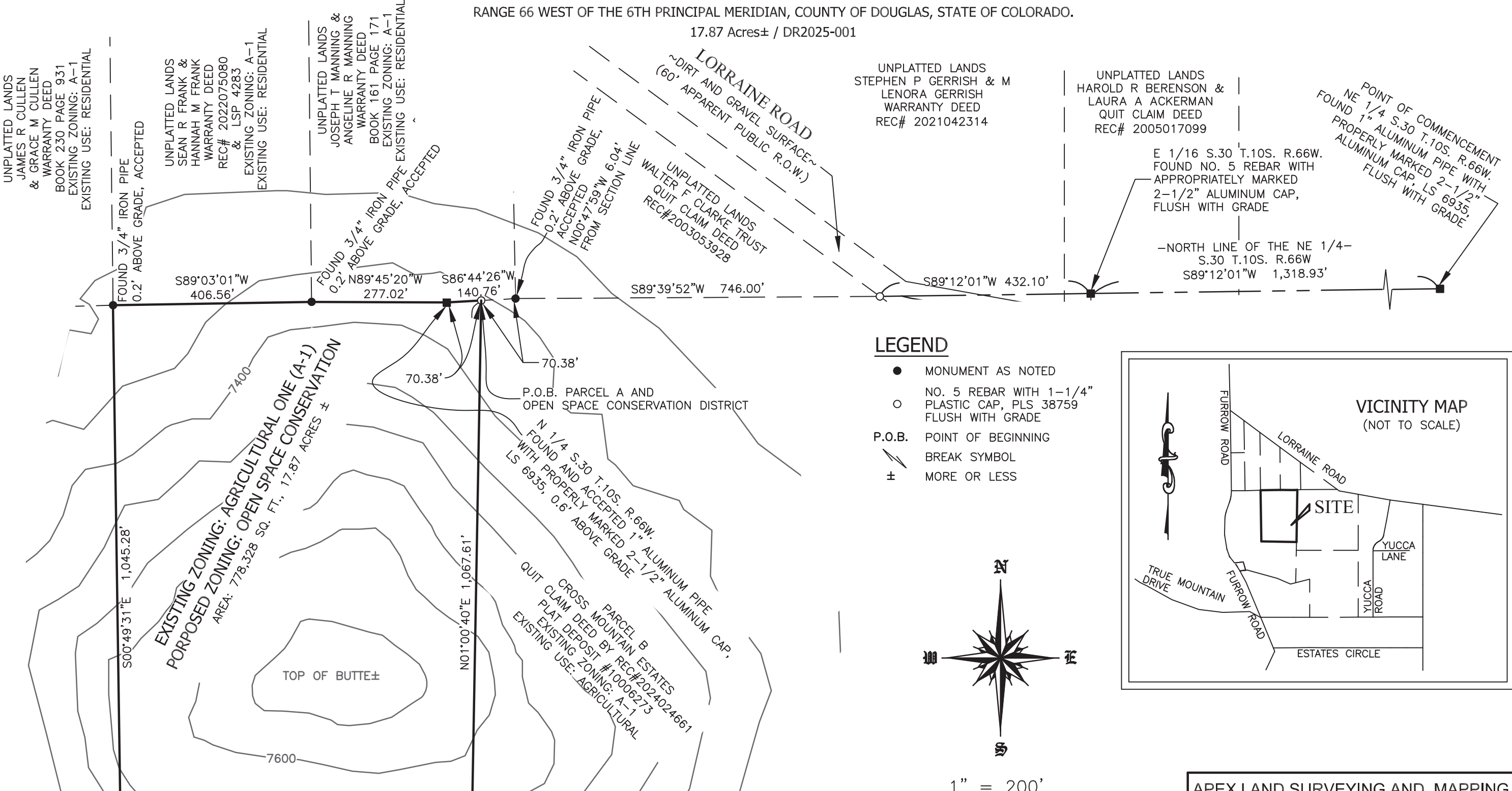
Sincerely,

James Jones
Property Owner
14439 Yucca Rd
Larkspur, CO 80118

CROSS MOUNTAIN ZONING PLAN

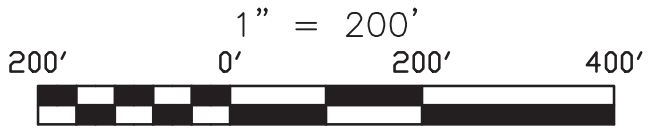
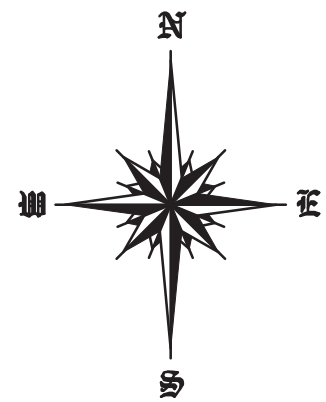
A PART OF THE NORTHEAST AND NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 10 SOUTH,
RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO.

17.87 Acres± / DR2025-001



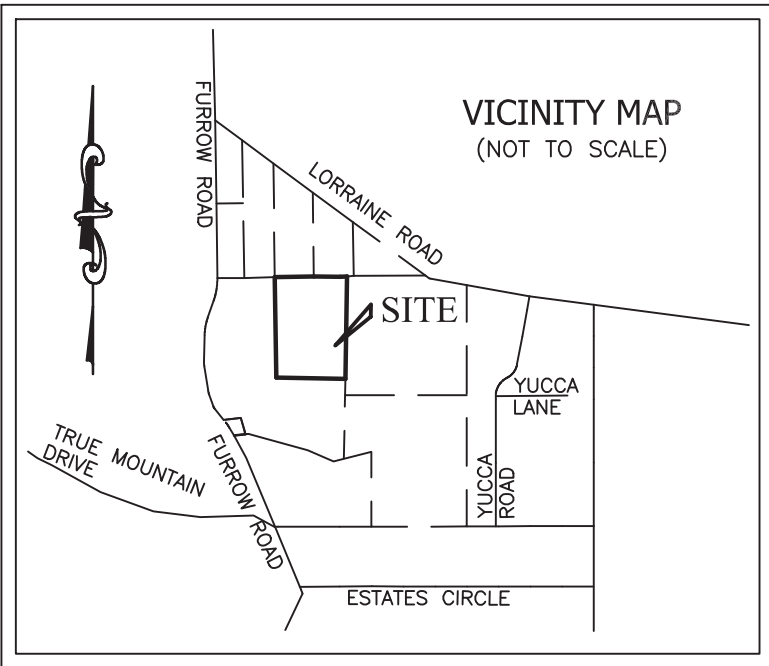
LEGEND

- MONUMENT AS NOTED
- NO. 5 REBAR WITH 1-1/4" PLASTIC CAP, PLS 38759 FLUSH WITH GRADE
- P.O.B. POINT OF BEGINNING
- ⚡ BREAK SYMBOL
- ± MORE OR LESS



ORIGINAL SIZE: 11"x17"

This is NOT a boundary retracement survey, Land Survey Plat or Improvement Survey Plat and should not be relied upon for any type of construction purposes.



NOTES:

1. TOP OF BUTTE LOCATION, MORE OR LESS, AS GRAPHICALLY DEPICTED ON THIS EXHIBIT IS BASED ON DIGITIZED EXISTING CONTOUR INFORMATION PER DOUGLAS COUNTY GIS.

PARCEL A, CROSS MOUNTAIN ESTATES
 QUIT CLAIM DEED BY REC#2024024661
 PLAT DEPOSIT #10006273
 EXISTING ZONING: A-1
 EXISTING USE: AGRICULTURAL

APEX LAND SURVEYING AND MAPPING LLC

5855 Lehman Drive, Suite 102
 Colorado Springs, CO 80918
 Phone: 719-318-0377
 E-mail: info@apexsurveyor.com
 Website: www.apexsurveyor.com



RESOLUTION NO. R-025-_____

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

A RESOLUTION REZONING A PARCEL OF LAND, TOTALING 17.87 ACRES,
LOCATED IN DOUGLAS COUNTY, COLORADO, FROM AGRICULTURAL ONE TO
OPEN SPACE CONSERVATION

WHEREAS, Lee Anne Davis and Andrew Frederick Clark as owners of Parcel 277330200002, have requested rezoning of a parcel of land (Project File No. DR2025-001) more particularly described in **Exhibit A**, which is attached hereto and incorporated herein, from Agricultural One to Open Space Conservation (the "Rezoning"); and

WHEREAS, the Planning Commission reviewed and recommended _____ of the Rezoning at a public hearing on June 2, 2025; and

WHEREAS, the Board of County Commissioners reviewed the Rezoning at a properly noticed public hearing held on June 10, 2025, and determined that the Rezoning is in substantial compliance with the approval criteria contained in Section 1 of the *Douglas County Zoning Resolution*; now therefore,

BE IT RESOLVED, by the Board of County Commissioners of the County of Douglas, State of Colorado that the Rezoning is hereby approved.

PASSED AND ADOPTED this 10th day of June 2025, in Castle Rock, Douglas County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

BY: _____
Abe Laydon, Chair

ATTEST:

BY: _____
Hayley Hall, Clerk to the Board

Exhibit A

A tract of land located in the North half of Section 30, Township 10 South, Range 66 West of the 6th P.M., County of Douglas, State of Colorado, more particularly described as follows:

Bearings are based on a portion of the north line of the Northeast Quarter of Section 30, Township 10 South, Range 66 West of the 6th Principal Meridian, monumented on the east end with a found 1" aluminum pipe with properly marked 2-1/2" aluminum cap, LS 6935, flush with grade, and on the easterly end with a found No. 5 rebar with appropriately marked 2-1/2" aluminum cap, LS 6935, found flush with grade, and is assumed to bear S89°12'01"W, a measured distance of 1,318.93 feet.

Commencing at the Northeast Quarter of Section 30, Township 10 South, Range 66 West of the 6th Principal Meridian, being a found 1" aluminum pipe with properly marked 2-1/2" aluminum cap, LS 6935, flush with grade; thence S89°12'01"W 1,318.93 feet to the East 1/16 of Section 30, Township 10 South, Range 66 West of the 6th Principal Meridian, being a found No. 5 rebar with appropriately marked 2-1/2" aluminum cap, flush with grade; thence S89°12'01"W, 432.10 feet to a Number 5 rebar with 1-1/4" plastic cap, PLS 38759; thence S 89°39'52" W, a distance of 746.00 feet to a 3/4" iron pipe, 0.2' above grade; thence N 86°44'26" E, a distance of 70.38 feet to a Number 5 rebar with 1-1/4" plastic cap, PLS 38759, being both the point of beginning of Parcel A, per quit claim deed by Reception Number 2024024661, also as shown by Certified Land Survey Plat of Cross Mountain Estates per Plat Deposit Number 10006273, also being the **point of beginning** of the hereinafter described lands:

Thence S 86°44'26" W, a distance of 70.38 feet to the North quarter of Section 30, Township 10 South, Range 66 West of the 6th Principal Meridian, being a found 1" aluminum pipe with properly marked 2-1/2" aluminum cap, LS 6935, 0.6' above grade; thence N 89°45'20" W, a distance of 277.02 feet to a 3/4" iron pipe, 0.2' above grade; thence S 89°03'01" W, a distance of 406.56 feet to a 3/4" iron pipe, 0.2' above grade; thence S00°49'31"E 1,045.28' to a point; thence S88°59'20"E 720.00' feet to a point on easterly line of Parcel A, per quit claim deed by Reception Number 2024024661, coincident with westerly line of Parcel B, per quit claim deed by Reception No. 2024024661, both parcels also shown by Certified Land Survey Plat of Cross Mountain Estates per Plat Deposit Number 10006273; thence N 01°00'40" E, along Previously mentioned easterly line of Parcel A, per quit claim deed by Reception Number 2024024661, being coincident with westerly line of Parcel B per quit claim deed by reception no. 2024024661, a distance of 1,067.61 feet to a Number 5 rebar with 1-1/4" plastic cap, PLS 38759, flush with grade, to **the point of beginning**.

Said lands having an area of 778,328 square feet, 17.87 acres, more or less

www.douglas.co.us

MEETING DATE: June 10, 2025

STAFF PERSON RESPONSIBLE: Matt Jakubowski, AICP, Chief Planner

DESCRIPTION: 2096 S. Interstate 25 - Zone Map Change - Project File: DR2025-002.

SUMMARY: The request is for approval of a zone map change to the Light Industrial and Agricultural One zone boundaries on a split-zoned lot.

STAFF ASSESSMENT: Staff has assessed the zone map change request. Overall, the zone map change brings the site into greater conformance with the goals, objectives, and policies of the Comprehensive Master Plan and the Castle Rock Municipal Planning Area. After consideration of the request, the Board may approve the zone map change.

REVIEW:

Terence T Quinn - FYI	Notified - FYI	5/29/2025
Steven E Koster	Approve	5/29/2025
Jeff Garcia	Approve	6/3/2025
Andrew Copland	Approve	6/3/2025
Doug DeBord	Approve	6/4/2025
Samantha Hutchison - FYI	Notified - FYI	6/4/2025

ATTACHMENTS:

Staff Report - DR2025-002
Resolution 2096 S Interstate 25

Zone Map Change Staff Report

Date: May 28, 2025
To: Douglas County Board of County Commissioners
Through: Douglas J. DeBord, County Manager
From: Terence T. Quinn, AICP, Director of Community Development *TQ*
CC: Matt Jakubowski, AICP, Chief Planner
Curt Weitkunat, AICP, Planning Manager
Steven E. Koster, AICP, Assistant Director of Planning Services
Subject: **2096 S. Interstate 25 Zone Map Change**
Project File: DR2025-002

Planning Commission Hearing:	June 2, 2025 @ 6:00 p.m.
Board of County Commissioners Hearing:	June 10, 2025 @ 2:30 p.m.

I. EXECUTIVE SUMMARY

The request is for approval of a zone map change to the Light Industrial (LI) and Agricultural One (A-1) zone boundaries within a split-zoned parcel at 2096 S. Interstate 25 (I-25). The request is being reviewed in accordance with Douglas County Zoning Resolution (DCZR) Section 112, Zoning Map Changes, under the procedure for “Rezoning of land, when requested by the landowner, to bring it into compliance with the Master Plan.”

The request concerns a 14.87-acre parcel, located approximately 2,000 feet south of the intersection of Crystal Valley Parkway and the I-25 frontage road. The zone map change would increase the size of the LI portion of the parcel by approximately 4 acres.

The Planning Commission is scheduled to hear the zone map change at its June 2, 2025, public hearing. Staff will provide an update on the Planning Commission hearing on the record at the Board of County Commissioners public hearing.

II. APPLICATION INFORMATION

A. Applicant

Storage Yard, LLC
2096 S. I-25
Castle Rock, CO 80104

B. Applicant’s Representative

David E. Archer & Associates Inc.
105 Wilcox Street
Castle Rock, CO 80104

C. Request

The applicant requests approval of a zone map change to the LI and A-1 zone boundaries on a split-zoned lot.

D. Process

A zone map change application is processed pursuant to Section 112 of the DCZR.

Per Section 112.06 of the DCZR, “The Board shall evaluate the proposed amendment, staff report, referral agency comments, public testimony, and the Planning Commission recommendation, and shall approve, approve with modifications, table for further study, remand to the Planning Commission or deny the map amendment.”

E. Location

The site is located approximately 2,000 feet south of the intersection of Crystal Valley Parkway and the I-25 frontage road. The attached vicinity map, zoning map, and aerial map highlight site location and existing conditions.

F. Project Description

The zone map change affects the LI and A-1 zone boundary on a split-zoned lot at 2096 S. I-25. The proposal brings the property into greater compliance with the 2040 Douglas County Comprehensive Master Plan (CMP). As currently situated, the zone boundary follows the section line through the middle of the property and also divides an existing barn and riding arena on the property. The location of the zoning boundary line limits the use of the building for LI purposes and creates a site design issue that impacts traffic flow and the development of the LI side of the property. The proposed zone map change would increase the LI zoned area on the property by approximately 4 acres.

Being that the parcel is located within the Castle Rock Municipal Planning Area of the CMP, which assumes urban level development and a variety of urban land uses, the zone map change request allows for greater CMP compliance by allowing the effective use of the LI side of the property for the type of development envisioned in the CMP.

III. CONTEXT

A. Background

The current LI portion of the parcel was identified as Transitional with the inception of zoning in Douglas County in 1955. The remainder of the property was zoned Agricultural. In 1982, the Transitional portion of the parcel was classified LI. The Agricultural zoned portion remained. The parcel’s current 14.87-acre configuration was established by deed in 1971.

A Site Improvement Plan was approved on the property in 1993 to capture existing light industrial uses on the LI side of the property. Light industrial activity on the LI portion of the parcel has continued through the present. Assessor and building permit

records indicate that the majority of the existing structures on the property were built in the 1970s, including the existing barn and indoor riding arena bisected by the current zone line. The property owner is processing a Site Improvement Plan Revision (SP2024-049) request for a recreational vehicle storage (RV) land use.

B. Adjacent Land Uses and Zoning

The site is bordered to the west by the I-25 frontage road and I-25 right-of-way. Zoning is A-1 on all other sides, and generally includes large lot residential development. Plum Creek and its floodplain are off the property directly to the east.

Zoning and Land Use

Direction	Zoning	Land Use
North	Agricultural One	Vacant land
South	Agricultural One	Large lot residential
East	Agricultural One	Large lot residential
West	Agricultural One	I-25 frontage road and I-25 right-of-way

IV. ZONE MAP CHANGE ELIGIBILITY

Section 112 of the DCZR allows for changes to the zoning map. The procedure is utilized for the following:

- Zoning of land disconnected from an incorporated area.
- Rezoning of land purchased with open space funds or dedicated to the County for open space.
- Correction of zoning map errors.
- Rezoning of land to Open Space Conservation district.
- Rezoning of land, when requested by the landowner, to bring it into compliance with the Master Plan.

In this case, the rezoning was requested by the landowner and initiated by the County to bring the existing parcel into greater conformance with the CMP. The subject property is included within the Castle Rock Municipal Planning Area of the CMP. The following objectives and policies of CMP Section 2, Urban Land Use, support the zone map change request.

- Objective 2-1A: Direct urban-level development to designated urban areas.
- Policy 2-1A.1: Limit and direct urban development to the Primary Urban Area (PUA), Separated Urban Areas (SUAs), Chatfield Urban Area, and Municipal Planning Areas depicted on the CMP Land Use Map.
- Policy 2-1A.2: Prioritize the build-out of existing urban areas over approval of new urban development.
- Objective 2-1C: Ensure development in designated urban areas is consistent with the CMP.

- Policy 2-1C.3: Support the rezoning of urban zoned lands to be consistent with the Plan’s goals, objectives, policies, and Land Use Map.
- Objective 2-16B: Ensure development inside Municipal Planning Areas (MPAs) is consistent with the Douglas County Comprehensive Master Plan.
- Policy 2-16B.6: Land use applications for development on unincorporated lands within the MPAs shall be consistent with the goals, objectives, and policies of this Section 2, Urban Land Use.

V. REFERRALS

This zone map change was distributed to applicable referral agencies. All referral agencies indicated no objection or no comment on the application, including County Building, Engineering, CDOT, Castle Rock Fire, the Town of Castle Rock, and major utilities. The three area homeowners associations that were sent a referral request provided no response.

VI. PLANNING COMMISSION HEARING

The Planning Commission is scheduled to hear the zone map change application at its June 2, 2025, public hearing. Staff will provide an update on the Planning Commission hearing at the Board of County Commissioners public hearing.

VII. STAFF ASSESSMENT

Staff has assessed the zone map change request. Overall, the zone map change brings the site into greater conformance with the goals, objectives, and policies of the CMP and the Castle Rock Municipal Planning Area. After consideration of the request, the Board may approve the zone map change.

<u>ATTACHMENTS</u>	<u>PAGE</u>
Douglas County Land Use Application	5
Applicant’s Narrative	6
Vicinity Map	8
Zoning Map	9
Aerial Map.....	10
Referral Agency Response Report	11
Referral Agency Response Letters	12
Zone Map Change Exhibit	18
Resolution	20

LAND USE APPLICATION

Please fill in this application form completely. An incomplete application will not be processed.

Note: Neither the Planning Commission nor the Board of County Commissioners should be contacted regarding an open application.

OFFICE USE ONLY		PROJECT FILE #:
PROJECT NAME: _____	_____	
PROJECT TYPE: <u>Zoning Map Change</u>	PLANNING FEES: _____	
MARKETING NAME: <u>Storage Yard, LLC</u>	_____	
SITE ADDRESS: <u>2096 S Interstate 25</u>	ENGINEERING FEES: _____	
OWNER(S):	_____	
Name(s): <u>Storage Yard, LLC</u>	TOTAL FEES: _____	
Address: <u>2096 S Interstate 25, Castle Rock, CO 80104</u>	_____	
Phone: <u>516-319-6641</u>	RELATED PROJECTS: _____	
Email: <u>Bvantassel2000@gmail.com</u>	_____	
AUTHORIZED REPRESENTATIVE (requires notarized letter of authorization if other than owner)		
Name: <u>DAVID E. ARCHER & ASSOC. INC</u> <u>KEVIN ARCHER</u>	_____	
Address: <u>105 WILCOX STREET, CASTLE ROCK, CO, 80104</u>	_____	
Phone: <u>303-688-4642</u>	_____	
Email: <u>KARCHER@DAVIDEARCHER.COM</u>	_____	

LEGAL DESCRIPTION:

Subdivision Name: NA

Filing #: NA Lot #: NA Block #: N/A Section #: 22 Township: 8S Range: 67W

STATE PARCEL NUMBER(S): 2505-270-00-002

ZONING:

Present Zoning: LI and A1 Proposed Zoning: LI and A1 Gross Acreage: LI=10.44 and A1=4.42

Gross Site Density (DU per AC): NA # of Lots or Units Proposed: N/A

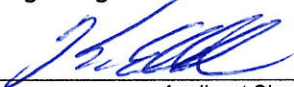
SERVICE PROVIDERS:

Fire District: Castle Rock Fire And Rescue Metro District: NA Gas: BLACK HILLS

Water: Well Sewer: Septic Electric: CORE

Roads: ☐ Public ☐ Private (please explain): _____

To the best of my knowledge, the information contained on this application is true and correct. ***I have received the County's information sheet regarding the Preble's Meadow Jumping Mouse.***



Applicant Signature

4-2-25

Date

100 Third Street, Castle Rock, Colorado 80104 • 303.660.7460

Revised 07.30.2018

Request for Zone Map Amendment – 2096 S Interstate 25, Castle Rock, CO 80104

To the Honorable Members of the Douglas County Board of Commissioners,

Storage Yard LLC presents this request to amend the existing zoning boundary at 2096 S Interstate 25, Castle Rock, CO 80104. The existing 14.89-acre property has been divided since 1982 into 6.47 acres Light Industrial (LI) and 8.39 acres Agriculture (A1). This outdated line cuts through a 21,200 square foot building, built in 1972. The existing zoning line renders the building unusable for a singular use.

The requested zoning Map Change proposes moving the zoning boundary per the exhibit. The proposed Zoning Map Change will expand the LI zoning to include the entire building and adjacent land for adequate access and maneuverability around the building. The proposed zoning would designate 10.44 acres to LI use and retain 4.42 acres of A1 zoning. The Zoning Map Change complies with the Douglas County 2040 Comprehensive Master Plan (CMP) for urban development, as detailed below:

- Policy 2-1A.1 (Directing Urban Development): The CMP aims to focus urban growth in designated areas including the Castle Rock Municipal Planning Area. 2096 S I-25 resides near Dawson Trails' and the proposed Crystal Valley interchange. Expanding the LI zoning to 10.44 acres will utilize the urban zone area as intended. The zoning map change will support growth while tapping into the new I-25 access without pushing into the existing adjacent rural land.
- Policy 2-1C.3 (Consistency with CMP): The CMP calls for zoning to match its urban vision. The current split zoning line breaks the continuity of the site, inhibiting full use of either zoning uses. Shifting the LI line south aligns the whole 10.44 acres with the Land Use Map's urban designation, letting the property contribute to Castle Rock's planned development.
- Policy 2-6B.3 (Community Identity): The CMP aims to build Castle Rock's character. Future development in the LI zoning area would provide additional landscaping, screening, and a buffer to preserve the natural appearance of the area while tying into the future commercial developments in the neighboring areas.
- Policy 2-7C.1 (Economic Opportunity): The CMP promotes land use for economic growth. Freeing the existing building of the split zoning constraint would promote economic options available to the new Dawson Trails' residents, Crystal Valley residents, and I-25's reach.
- Policy 2-6E.3 (Compatibility with Adjacent Uses): The CMP requires harmony with neighbors. The proposed Zoning Map Change shift does not directly change the adjacent











zoning for the neighbors of the subject site. All neighbors will be in contact with the same current zoning.

- Policy 2-5A.1 (Minimizing Resource Impact): The CMP aims to preserve history and nature. The proposed Zoning Map Change would allow the existing 1972 building to be fully used, while the southern A1 zoning would maintain the existing natural landscaping.
- Policy 2-8A.1 (Minimizing Energy Use): The CMP favors efficient land use. The existing split zone site does not allow for efficient land use of the site. The current zoning line creates inefficient use of the existing site and building. The proposed Zoning Map Change would allow for more efficient use of the site.
- Policy 2-9A.1 (Leveraging Infrastructure): The CMP strives to use existing infrastructure. With the existing I-25 frontage, the future intersection, onsite utilities, and an existing split zoned building, the Zoning Map Change would further encourage the use of the existing infrastructure on and adjacent to the site.
- Policy 2-14A.1 (Economic Development in Activity Centers): The CMP seeks thriving hubs near I-25. The proposed Zoning Map Change would allow for the proper development of the subject site, allowing it to contribute to the future surrounding developments.
- Policy 2-15A.1 (Logical Urban Build-Out): The CMP calls for growth tied to infrastructure plans. The Zoning Map Change aligns with the proposed interchange timeline, expanding the use of the subject site where Castle Rock's urban core is taking shape.





This property's potential has been locked up by a zoning line that does not benefit the property. The proposed Zoning Map Change aligns with the CMP, while positively impacting the adjacent community. Storage Yard LLC respectfully urges the considered approval to make this practical solution a reality.

Comprehensive Master Plan Land Use Reference Map

Comprehensive Master Plan Areas

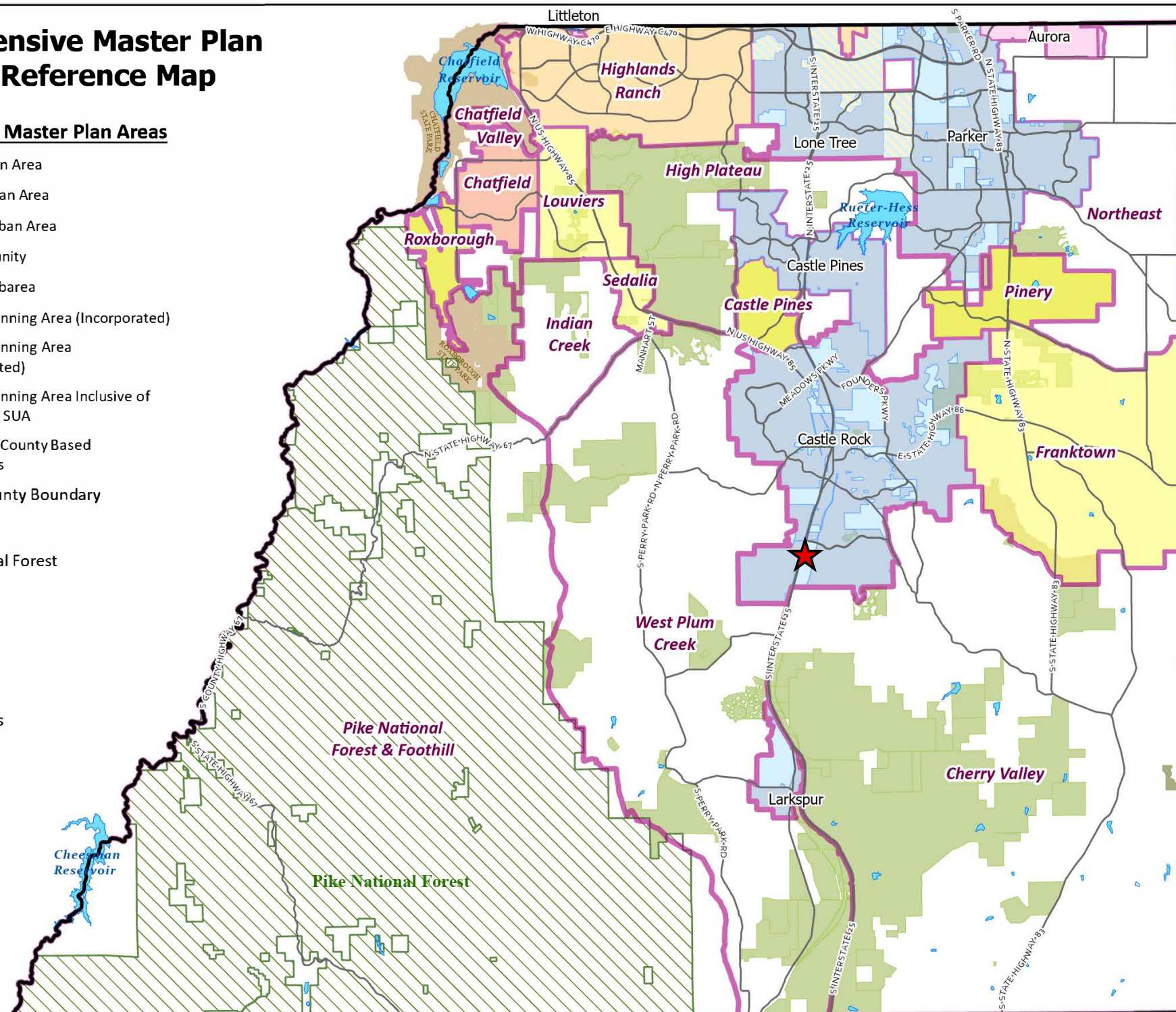
-  Primary Urban Area
-  Chatfield Urban Area
-  Separated Urban Area
-  Rural Community
-  Nonurban Subarea
-  Municipal Planning Area (Incorporated)
-  Municipal Planning Area (Unincorporated)
-  Municipal Planning Area Inclusive of County PUA / SUA
-  Non-Douglas County Based Municipalities
-  Douglas County Boundary

Parks

-  Pike National Forest
-  State Parks
-  Open Space
-  Lakes

Roadways

-  Major Roads



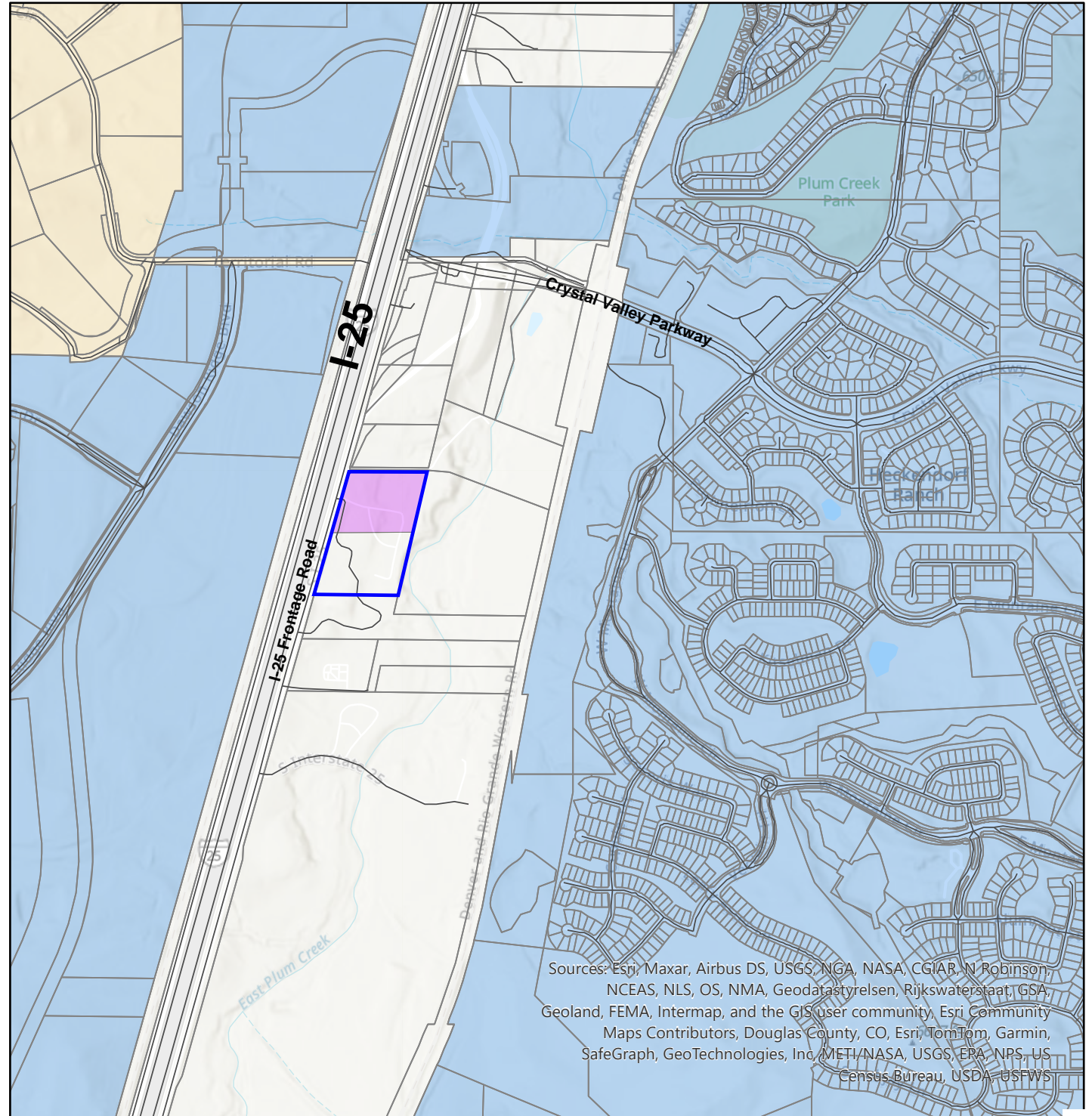
2096 S. I-25 Zone Map Change

DR2025-002
Zoning Map



LEGEND

-  Major Roads
-  Parcels - PARCELS
-  A1 - AGRICULTURAL ONE
-  LRR - LARGE RURAL RESIDENTIAL
-  CTY
-  LI - LIGHT INDUSTRIAL
-  PROJECT AREA



Sources: Esri, Maxar, Airbus DS, USGS, NGA, NASA, CGIAR, N Robinson, NCEAS, NLS, OS, NMA, Geodatastyrelsen, Rijkswaterstaat, GSA, Geoland, FEMA, Intermap, and the GIS user community, Esri Community Maps Contributors, Douglas County, CO, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA, USFWS

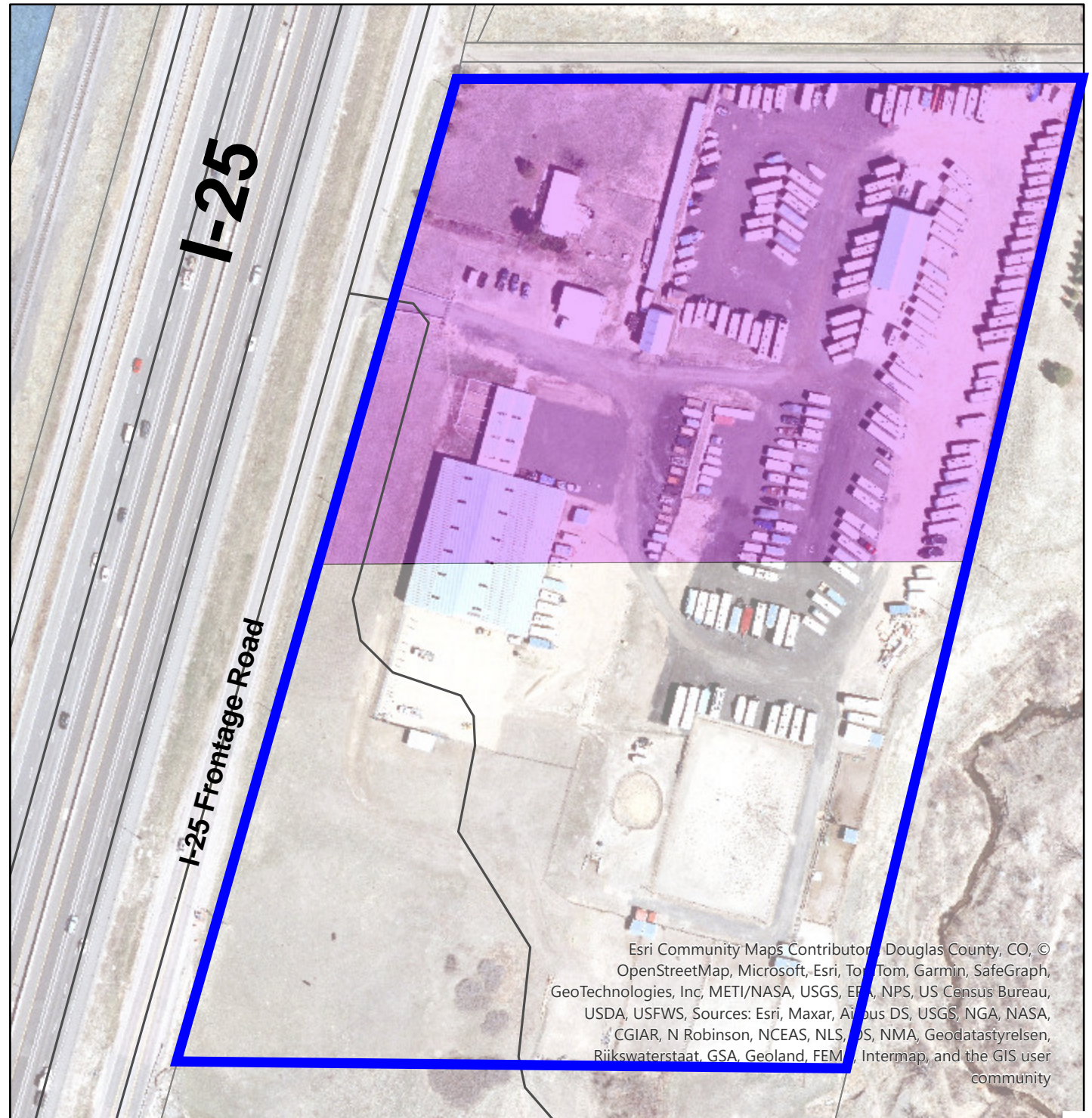
2096 S. I-25 Zone Map Change

DR2025-002
Aerial Map



LEGEND

- Major Roads
- Parcels - PARCELS
- A1 - AGRICULTURAL ONE
- CTY
- LI - LIGHT INDUSTRIAL
- PROJECT AREA



Esri Community Maps Contributor, Douglas County, CO, ©
OpenStreetMap, Microsoft, Esri, TomTom, Garmin, SafeGraph,
GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, US Census Bureau,
USDA, USFWS, Sources: Esri, Maxar, Airbus DS, USGS, NGA, NASA,
CGIAR, N Robinson, NCEAS, NLS, USGS, NMA, Geodatastyrelsen,
Rijkswaterstaat, GSA, Geoland, FEMA, Intermap, and the GIS user
community

Referral Agency Response Report**Page 1 of 1****Project Name:** 2096 S Interstate 25**Project File #:** DR2025-002**Date Sent:** 04/08/2025**Date Due:** 04/22/2025

Agency	Date Received	Agency Response	Response Resolution
Addressing Analyst	04/17/2025	No Comment.	No action necessary.
Assessor	04/21/2025	Received (verbatim response): Please be aware of the following comments: None	No action necessary.
Bell Mountain Ranch Design Review Committee		No Response Received.	No action necessary.
Bell Mountain Ranch HOA		No Response Received.	No action necessary.
Black Hills Energy	04/10/2025	No Comment.	No action necessary.
Building Services	04/11/2025	No Comment.	No action necessary.
Castle Rock Fire and Rescue Department	04/11/2025	Received (verbatim response): F1) Fire has reviewed the submitted plans and has no comments or objections. Fire requires no further Fire Department permitting for this specific submission review.	No action necessary.
Colorado Department of Transportation CDOT-Region # 1	04/09/2025	Received (verbatim response): I have reviewed the referral for the proposed Zone Map Change at 2096 S. Interstate 25 and have no objections.	No action necessary.
CORE Electric Cooperative	04/17/2025	No Comment.	No action necessary.
Engineering Services	04/18/2025	No Comment.	No action necessary.
Town of Castle Rock	04/21/2025	No Comment.	No action necessary.
Twin Oaks HOA		No Response Received.	No action necessary.
Xcel Energy-Right of Way & Permits	04/11/2025	Received (verbatim response): Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has reviewed the plan for 2096 S. Interstate 25 - Zone Map Change and currently has no apparent conflict.	No action necessary.

From: FDPLANS
Sent: Friday, April 11, 2025 4:08 PM
To: Matt Jakubowski
Subject: RE: Douglas County eReferral (DR2025-002) Is Ready For Review

Matt,

F1) Fire has reviewed the submitted plans and has no comments or objections. Fire requires no further Fire Department permitting for this specific submission review.

Respectfully,

Kevin "Sully" Sullivan
Assistant Fire Marshal

[Form Center • Request a Construction Inspection or Reinspect \(crgov.com\)](#)



Life Safety Division
Castle Rock Fire and Rescue Department
300 Perry Street
Castle Rock, CO 80104
303.663.3120 Office
e-mail FPO@crgov.com



An internationally accredited Fire/Rescue agency since 2012

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From: FPO <FPO@crgov.com>
Sent: Tuesday, April 8, 2025 3:58 PM
To: FDPLANS <FDPLANS@crgov.com>
Subject: Fwd: Douglas County eReferral (DR2025-002) Is Ready For Review

Nathaniel Howe

Sr. Fire Prevention Officer / Investigator,

Fire and Life Safety Division

Castle Rock Fire and Rescue Department
300 Perry Street

Castle Rock, CO 80104

303.660.1066

FPO@crgov.com

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Begin forwarded message:

From: mjakubow@douglas.co.us

Date: April 8, 2025 at 3:14:24 PM MDT

To: FPO <FPO@crgov.com>

Subject: Douglas County eReferral (DR2025-002) Is Ready For Review

There is an eReferral for your review. Please use the following link to log on to your account:

<https://apps.douglas.co.us/planning/projects/Login.aspx>

Project Name: 2096 S. Interstate 25 – Zone Map Change

Project File #: DR2025-002

Project Summary: Applicant requests a Zone Map Change to shift the zone boundary for a split-zone parcel in the Light Industrial (LI) and Agricultural One (A-1) zone district at 2096 S. Interstate 25. The property has access from the I-25 Frontage Road and is approximately 1,750 feet south of Crystal Valley Parkway and 6,500 feet north of Bell Mountain Parkway.

If you have any questions, please contact me.

Sincerely,

Matt Jakubowski, AICP | Chief Planner
Douglas County Department of Community Development
Planning Services Division
Address | 100 Third St., Castle Rock, CO 80104
Phone | 303-660-7460
Email | mjakubow@douglas.co.us

From: Loeffler - CDOT, Steven
Sent: Wednesday, April 9, 2025 6:43 AM
To: Matt Jakubowski
CC: Aaron Eyl; Joseph Tripple - CDOT; Jessica Varner - CDOT
Subject: Re: Douglas County eReferral (DR2025-002) Is Ready For Review

Matt,

I have reviewed the referral for the proposed Zone Map Change at 2096 S. Interstate 25 and have no objections.

Thank you for the opportunity to review this referral.

Steve Loeffler
Permits Unit- Region 1



P 303.757.9891 | F 303.757.9053
2829 W. Howard Pl. 2nd Floor, Denver, CO 80204
steven.loeffler@state.co.us | www.codot.gov | www.cotrip.org



On Tue, Apr 8, 2025 at 3:14 PM <mjakubow@douglas.co.us> wrote:

There is an eReferral for your review. Please use the following link to log on to your account:

[https://urldefense.com/v3/https://apps.douglas.co.us/planning/projects/Login.aspx?!!PUG2raq7KiCZwBk!csU7Gtybsgc24BRaQxYGNBlhNvGG2NI0g-fuII13xgw3ds8228JCgpLo4-ughshGp7ZDRDNBlbBke-TeekdVvnoohQUE\\$](https://urldefense.com/v3/https://apps.douglas.co.us/planning/projects/Login.aspx?!!PUG2raq7KiCZwBk!csU7Gtybsgc24BRaQxYGNBlhNvGG2NI0g-fuII13xgw3ds8228JCgpLo4-ughshGp7ZDRDNBlbBke-TeekdVvnoohQUE$)

Project Name: 2096 S. Interstate 25 – Zone Map Change

Project File #: DR2025-002

Project Summary: Applicant requests a Zone Map Change to shift the zone boundary for a split-zone parcel in the Light Industrial (LI) and Agricultural One (A-1) zone district at 2096 S. Interstate 25. The property has access from the I-25 Frontage Road and is approximately 1,750 feet south of Crystal Valley Parkway and 6,500 feet north of Bell Mountain Parkway.

If you have any questions, please contact me.

Sincerely,

Matt Jakubowski, AICP | Chief Planner
Douglas County Department of Community Development
Planning Services Division
Address | 100 Third St., Castle Rock, CO 80104

Phone | 303-660-7460

Email | mjakubow@douglas.co.us

REFERRAL RESPONSE REQUEST

 Date sent: April 8, 2025

 Comments due by: **April 22, 2025**

Fax: 303.660.9550

Project Name: 2096 S. Interstate 25 – Zone Map Change

Project File #: DR2025-002

Project Summary:

Applicant requests a Zone Map Change to shift the zone boundary for a split-zone parcel in the Light Industrial (LI) and Agricultural One (A-1) zone district at 2096 S. Interstate 25. The property has access from the I-25 Frontage Road and is approximately 1,750 feet south of Crystal Valley Parkway and 6,500 feet north of Bell Mountain Parkway.

Information on the identified development proposal located in Douglas County is enclosed. Please review and comment in the space provided.

<input checked="" type="checkbox"/> No Comment	
<input type="checkbox"/> Please be advised of the following concerns: 	
<input type="checkbox"/> See letter attached for detail.	
Agency: DC Engineering	Phone #: 303-660-7490
Your Name: Chuck Smith (please print)	Your Signature: <i>Chuck Smith</i>
	Date: 4/18/2025

Agencies should be advised that failure to submit written comments prior to the due date, or to obtain the applicant's written approval of an extension, will result in written comments being accepted for informational purposes only.

Sincerely,


 Matthew Jakubowski, AICP, Chief Planner
 Enclosure



Right of Way & Permits

1123 West 3rd Avenue
Denver, Colorado 80223
Telephone: 303.285.6612
violeta.ciocanu@xcelenergy.com

April 11, 2025

Douglas County Planning Services
100 Third Street
Castle Rock, CO 80104

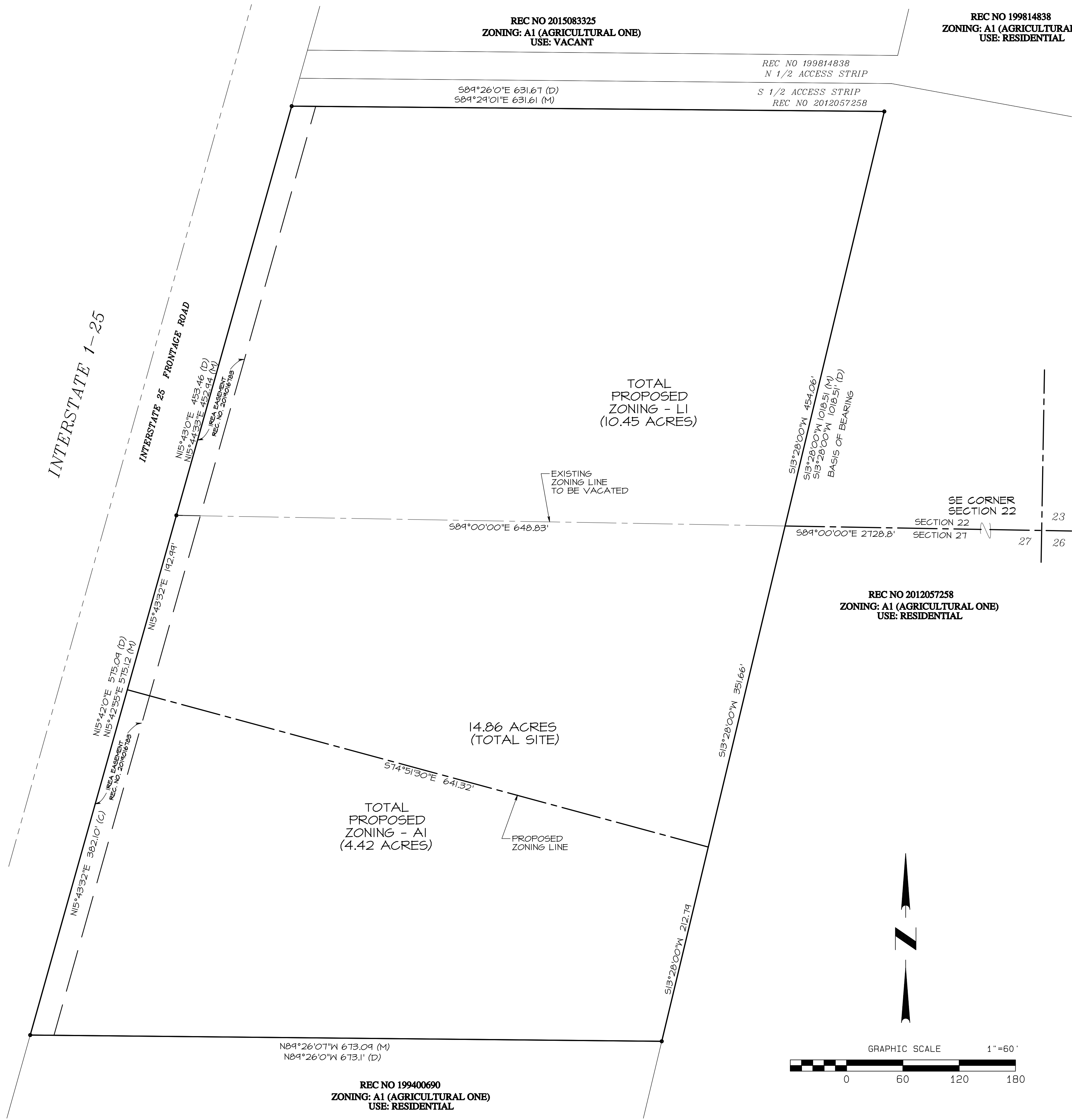
Attn: Matt Jakubowski

Re: 2096 S. Interstate 25 - Zone Map Change, Case # DR2025-002

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has reviewed the plan for **2096 S. Interstate 25 - Zone Map Change** and currently has **no apparent conflict**.

Violeta Ciocanu (Chokanu)
Right of Way and Permits
Public Service Company of Colorado dba Xcel Energy
Office: 303-285-6612 – Email: violeta.ciocanu@xcelenergy.com

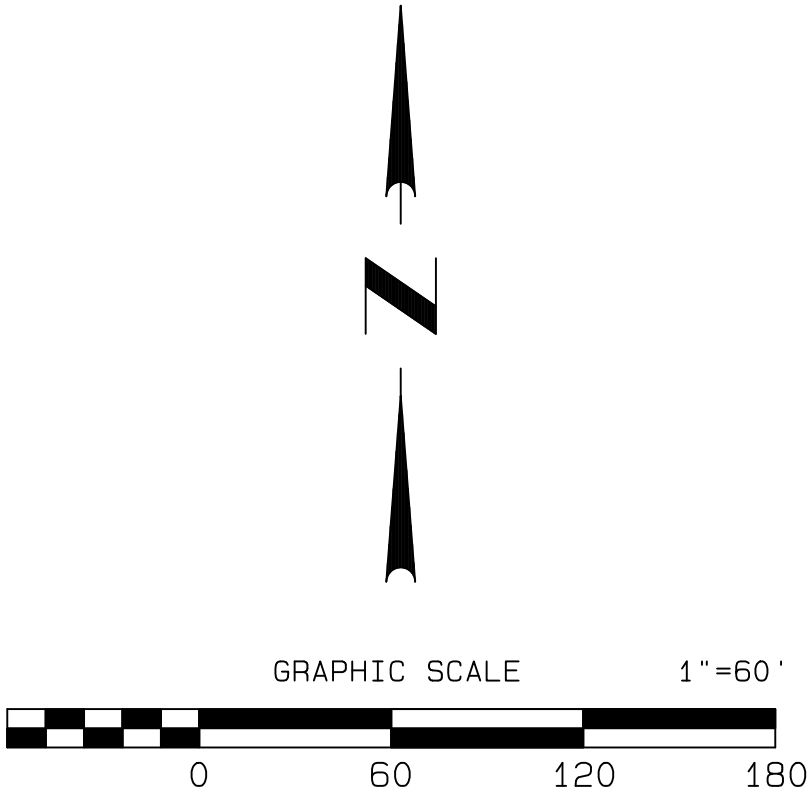
2096 SOUTH INTERSTATE 25
IN THE SOUTH 1/2, OF SECTION 22, AND THE NORTH 1/2 OF
SECTION 27, TOWNSHIP 8 SOUTH RANGE 67 WEST OF THE 6TH P.M.
SITE AREA 14.86 ACRES
ZONING MAP CHANGE EXHIBIT



RECEPTION NOs
2019089202
2021142713

(D) DEED
(C) CALCULATED

(D) DEED
(C) CALCULATED



DAVID E. ARCHER & ASSOCIATES, INC.
LAND DEVELOPMENT CONSULTING
SURVEYING & ENGINEERING
105 WILCOX ST. CASTLE ROCK, COLORADO 80104

REVISIONS

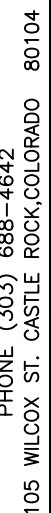
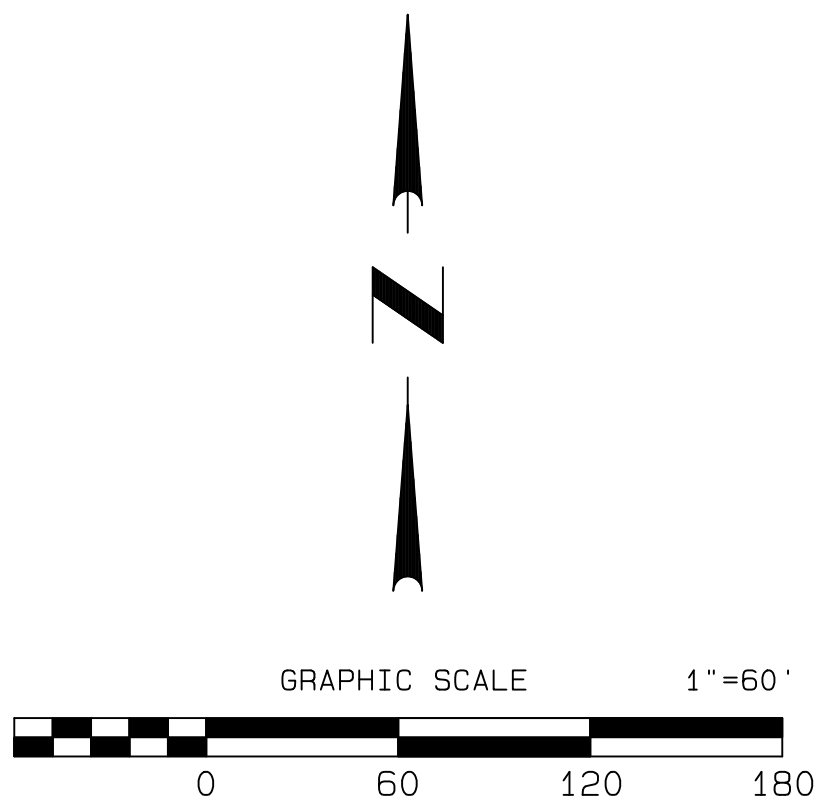
2096 SOUTH HIGHWAY 25
IN THE SOUTHWEST 1/4 OF SECTION 16 AND THE SOUTHEAST 1/4 OF
SECTION 22, TOWNSHIP 8 SOUTH RANGE 67 WEST OF THE 6TH P.M.
DOUGLAS COUNTY, COLORADO.

ZONING MAP CHANGE EXHIBIT

CONTACT: BRIAN VAN TASSELL
PHONE: (409)-920-0049

SCALE	As Noted
DATE	02-05-25
DRN. ZET	CKD. -
APVD.	-
JOB NUMBER	19-1288
Sheet	1 of 2

ZONING MAP CHANGE EXHIBIT



CONTACT: BRIAN VAN TASSELL
PHONE: (409)-920-0049

SCALE	As Noted	
DATE	03-20-25	
DR'N.	ZET	CKD. -
AP'VD.	-	
JOB NUMBER	19-1288	
Sheet	2 of 2	

RESOLUTION NO. R-025-_____

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

A RESOLUTION REZONING A PORTION OF A PARCEL OF LAND, TOTALING 10.45
ACRES, LOCATED IN DOUGLAS COUNTY, COLORADO, FROM AGRICULTURAL
ONE TO LIGHT INDUSTRIAL

WHEREAS, Storage Yard, LLC as owner of 2096 S. Interstate 25, has requested rezoning of a portion of a parcel of land (Project File No. DR2025-002) more particularly described in **Exhibit A**, which is attached hereto and incorporated herein, from Agricultural One to Light Industrial (the “Rezoning”); and

WHEREAS, the Planning Commission reviewed and recommended _____ of the Rezoning at a public hearing on June 2, 2025; and

WHEREAS, the Board of County Commissioners reviewed the Rezoning at a properly noticed public hearing held on June 10, 2025, and determined that the Rezoning is in substantial compliance with the approval criteria contained in Section 1 of the *Douglas County Zoning Resolution*; now therefore,

BE IT RESOLVED, by the Board of County Commissioners of the County of Douglas, State of Colorado that the Rezoning is hereby approved.

PASSED AND ADOPTED this 10th day of June 2025, in Castle Rock, Douglas County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

BY: _____
Abe Laydon, Chair

ATTEST:

BY: _____
Hayley Hall, Clerk to the Board



DAVID E. ARCHER & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS & ENGINEERS

105 Wilcox Street * Castle Rock, CO 80104
PHONE (303) 688-4642 * FAX (303) 688-4675 * karcher@davidearcher.com

May 27, 2025
Job. No. 19-1288

EXHIBIT "A"

LEGAL DESCRIPTION – ZONING L1

A Parcel of Land locate in Sections 22 & 27, Township 8 South, Range 67 West, of the 6th Principal Meridian, County of Douglas, State of Colorado, being more specifically described as follows:

Beginning at the intersection of the South line of said Section 22 and the East line of Interstate Highway No. 25, Whence the Southeast corner of said Section 22 bears S 89°00'00" E, a distance of 2728.8 feet;
Thence N 15°43'00" E, along said East line, a distance of 453.46 feet;
Thence S 89°26'00" E, a distance of 631.67 feet;
Thence S 13°28'00" W, a distance of 805.72 feet;
Thence N 74°51'30" W, a distance of 641.32 feet;
Thence N15°42'00" E, along said East line, a distance of 192.99 feet, to the Point of Beginning,

Containing 10.45 Acres, more or less.

This description was prepared under the direct supervision of Darrell Eugene Roberts, PLS36057, for and on behalf of David E. Archer & Associates, Inc.

RESOLUTION NO. R-025-_____

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

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THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

BY: _____
Abe Laydon, Chair

ATTEST:

BY: _____
Hayley Hall, Clerk to the Board