

Attachment F

JRW FAMILY LIMITED PARTNERSHIP LLLP
5975 East Jamison Place
Centennial, CO 80112

January 18, 2024

VIA EMAIL DCorliss@crgov.com

Mr. Dave Corliss
Town Manager Town
of Castle Rock
100 North Wilcox Street Castle
Rock, CO 80104

Re: Pine Canyon
Town Staff Annexation Discussion Letter

Dear Mr. Corliss:

We received and have now completed our thorough review and analysis of your September 22, 2023 letter (a copy of which is attached). We appreciate your effort to detail your account of what was stated at our earlier meeting, to consider our current plan, and to coordinate input from various Town Staff departments. We also understand your statement that Town Council is the relevant decisionmaker regarding the terms of any possible future annexation.

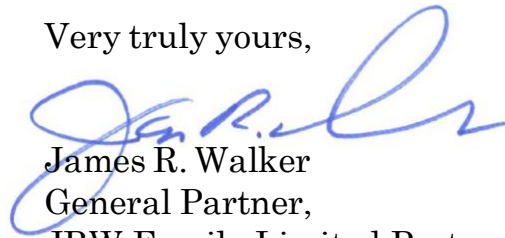
Upon our review of your September letter, we believe that our best path forward is to continue with Douglas County and to receive rezoning approvals from the County. The plan currently being considered by the County has been carefully crafted to meet or exceed Town standards, laws, and policies to ensure seamless continuity between Pine Canyon and the Town. Stopping or pausing our efforts with the County and starting over with the Town makes no practical or business sense. Such action would stall out the substantial progress we have made to date. It would also require immense effort, time, and cost just to complete the plan changes and studies now requested in your September 2023 letter, let alone for us to start, proceed through, and complete the lengthy review process with Town's planning staff.

After rezoning approvals are secured, we are willing to participate in constructive, positive, good-faith conversations regarding a potential annexation. We believe there are many topics on which we can agree.

Unfortunately, your letter states that the Town will oppose our efforts at the County. Since we commenced the process with our rezoning application, Town Staff has made multiple threats against the project and our family personally – including threats of civil action and criminal prosecution. These threats are disappointing and not constructive to the prospect of our ability to reach any eventual agreements with Town.

There is a very clear and achievable path ahead. We will finish our rezoning process in the County, and then can commence thorough, constructive discussions with the Town regarding a possible annexation. We hope that that Town recognizes the substantial benefits to the Town and its citizens which would come from the long overdue rezoning and eventual development of our legacy property. We hope that the Town leadership will choose to pursue a constructive path to secure these valuable benefits for its citizens.

Very truly yours,



James R. Walker
General Partner,
JRW Family Limited Partnership LLLP

cc: Mayor Jason Gray
Mayor Pro Tem LaFleur
Council Member

encl: Letter from Mr. Corliss 9-22-23



September 22, 2023

Kurt Walker
Principal Project Manager
Pine Canyon

Re: Pine Canyon proposed development

Dear Mr. Walker:

This follows up our meeting in August, 2023 attended by Kurt Walker, Jill Repella, Frank Gray and myself. At that meeting, on behalf of the Town I reiterated the Town's opposition to the development of the proposed Pine Canyon development if it was developed in the unincorporated Douglas County. For purposes of brevity and our desire to achieve a mutually satisfactory development, I will restate the Town's considerable opposition to the development if it occurs in the unincorporated Douglas County.

I indicated that Town staff could favorably recommend a Pine Canyon development meeting Town standards, laws, and policies if it was annexed into the Town of Castle Rock. I offered to put the Town's review of the pending County Pine Canyon proposal in writing and generally what it would take to get the County proposal a favorable Town staff recommendation if it were proposed to be developed in the Town. This is all with the understanding that your interest in Town views of a Town development in no way diminishes your ability to reject a Town staff review and continue to seek County approvals. It is also with the understanding that all the necessary Town and State land use review and approval process must be followed, and that Town Council, not Town staff, make final determinations on annexation, zoning and site development plans.

Our comments are based on the pending proposal before the County, the "Pine Canyon Planned Development" submittal dated March 8, 2023.

All that as prologue, if the property is annexed into the Town, Town staff can favorably recommend the proposed land uses and density, including the increase in residential units from the previously proposed 1320 units to the currently proposed 1,800 units, (obviously with matching Town zoning designations versus County nomenclature). The proposed densities and use locations are generally compatible with urban incorporated development patterns, and if annexed into the Town, the project could connect to local streets and provide for connectivity between neighborhoods.

If the development were to occur within the Town's jurisdiction, the general street layout in the proposal to the County appears appropriate, although the Town questions the cost-benefit of the proposed tunnel under I-25 and does not desire to financially participate in the permitting, construction or maintenance of the same. Similarly, without the need for either a wastewater plant or water treatment facility, those areas of the plan would need modification to different uses.

Town of Castle Rock, 100 North Wilcox Street, Castle Rock, CO 80104

Pine Canyon Planned Development Rezoning & Water Appeals DCordis@CRgov.com

Project File: ZR2020-010 & MI2020-009

Board of County Commissioners Staff Report Attachment F - Page 4 of 45

EFFICIENCY • DEDICATION • SERVICE

As previously stated, Town staff will recommend in the necessary documents not to seek exaction from the development or future metro district(s) funding for I-25 interchange improvements at Blackfeather. The County proposal currently indicates the development shall pay its pro-rata share of off-site street/transportation improvement, however these improvements likely need clarification. The Town would expect development pro-rata participation in the off-site street/intersection improvements, as currently stated in the County plan. The Master Traffic Impact Study, meeting Town criteria, would be needed to help obtain as great a specificity as possible as to what those improvements/costs would be so that there is agreement going into the project rather than disagreement at a later stage of development. Percentage or dollar caps on the amounts should be obtained to the extent possible at the appropriate stages of development. Again, our desire is to minimize cost surprises and make sure both parties are in agreement on the off-site street/transportation improvements.

Concurrent with Town annexation, the development would be required to dedicate all groundwater rights associated with the property. Based on the Water Efficiency Plan prepared for the development proposal in the Town at a density of 1320 units and the calculated demands for that level of development, it appears the development of 1800 units in the County proposal may require some additional groundwater rights to be provided to the Town per Town code (deemed "water short"). Staff can recommend payment-in-lieu of groundwater for this shortage or if additional modifications can be made to the Water Efficiency Plan that can bring calculated demands down further, perhaps the groundwater available for dedication could be stretched to cover this shortage. Staff would be happy to work through this with your team. As we have previously communicated, the development will not be required to obtain renewable water rights for the Town, but it would be required to pay system development fees including the renewable water resources fee like any other development occurring in Town.

The development would be required to comply with new Town code approved in 2022 that requires all new single family homes permitted after January 1, 2023, to utilize Coloradoscape in the front yard and less than 500 square feet of turfgrass in the backyard and other changes to landscaping covered in the Landscape and Irrigation Criteria Manual. There are significant discounts in system development fees for home builders which install both the front and backyards for new homes in accordance with the new code. This code change would likely help to further reduce the additional groundwater or payment-in-lieu of needed for the increased densities in the County proposal.

For a proposal within the Town, Town staff is willing to recommend the proposed dedication of parks and open space as set out in the County proposal. Town code does require the dedication of Public Land (PLD) that is calculated based on the density of proposed uses. The County proposal would require a total PLD area of 43.3 acres, however some of this requirement can be satisfied with the private open space that is already proposed. We assume that the proposed wastewater plant site area would be dedicated to the Town as part of the Town open space or PLD requirements. Regarding public land for future school uses, the Town is not certain of your conversations or agreements with Douglas County School District for the 12.7 acre site that is currently proposed in the County. Town staff would seek confirmation from the School District that their needs are met with the proposed plan, and would not seek additional school land beyond what the School District is requesting. Upon current review of the proposal, if this development were to be annexed into the Town, the PLD requirement can be met.

The Town is certainly open to purchase of additional desirable open space in the forested areas of the development, but Town staff would not make acquisition beyond what is set out in the County proposal a requirement for Town development.

In summary, this letter is intended to clarify that Town staff could favorably recommend a Pine Canyon development meeting Town standards, laws, and policies if it was annexed into the Town of Castle Rock.

100 North Wilcox Street Castle Rock, CO 80104

This letter is not an endorsement of the current urban development proposal in unincorporated Douglas County. We appreciate the opportunity to continue to discuss this development with you and the potential annexation into the Town.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Corliss". The signature is fluid and cursive, with a large initial "D" and "C".

David L. Corliss
Town Manager
Town of Castle Rock

JRW FAMILY LIMITED PARTNERSHIP LLLP
5975 East Jamison Place
Centennial, CO 80112

January 12, 2024

VIA E-MAIL MIJAKUBOW@CDODUGLAS.CO.US

Matt Jakupowski, AICP Chief Planner
Planning Services Division
Douglas County Department of Community Development
100 Third Street
Castle Rock, CO 80104

RE: Douglas County Planning—Pine Canyon PD Comments
(9-16-23 Resubmittal)

Dear Matt:

Thank you for your November 28, 2023 email and update regarding your completed review of our September 13, 2023 resubmittal. We appreciate your professional and timely responses and your attention to detail.

This letter provides our response to the third item listed in your email (namely, your follow-up questions regarding the Union Pacific (UP) rail line and our rights to cross over and under that rail line).

Through months of negotiations with UP in 2018, we reached an agreement for a perpetual, private at-grade crossing. (Agreement and Exhibits attached hereto.) The terms of this agreement allow for private use and for access to the proposed water reclamation facility. This at-grade crossing will only be used in the future privately for access to the homestead or the proposed water reclamation facility, in accordance with the agreement.

In addition, we also use an underpass crossing through a box culvert located south of our private crossing location. This type of box culvert is very common on the rail lines in Douglas County, and historically has supported our agricultural activities and those of adjacent landowners.

Matt Jakupowski, AICP Chief Planner
Planning Services Division
Douglas County Department of Community Development
January 12, 2024

As Douglas County continues to grow, County agencies and residents have supported the conversion of box culverts from agricultural uses to trail and recreational uses. We propose following this same procedure and using converting our existing culvert to facilitate a pedestrian and bicycle trail connection underneath the UP line. This trail will be how the public can access the Open Space and connect to the existing Plum Creek Trail similar to other connections throughout the region.

The Hangman's Gulch conversion is one such example where the Town of Castle Rock worked with the Public Utilities Commission to convert a box culvert to recreational uses. This trail connection and culvert location is approximately $\frac{1}{4}$ of a mile south of our property and allows public recreational use of a trail under this same UP line at issue here.

We have met with key staff members at the Public Utility Commission regarding a trail-based recreational conversion of the box culvert at issue. Staff members explained the process and procedure for gaining PUC approval for such a conversion.

We were advised that the PUC, not UP, makes the final decision on such conversions and PUC staff is currently working on another box culvert conversion supported by the Town of Castle Rock south of the Hangman's Gulch location.

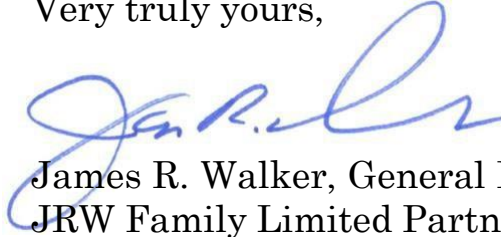
PUC staff advised us that the conversion must be proposed by a governmental entity, not a private abutting landowner. We asked if a special district could qualify to submit. We were told yes. Accordingly, we will continue these discussions and will follow proper procedure after the formation of Pine Canyon's special districts.

We look forward to proceeding with the PUC approval process soon after our special districts are approved to provide this and other much needed infrastructure in the Pine Canyon project area.

Matt Jakupowski, AICP Chief Planner
Planning Services Division
Douglas County Department of Community Development
January 12, 2024

We welcome your further questions or inquiries you may have regarding our resubmittal.

Very truly yours,



James R. Walker, General Partner
JRW Family Limited Partnership LLLP

Enclosure (Private Crossing Agreement)

Audit: 291382
Folder: 3112-48

PRIVATE ROAD CROSSING AGREEMENT

Mile Post 30.58, Colorado Springs Subdivision
Location: Castle Rock, Douglas County, Colorado

THIS AGREEMENT is made and entered into this 21st day of November, 2018 (the "Effective Date"), by and between **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation, to be addressed at 1400 Douglas Street STOP 1690, Omaha, Nebraska 68179-1690 (hereinafter "Licensor"), and **JRW FAMILY LIMITED PARTNERSHIP LLLP**, a Limited Liability Limited Partnership whose Address is 5975 E. Jamison Place, Centennial, CO 80112, hereinafter "Licensee").

RECITALS:

The Licensee desires the maintenance and use of an existing private road crossing (hereinafter "Road Crossing"), consisting of a residential private road crossing and all appurtenances thereto, including but not limited to any gates, cattle guards, stop signs or identification signs, drainage facilities, on, over and across the Licensor's right-of-way on the Colorado Springs Subdivision trackage at Mile Post 30.58 , further identified as DOT number 254305A at or near Castle Rock, Douglas County, Colorado, in the location shown on the attached print marked **Exhibit A**.

The Licensor is willing to grant the Licensee the right to cross its right-of-way and tracks at the location shown on **Exhibit A** subject to the terms set forth below.

NOW, THEREFORE, the parties agree as follows:

Article 1. LICENSOR GRANTS RIGHT.

The Licensor grants the Licensee the right to cross its right-of-way and tracks at the location shown on **Exhibit A** subject to the terms set forth herein and in **Exhibit B and C**, attached hereto and hereby made a part hereof, together with the right of entry to control and remove from the Licensor's right-of-way, on each side of the Road Crossing, weeds and vegetation which may obstruct the view of motorists approaching the crossing area to any trains that may also be approaching the crossing area.

Article 2. ONE-TIME PAYMENT.

In consideration of the license and permission granted herein, the Licensee agrees to observe and abide by the terms and conditions of this Agreement and to pay to the Licensor a one-time license fee of **One Thousand Five Hundred Dollars (\$1,500.00)**.

Article 3. WORK TO BE PERFORMED BY LICENSEE.

The Licensee, at its sole cost and expense, shall construct the Roadway approaches and all other Roadway appurtenances and work that will not be performed by Licensor as set forth in Exhibit B.

Article 4. IF WORK IS TO BE PERFORMED BY CONTRACTOR.

If a contractor is to do any of the work performed on the Road Crossing (including initial construction and subsequent relocation or substantial maintenance and repair work), then the Licensee shall require its contractor to execute the Licensor's form Contractor's Right of Entry Agreement. Licensee acknowledges receipt of a copy of Contractor's Right of Entry Agreement and understands its terms, provisions and requirements, and will inform its contractor of the need to execute the Agreement. Under no circumstances will Licensee's contractor be allowed onto Licensor's premises without first executing the Contractor's Right of Entry Agreement.

Article 5. NOTICE OF COMMENCEMENT OF WORK - FLAGGING.

A. The Licensee or its contractor agrees to notify the Railroad Representative at least ten (10) working days in advance of commencing its work and at least ten (10) working days in advance of proposed performance of any work in which any person or equipment will be within twenty-five (25) feet of any track, or will be near enough to any track that any equipment extension (such as, but not limited to, a crane boom) will reach to within twenty-five (25) feet of any track. No work of any kind shall be performed, and no person, equipment, machinery, tool(s), material(s), vehicle(s), or thing(s) shall be located, operated, placed, or stored within twenty-five (25) feet of any of the Licensor's track(s) at any time, for any reason, unless and until a Licensor flagman is provided to watch for trains. Upon receipt of such ten (10)-day notice, the Licensor Representative will determine and inform the Licensee or its contractor whether a flagman need be present and whether the Licensee or its contractor needs to implement any special protective or safety measures. If the Licensor performs any flagging, or other special protective or safety measures are performed by the Licensor, the Licensee or its contractor agrees that it is not relieved of any of its responsibilities or liabilities set forth in this Agreement.

B. The rate of pay per hour for each flagman will be the prevailing hourly rate in effect for an eight-hour day for the class of flagmen used during regularly assigned hours and overtime in accordance with Labor Agreements and Schedules in effect at the time the work is performed. In addition to the cost of such labor, a composite charge for vacation, holiday, health and welfare, supplemental sickness, Railroad Retirement and unemployment compensation, supplemental pension, Employees Liability and Property Damage and Administration will be included, computed on actual payroll. The composite charge will be the prevailing composite charge in effect at the time the work is performed. One and one-half times the current hourly rate is paid for overtime, Saturdays and Sundays, and two and one-half times current hourly rate for holidays. Wage rates are subject to change, at any time, by law or by agreement between the Licensor and its employees, and may be retroactive as a result of negotiations or a ruling of an authorized governmental agency. Additional charges on labor are also subject to change. If the wage rate or additional charges are changed, Licensee or its contractor (or the governmental entity, as applicable) shall pay on the basis of the new rates and charges.

C. Reimbursement to the Licensor will be required covering the full eight-hour day during which any flagman is furnished, unless the flagman can be assigned to other Licensor work during a portion of such day, in which event reimbursement will not be required for the portion of the day during which the flagman is engaged in other Licensor work. Reimbursement will also be required for any day not actually worked by the flagman following the flagman's assignment to work on the project for which the Licensor is required to pay the flagman and which could not reasonably be avoided by the Licensor by assignment of such flagman to other work, even though Licensee or its contractor may not be working during such time. When it becomes necessary for the Licensor to bulletin and assign an employee to a flagging position in compliance with union collective bargaining agreements, the Licensee or its contractor must provide the Licensor a minimum of five (5) days' notice prior to the cessation of the need

for a flagman. If five (5) days' notice of cessation is not given, the Licensee or its contractor will still be required to pay flagging charges for the five (5) day notice period required by union agreement to be given to the employee, even though flagging is not required for that period. An additional ten (10) days' notice must then be given to the Licensor if flagging services are needed again after such five day cessation notice has been given to the Licensor.

D. Arrangements for flagging are to be made with the Licensor's Manager of Track Maintenance. His name and phone number are as shown:

MTM Name: Mike Aragon
MTM Phone: 719-549-6266

Article 6. INSURANCE.

A. Before commencing of use of Railroad Crossing or entry on any portion of the Licensor's property, the Licensee shall obtain the insurance coverage described in **Exhibit C**, attached hereto and hereby made a part hereof and to provide to the Licensor, the insurance policies, certificates, binders and endorsements described therein.

B. All insurance correspondence shall be directed to:

Union Pacific Railroad Company
Real Estate Department
1400 Douglas Street, Mail Stop 1690
Omaha, Nebraska 68179
Attn.: Folder No. 3112-48

Article 7. TERM.

This Agreement shall be effective as of the date first herein written, and shall continue in full force and effect until terminated as provided in Exhibit B.

Article 8. SPECIAL PROVISIONS.

A. The Licensor has made arrangements for vegetation removal on a one-time basis. The work will be performed by the Licensor, at the Licensee's sole cost and expense, which is estimated at Four Thousand Five Hundred Dollars (\$4,500).

B. The Licensee agrees to reimburse the Licensor within thirty (30) days of its receipt of billing from the Licensor for one hundred percent (100%) of all actual costs incurred by the Licensor in connection with the vegetation removal.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first herein written.

UNION PACIFIC RAILROAD COMPANY

JRW FAMILY LIMITED PARTNERSHIP
LLLP

By: 

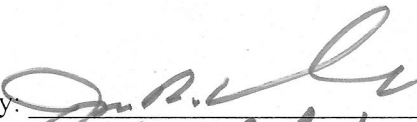
By: 
Title: General Partner

EXHIBIT A

TO

PRIVATE ROAD CROSSING AGREEMENT

Cover Sheet for the Licensor's Print showing the Road Crossing.

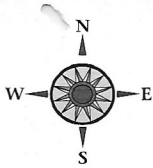
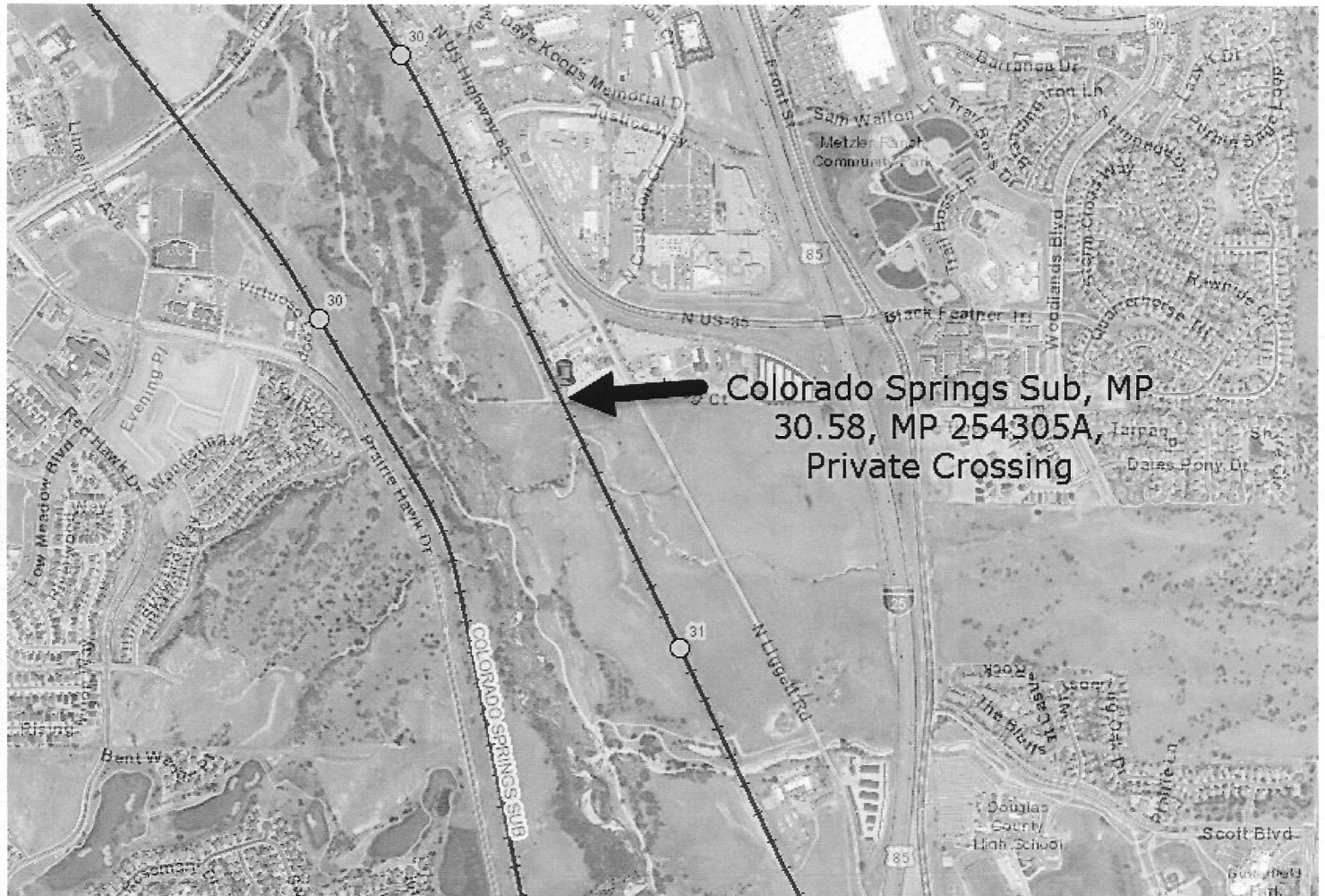


EXHIBIT "A"
RAILROAD LOCATION PRINT
ACCOMPANYING A
PRIVATE ROAD CROSSING AGREEMENT



UNION PACIFIC RAILROAD COMPANY

COLORADO SPRINGS SUB
RAILROAD MILE POST 30.58
CASTLE ROCK, DOUGLAS COUNTY, COLORADO

To accompany an agreement with the
JRW FAMILY LIMITED PARTNERSHIP LLLP and/or
CONTRACTORS

UPRR Folder No. 3112-48 Date: November 14, 2018

WARNING

IN ALL OCCASIONS, U.P. COMMUNICATIONS DEPARTMENT MUST BE CONTACTED IN ADVANCE OF ANY WORK TO DETERMINE EXISTENCE AND LOCATION OF FIBER OPTIC CABLE.

PHONE: 1-(800) 336-9193

EXHIBIT B

SECTION 1. LIMITATION AND SUBORDINATION OF RIGHTS GRANTED.

(a) The rights granted to the Licensee are subject and subordinate to the prior and continuing right and obligation of the Licensor to use and maintain its entire railroad right of way, and are also subject to the right and power of the Licensor to construct, maintain, repair, renew, use, operate, change, modify or relocate railroad tracks, signal, communication, fiber optics or other wire lines, pipelines and other facilities upon, along or across any or all parts of said right of way, any of which may be freely done at any time by the Licensor without liability to the Licensee or to any other party for compensation or damages.

(b) The Licensee's rights are also subject to all outstanding superior rights (including those in favor of licensees, lessees of said right of way, and others) and the right of the Licensor to renew and extend the same, and are granted without covenant of title or quiet enjoyment.

(c) It is expressly stipulated that the Road Crossing is to be a strictly private one and is not intended for public use. The Licensee, without expense to the Licensor, will take any and all necessary action to preserve the private character of the Road Crossing and prevent its use as a public road.

SECTION 2. MAINTENANCE AND USE.

(a) The Licensor, at the sole expense of the Licensee, shall maintain the portion of the Road Crossing lying between the rails of the tracks and for one (1) foot on the outside of each rail; provided, however, that such maintenance work shall be limited to that required for the safe and efficient operation of its tracks, and such other maintenance as the Licensor has agreed to perform on specific request of the Licensee. The Licensee, at its own expense, shall maintain the remaining portion of the Road Crossing and shall keep the rail flangeways clear of obstructions.

(b) The Licensee shall, at its sole expense, maintain, repair, renew and replace any gates, cattle guards, drainage facilities, traffic signs or devices, identification signs approved by the Licensor or other appurtenances shown on Exhibit "A". The Licensee shall, at its own expense, install and thereafter maintain any such appurtenances that may subsequently be required by the Licensor, by law, or by any public authority having jurisdiction. The Licensee shall control vegetation along the right of way on each side of the crossing so that the Licensee's line of sight to approaching trains is not impaired or obstructed by vegetation. All work performed by the Licensee on the right of way shall be done to the satisfaction of the Licensor.

(c) The Licensee shall require all vehicles approaching the crossing to stop a safe distance from the tracks before crossing the tracks. The Licensee shall keep any gate affording access to the Road Crossing closed and locked at all times except during the time of actual passage through it onto or from the Road Crossing. The Licensee shall not do, suffer or permit anything which will or may obstruct, endanger or interfere with, hinder or delay the maintenance and operation of the Licensor's railroad tracks or appurtenant facilities or the facilities or equipment of others lawfully using the Licensor's property. The Licensee shall adequately supervise and police use of said Road Crossing so that no person, vehicle or livestock stops or stands on the Licensor's tracks or attempts to cross the Licensor's railroad tracks when a railroad train, engine, equipment, or car is approaching or occupying the Road Crossing.

SECTION 3. MODIFICATION OR RELOCATION OF ROAD CROSSING.

Whenever the Licensor deems it necessary or desirable in the furtherance of its railroad operating requirements or for the improvement and use of its property to modify or relocate the Road Crossing:

(1) the Licensor shall, at the sole expense of the Licensee, modify or move the portion of the Road Crossing lying between the rails of the tracks and for one (1) foot on the outside of each rail; and

(2) the Licensee shall, at the Licensee's sole expense, modify or move the remaining portion of the Road Crossing and the appurtenances thereto.

All the terms of this agreement shall govern the continued maintenance and use of the Road Crossing as modified or relocated pursuant to this section.

SECTION 4. PROTECTION OF FIBER OPTIC CABLE SYSTEMS.

(a) Fiber optic cable systems may be buried on the Licensor's property. Licensee shall telephone the Licensor at 1-800-336-9193 (a 24-hour number) to determine if fiber optic cable is buried anywhere on the Licensor's premises to be used by the Licensee. If it is, Licensee will telephone the telecommunications company(ies) involved, arrange for a cable locator, and make arrangements for relocation or other protection of the fiber optic cable prior to beginning any work on the Licensor's premises.

(b) In addition to the liability terms elsewhere in this Agreement, the Licensee shall indemnify and hold the Licensor harmless against and from all cost, liability, and expense whatsoever (including, without limitation, attorneys' fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of the Licensee, its contractor, agents and/or employees, that causes or in any way or degree contributes to (1) any damage to or destruction of any telecommunications system by the Licensee, and/or its contractor, agents and/or employees, on Licensor's property, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on Licensor's property, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of, such telecommunication company(ies).

SECTION 5. INDEMNITY.

The Licensee assumes the risk of and shall indemnify and hold harmless the Licensor and other railroad companies which use the property of the Licensor, their officers, agents and employees, against and from any and all loss, damages, claims, demands, actions, causes of action, costs, attorneys' fees, fines, penalties and expenses of whatsoever nature (hereinafter "Loss") which may result from: (1) injury to or death of persons whomsoever, (including officers, agents and employees of the Licensor and of the Licensee, as well as other persons); (2) loss of or damage to property whatsoever (including damage to property of or in the custody of the Licensee and damage to the roadbed, tracks, equipment or other property of or in the custody of the Licensor and such other railroad companies, as well as other property); or (3) the Licensee's failure to comply with any federal, state or local law, regulation, or enactment; when such Loss is due to or arises in connection with or as a result of:

(a) the construction of the Road Crossing;

(b) any work done by the Licensee on or in connection with the Road Crossing;

(c) the use of said Road Crossing by the Licensee, or the officers, agents, employees, patrons or invitees of the Licensee, or by any other person;

(d) the use of said Road Crossing by the Licensee's successors or assigns or the officers, agents, employees, patrons or invitees of the Licensee's successors or assigns until the Licensee either complies with the provisions of Section 8 or terminates the agreement as provided in Section 6; or

(e) the breach of any covenant or obligation assumed by or imposed on the Licensee pursuant to this agreement, or the failure of the Licensee to promptly and fully do any act or work for which the Licensee is responsible pursuant to this agreement;

regardless of whether such Loss is caused solely or contributed to in part by the negligence of the Licensor, its officers, agents or employees.

SECTION 6. TERMINATION ON BREACH OR ON NOTICE.

(a) It is agreed that the breach of any covenant, stipulation or condition herein contained to be kept and performed by the Licensee shall, at the option of the Licensor, forthwith work a termination of this agreement and all rights of the Licensee hereunder. A waiver by the Licensor of a breach by the Licensee of any covenant or condition of this agreement shall not impair the right of the Licensor to avail itself of any subsequent breach thereof.

(b) This agreement may be terminated by either party on thirty (30) days' written notice to the other party.

SECTION 7. REMOVAL OF ROAD CROSSING.

(a) Upon termination of this agreement howsoever, the Licensor shall, at the sole expense of the Licensee, remove said Road Crossing and restore the premises of the Licensor to a condition comparable to that existing immediately prior to the construction of said Road Crossing.

(b) In the event of the removal of the Road Crossing as in this section provided, the Licensor shall not be liable to the Licensee for any damage sustained by the Licensee for or on account of such removal, and such removal shall not prejudice or impair any right of action for damage, or otherwise, which the Licensor may have against the Licensee.

SECTION 8. ASSIGNMENT.

The Licensee shall not assign this agreement, or any interest therein to any purchaser, lessee or other holder of the property served by the crossing or to any other person, without the written consent of the Licensor. If the Licensee fails to secure the Licensor's consent to any assignment, the Licensee will continue to be responsible for obligations and liabilities assumed herein.

SECTION 9. SUCCESSORS AND ASSIGNS.

Subject to the provisions of Section 8 hereof, this agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors and assigns.

EXHIBIT C

**Union Pacific Railroad
Contract Insurance Requirements**

Residential or Farm/Ranch Grade Crossing and/or Encroachment

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement (except as otherwise provided in this Agreement) the following insurance coverage:

- A. **Personal/Farm Liability Insurance.** Liability insurance coverage to others for bodily injury and property damage with a limit of not less than \$1,300,000 per claim
- B. **Personal Automobile Insurance.** Liability insurance coverage to others for bodily injury and property damage with a limit of not less than \$1,100,000 per accident.
- C. **Umbrella or Excess Insurance.** In the event Licensee utilizes an umbrella or excess policy, these policies shall "follow form" and afford no less coverage than the primary policy.
- D. **Railroad Protective Liability Insurance.** If Licensee is permitted to construct or maintain the crossing(s) Licensee shall procure and maintain during the construction and maintenance period(s) Railroad Protective Liability insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) with Railroad as the only named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of "JOB LOCATION" and "WORK" on the declaration page of the policy page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this agreement. A binder of insurance stating the policy is in place must be submitted to the Railroad before work may commence and until the original policy is forwarded to Union Pacific Railroad.

Other Requirements

- E. All policy(ies) required must include Railroad as "Additional Insured".
- F. Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this agreement, or (b) all punitive damages are prohibited by all states in which this agreement will be performed.
- G. Licensee waives all rights of recovery, and its insurers also waive all rights of subrogation of damages against Railroad and its agents, officers, directors and employees. This waiver must be stated on the certificate of insurance.
- H. Prior to entering upon Railroad property, Licensee shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.
- I. All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the work is to be performed.
- J. The fact that insurance is obtained by Licensee or by Railroad on behalf of Contractor will not be deemed to release or diminish the liability of Contractor, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Licensee or any third party will not be limited by the amount of the required insurance coverage.

April 24, 2023

VIA E-MAIL

Matt Jakubowski, Chief Planner
Mike Pesicka, Principal Planner
Department of Community Development
Douglas County
Planning Services Division
100 Third Street
Castle Rock, Colorado 80104

Re: Pine Canyon Planned Development (ZR2020-10) – Response to Town of Castle Rock Comments

Dear Mr. Jakubowski and Mr. Pesicka:

This firm represents JRW Family Limited Partnership, LLLP (the “Applicant”) in the above-referenced application (the “Application”) for property located in Douglas County (the “County”). As part of the referral comments received by the County during the second referral period for the Application, we reviewed the External Referral Comment Letter prepared by the Town of Castle Rock (the “Town”), dated April, 12, 2023 (the “Letter”). After carefully review of the Letter and based on our firm’s extensive work with C.R.S. § 24-65.1-101, *et seq.*, Areas and Activities of State Interest (the “Act”) and 1041 regulations, we provide our response below to the Town’s matters of state interest assertions.

While we appreciate the thoughtfulness and time the Town took to provide its comments on the Application in its Letter, we would like to remind the Town that its authority under the Act extends only as far as its own Town boundaries. While the Act provides local governments with certain powers to designate and regulate areas and activities of state interest, it does not allow the exercise of such powers to extend beyond a local government’s jurisdiction.

Under Section 401 of the Act, a local government may designate matters of state interest, but only “within its jurisdiction.” This does not provide the Town with authority to regulate such matters in the County. Further, Section 501 of the Act allows only “the local government in which such development or activity is to take place” to require a matters of state interest permit. The Application proposes development within the County, and therefore, the Town has no authority to impose any 1041 regulations or require a matters of state interest permit as part of the Application.

On behalf of the Applicant, we look forward to continuing to work with the County in connection with the Application. Please do not hesitate to contact me should you have any questions or require additional information regarding the matters set forth in this letter.

Sincerely,

Thomas J. Ragonetti

July 24, 2020

Matt Jakubowski
Chief Planner
Douglas County, Planning Department
100 Third Street,
Castle Rock, CO 80104

RE: Summary of July 22 Meeting with Town of Castle Rock regarding Transportation Impacts of Pine Canyon Rezoning Planned Development

Dear Matt,

Thank you for attending the recent meeting between the Pine Canyon team and the Town of Castle Rock. The team (referred to herein as the Applicant) requested this meeting, pursuant to the County's request that the Applicant coordinate with the Town. The Applicant invited members of County Staff, including yourself, Art Griffith, and Ken Murphy, in hopes of achieving coordination between the Applicant and the relevant governmental entities.

The Applicant intended to raise two main topics. First, Pine Canyon has been chosen by the Colorado Department of Transportation as the location of its Douglas County Mobility Hub. The Applicant wished to give an update to the Town as to its conversations with CDOT about the Hub, and to explain more of the shared vision that CDOT and the team have for the Hub. Secondly, the Applicant wanted to discuss access locations to Pine Canyon which are on Town operated roads, specifically Woodlands Boulevard, Front Street, and Liggett Road. Unfortunately, the neither of these topics were substantively discussed because the Town quickly and firmly stated a blanket opposition to the Mobility Hub on the property, and to the project accessing those roads.

Mobility Hub

CDOT defines a Mobility Hub as transit infrastructure which

“[goes] beyond the parking lot and bus shelter conventionally associated with park-n-rides. They are a focal point in the transportation network that seamlessly integrate different modes of transportation, multi-modal supportive infrastructure, and place-making strategies that create activity centers and maximize first/last mile connectivity. Mobility hubs should include as many of the following elements as possible: parking spaces, electric vehicle charging stations, bicycle and pedestrian connections, Bustang and other regional transit service connections, local transit service connections, and WiFi for first/last mile services such as taxis/Transportation Network Companies (TNCs). Where supported by market conditions, mobility hubs should also include retail or other commercial services that help make them a place to be, not just transportation facilities.”

The Applicant hoped to discuss how to integrate the Town's future local transit options into the regional and statewide transit infrastructure at the Mobility Hub, however the Town was

unwilling to engage on substantive discussions about the Hub as they began the meeting by stating a blanket opposition to the location at Pine Canyon. When asked to define why the Town is not supportive of the location at the property, Town stated they “see greater synergy with a location closer to downtown”. At one point, the Town Manager stated that a Mobility Hub at Pine Canyon would be in the “middle of a cow pasture” far from “any supporting infrastructure”. This unfortunate statement is unsupported by fact considering that the only entity opposing the rezoning of Pine Canyon (thus keeping it agricultural land) is the Town itself, and that the Town has multiple pieces of its own governmental infrastructure (including its water division’s headquarters and its public works department’s service center) closer to Pine Canyon than to Town Hall itself. It is also worth noting that Pine Canyon is also closer to governmental infrastructure owned by both Douglas County School District and Douglas County, two of the main economic centers for the Town: the Promenade and the Outlet Mall, and Castle Rock’s largest neighborhood, the Meadows, than Downtown Castle Rock is.

While the Town Manager, speaking on behalf of Town Council, stated emphatically and clearly the opposition to a Hub at Pine Canyon; later in the meeting, the Town Manager expressed a lack of support for multi-modal transit as a whole, referring to the Hub as a “**bright, shiny object**” and as “**horrendously expensive**” only worthy of “**academic discussion**” that “**doesn’t have anything to do when the tires-hit-the-road in regards to transportation impact**”. Given how hard the Applicant and CDOT have worked on this transportation opportunity, these comments are disappointing.

When the fact that transit reduces traffic and that Bustang operations could help solve issues on Town owned roadways was brought up, the Town Manager, speaking on behalf on Town Council, disagreed saying that “on a good day only 4-5% of people on the front range choose to take rapid transit” and that it is “very hard to get people in this part of the world to take buses”.

In 2018, DRCOG identified that over 21,000 Castle Rock residents commute out of the Town every day and an additional 15,000 commute into the Town. These citizens use Town-owned roads on their way in and out of Castle Rock – mostly in single-occupancy vehicles. Reducing that number by 5% would mean removing over 3,400 daily trips (over 1,700 citizens all travelling each way once per day) from the transportation infrastructure. Currently, Castle Rock offers no transit opportunities to their citizens or folks who commute in to work.

Access Points

The Applicant hoped, and reasonably expected, to engage with the Town about Pine Canyon’s access points to the Town’s transportation infrastructure. This did not occur. Before any substantive discussion about access point occurred, the Town manager, on behalf of Town Council, declared that Pine Canyon would not be given access to Town owned roadways. Instead, the Town Manager declared that the only access the Applicant should expect would be from Founders Parkway, a CDOT controlled road. When asked for details about whether the Town’s opposition was to the Applicant’s current submittal or if it is a blanket, unqualified opposition, the Town manager stated, speaking on behalf of Town Council, the Town would

“very likely prohibit both the connections to Town owned right-of-way and... we’ve got significant concerns about allowing any construction traffic on Town owned right-of-way”. The Town Manager surprisingly suggested that CDOT could condemn roadways in order for Pine Canyon to achieve access. Subsequently, County staff pointed out the regional importance of Woodlands Boulevard for “redundancy and emergency access”, and then asked if the Town was even opposed to emergency access. The Town Public Works Director responded by saying that they “had been pretty clear about... [the Town’s] ability to limit access on those roadways”. The Applicant was alarmed by this response.

Later in the meeting, when pressed for details, the Town Manager, speaking on behalf of Town Council, reversed his earlier declarations by saying that “[the Town’s] opposition to connections...all have to do with impact”, and that they would “look at the economics of what we get out of the project”. No other detailed explanations were offered. However, this was qualified when the Town Manager stated that he “wouldn’t count on [access] for the project or for construction traffic”. The presentation of these contrary views is indicative of how Town Staff has dealt with the Applicant.

Town Demand for an I-25 Interchange

Towards the end of the meeting, the Town Manager stated the an I-25 interchange on the property was the ask of “the previous public works director” and that “**his stance is not that an interchange would be required**” and that “**it is not what we currently require**”. These statements are fundamentally irreconcilable with the Town’s adopted Transportation Master Plan, and contradict recent statements by Town Staff in the public record.

Despite the fact that the previous public works director retired in June 2019, in presentations to Town Council on May 19, 2020 and July 7, 2020, Town Staff presented visuals depicting an interchange on the property as one of “Pine Canyons: [sic] Town of Castle Rock Transportation Obligations”. Additionally, the Applicant understands that Town Staff has requested the interchange in meetings with CDOT in 2020.

Prior to the meeting the Applicant circulated important historic contractual obligations regarding the extension of Woodlands Boulevard. Unfortunately, no discussion regarding this topic occurred. The Applicant awaits the Town’s view on these contractual commitments.

The Applicant will be moving forward with its resubmittal to the County. The Applicant looks forward to continuing our efforts working with the County regarding the Pine Canyon project.

Thank you for joining us at the meeting, please do not hesitate to reach out to us with questions or comments regarding the application.

Regards,

Kurt Walker
Principal Project Manager
Pine Canyon

JRW FAMILY LIMITED PARTNERSHIP LLLP

**5975 East Jamison Place
Centennial, CO 80112**

July 29, 2024

VIA E-MAIL MJAKUBOW@DOUGLAS.CO.US

Matt Jakubowski, AICP
Chief Planner Planning Services Division
Douglas County Department of Community Development
100 Third Street
Castle Rock, CO 80104

Re: Pine Canyon Rezoning and PD Application
Town Referral Memo Sent to County

Dear Matt:

This letter is being sent to address a letter sent from the Town of Castle Rock (the “Town”) Staff sent to Douglas County Planning Staff on July 12, 2024 regarding the Pine Canyon Planned Development (the “PD”) Application.

An Initial Matter

The Town’s letter is titled as a “consolidation” of Referral Comments on the Applicant’s PD, despite coming 15 months after the Referral period for the project had ended (the Zoning Regulation mandated 21-day Referral Period concluded on April 12, 2023). Because the Memo has been received outside of the Referral Period, County Regulations require that these comments be given a limited weight, as they are to be used for “informational purposes only” (Douglas County Zoning Resolution, Section 1505.04).

As an Applicant who has carefully and thoroughly proceeded through the entire rezoning process, including fulfilling all requirements of Section 1505.04, we are concerned that the submission of the Memo is an attempt to undermine the County’s process and deny our rights to a fair deliberation on the merits.

Reserving all of our rights to object to this untimely submission, we are compelled to address the Memo’s lengthy claims.

An Overview

Beyond the problem with the nature of the Memo’s submission, the substance of the memo is filled with factual inaccuracies regarding the Application. These inaccuracies include but are not limited to:

- Misreading the contents and nature of the County’s Comprehensive Master Plan,

- Inaccurate claims that the Applicant has not provided information on traffic impact mitigation improvements,
- Incorrect statements that the project will discharge wastewater to East Plum Creek,
- Untrue claims about the nature and amount of the Applicant’s water supply,
- Illegally threatening to disconnect the Applicant’s property from fire protection services,
- Erroneously claiming the Applicant has including no mitigation mechanisms in the PD regarding recreation,
- Misrepresenting the nature of the Town’s “1041” powers,
- Incorrect statements about the nature and number of meetings between Town Officials and the Applicant.

Moreover, the claim that this Memo only represents consolidated referral comments is suspect. Throughout the Memo, there are references to submittals from the Applicant, and meetings between the Applicant and various Town officials, which occurred after the referral period ended (on April 12, 2023). If this Memo is to be simply a consolidation of those referral comments – as it is specifically titled to be – then these references cannot be included within its contents, as they occurred outside of the referral period.

The Memo is subdivided into different subheadings regarding different topics. The rest of this response is subdivided accordingly.

General

Memo Claims	The Truth
<p>Pine Canyon is “completely surrounded by the Town”</p>	<p>The Pine Canyon parcels are bordered on the north by a 400-acre parcel located in unincorporated Douglas County, on the east by a state owned highway, on the west by an unincorporated railroad right-of-way, and on the west by many small unincorporated parcels.</p>
<p>The PD is inconsistent with the County’s CMP because the rezoning is being requested in the County while the property is located in a Municipal Planning Area.</p>	<p>As part of the PD submittal documents, the Applicant has included a robust and thorough examination of the application’s consistency with the County’s CMP. Town Staff has shown a consistent misunderstanding of the County CMP in previous referral comments which the Applicant has thoroughly addressed. While the CMP encourages annexation, it does not require it. The Applicant tried for many years to annex to the Town but was unsuccessful in those efforts. There are many examples of unincorporated communities in Municipal Planning Areas throughout Douglas County, and in the Castle Rock Municipal Planning Area itself.</p>

Transportation

Memo Claims	The Truth
<p>“Constructing an unincorporated urban level community in the middle of the Town will cause negative impacts on the surrounding area, including Town roadways, open space, parks and trails, and existing neighborhoods located within the Town limits.”</p>	<p>The Applicant has committed to mitigations within the PD to address the projects impacts. These include mitigations and improvements to the transportation and recreation network above and beyond what the Applicant is providing within the project itself. The transportation and recreational provided by the project will benefit the Town, its citizens, and businesses.</p>
<p>“The Application does not include even a draft of an Agreement that specifies the responsibility of the Applicant to provide public services, infrastructure and impact mitigation.”</p>	<p>The Application does include such an agreement. County procedure dictates that Applicants detail these services and mitigations in a Statement of Commitments, which is a thorough and detailed section of the Applicant’s PD.</p>
<p>Staff believes the traffic count within the Applicant’s Traffic Impact Analysis (TIA) to be “grossly underestimated”.</p>	<p>The Applicant’s TIA was conducted by a leading expert in traffic and transportation studies – a firm which has been retained by the Town itself for similar studies. The methodologies used in the Applicant’s TIA are industry standard to be used by all traffic experts. This TIA was thoroughly reviewed, and accepted, by Douglas County Engineering. The recommended transportation-related mitigation improvements were deemed sufficient by the County’s Engineering staff as part of that review.</p>
<p>Staff believes that the “true impact” to Town roadways to be “inaccurately projected” and the Applicant as not made any commitment to the Town to mitigate the impacts.</p>	<p>The Applicant’s TIA includes recommendations for mitigations and improvements to numerous off-site intersections in the regional transportation network (Town-maintained or otherwise). These recommendations were thoroughly reviewed by Douglas County</p>

	<p>Engineering and accepted as sufficient to address the project’s impact. The Applicant has detailed its commitment to providing these improvements, and any called for by any subsequent traffic analyses, in the PD documentation.</p>
<p>The Town will not allow the proposed access points to Town owned roadways, as shown in the rezoning application, for this urban level development in unincorporated Douglas County.</p>	<p>As the Applicant has addressed numerous times, the Town has no such power as to deny access to public roadways. This claim runs contrary to Colorado Statutes, and Federal Law.</p>
<p>The potential impacts of the mobility hub are underestimated, have not been assessed, and no mitigation has been proposed to the Town.</p>	<p>The CDOT-sponsored mobility hub was included in the Applicant’s TIA, the methodology to calculate any potential impact from the mobility hub was given its own section within that TIA, and any required mitigations due to the mobility hub from the Applicant are stated in the PD itself.</p>
<p>“The Applicant states in their September 2023 resubmittal to the County that they have proposed substantial transportation and trail improvements, and objective, calculated impact mitigation fees for all planned roadway connections. Please be aware that the Applicant has not reached out to the Town with any calculated impact mitigation fees for our review or consideration.”</p>	<p>The September 2023 County resubmittal came 5 months after the Referral Period. Referencing this resubmittal in a Memo purporting to consolidate the comments from that Referral Period is out of order.</p> <p>As previously stated, all of the calculated impact mitigations required by the Applicant’s TIA are thoroughly detailed in the TIA (and in other supporting documents in the Applicant’s submittals). These mitigations were available for the Town to review not just by the County, but twice by the Town during formal Referral Periods.</p>

Wastewater Treatment

Memo Claims	The Truth
<p>The wastewater reclamation facility will discharge to East plum Creek.</p>	<p>The CDPHE-approved plans thoroughly detail that the water reclamation facility will have no discharge to groundwater or any surface water.</p>
<p>The wastewater reclamation facility will discharge into East Plum Creek upstream of Town-owned drinking water wells.</p>	<p>The CDPHE-approved plans thoroughly detail that the water reclamation facility will have no discharge to groundwater or any surface water, this facility will not present a risk to the Town’s drinking water supply.</p>
<p>“This location is also adjacent to the Town’s most active trail system and residential development, and odors from the wastewater plant will impact the enjoyment and use of this trail system.”</p>	<p>This location is further from any planned or existing residences than Town approved residences are to the Plum Creek Wastewater Reclamation Authority’s facility, which treats water to a lesser standard than the Applicant’s proposed facility. The Town’s water treatment facility is significantly closer to the exact same trail that Town Staff claims the Applicant’s facility is near. Significant odor control is required for this facility and there will be no odor impact to the trail from this facility.</p>
<p>“Proliferation of wastewater treatment facilities where capacity is available at existing facilities is contrary to land use and water planning best practices.”</p>	<p>This issue was thoroughly examined by CDPHE when that authoritative body review the Applicant’s proposed water and wastewater system. After its robust review, CDPHE concluded that consolidation to an existing facility was infeasible for Pine Canyon. The Town could have appealed this decision by CDPHE and chose not to.</p>

Water Supply

Memo Claims	The Truth
<p>“The Applicant proposes to supply water to the Pine Canyon Planned Development solely from non-renewable groundwater”</p>	<p>The Applicant’s water supply plan uses a combination of groundwater and recycled water reuse to meet all projected demands. Part of the CDPHE mandated review process required a financial modeling projection for the water and sanitation district which will operate the Applicant’s planned water reclamation facility and water reuse system. This projection detailed the Applicant’s commitment to requiring a Renewable Water Fee which will be used to incorporate a renewable water resource into the district’s water supply portfolio.</p>
<p>“Even though the Applicant has promised to collect a small renewable water fee from future customers in the development, this does not provide an adequate long term sustainable, renewable water plan.”</p>	<p>This comment directly contradicts the comment above from Town Staff. The Applicant’s proposal to incorporate a renewable water resource into its water supply will only add to the already sustainable, reliable long-term water plan the Applicant has developed for the project. Furthermore, Castle Rock Water defines the reuse water which it uses in its system as “renewable water”, but refuses to use that same definition here for the Applicant.</p>
<p>The Applicant’s water supply “is of unknown real capacity and based solely on paper water decrees”</p>	<p>The Applicant’s water supply has been vetted and its capacity confirmed by leading water lawyers and consultants.</p>
<p>The Applicant’s water supply “does not include a safety factor of excess non-renewable supply”</p>	<p>The Applicant’s water supply contains multiple safety factors. The proposed groundwater withdrawal rate has an included safety factor embedded within it, which was recommended by the County’s water consultant. Additionally,</p>

	<p>the innovative water plan’s use of recycled reuse water for all outdoor irrigation demands means that the project will be able to leave a significant portion of the Applicant’s groundwater rights portfolio untouched in the aquifer.</p>
<p>The Applicant’s water supply “is not supported by any sampling data or information showing quality”</p>	<p>The Applicant’s water quality has been sampled numerous times from its existing wells which have shown no issues with water quality.</p>
<p>The Applicant’s water supply “incorporates a plan to reuse wastewater effluent that relies solely on the unrealistic hope that residential users will not overwater or allow lawn irrigation runoff in the streets”</p>	<p>The Applicant’s plan does not allow for residents to control the recycled reuse water for irrigation. All irrigation will be controlled and monitored in real time by the water and sanitation district and a third-party irrigation specialist. The Applicant has partnered with the leading smart meter monitoring company to provide the system to monitor all water use, and with the leading irrigation specialist company to control all irrigation for the project. This irrigation company is used by the Town for many of their own parks and other facilities.</p>
<p>The Applicant’s wells will interfere with the Town’s wells.</p>	<p>The Applicant has conducted multiple in-depth well interference studies as part of its water supply plan. These studies, including a dynamic analysis specially requested by the County water consultant, all concluded that there will be no interference from the Applicant’s well with any other wells whatsoever.</p>

Fire Service

Memo Claims	The Truth
<p>The Applicant has not coordinated with the Castle Rock Fire Protection District regarding impact mitigations.</p>	<p>The Applicant has coordinated with the District’s representation regarding the PD. The details of funding sources for the Protection District’s services are spelled out specifically in the 2009 Intergovernmental Agreement between the Fire Protection District and Castle Rock Fire. The Applicant has committed to all of the requirements detailed in that IGA.</p>
<p>The Applicant’s water supply will not “provide adequate fire service to the future residents and businesses” within the project.</p>	<p>The Applicant included sufficient water supply, based on actual use data, within its water supply plan for all fire services.</p>
<p>“The Town will seek to have the Castle Rock Fire Protection District exclude this development from its jurisdiction”</p>	<p>This threat violates Colorado statute and would endanger not just future citizens and business within the project, but all those in the region. The Applicant clearly stated the illegal nature of this threat in previous responses to the Town but these responses have been ignored.</p>
<p>“The proposed development will require substantial and continual mitigation and maintenance to limit the potential of catastrophic wildland fire, the details of which have not been discussed with, or agreed to, by the Castle Rock Fire Protection District.”</p>	<p>The Applicant has included a Forest Management and Fire Mitigation Plan within its PD. These plans were reviewed and deemed sufficient by the County’s Wildfire Mitigation Specialist. The Applicant has committed to implementing all forest management and fire mitigation practices itself. These practices have all been thus far been overseen and approved of by multiple state a federal agencies.</p>

Trails and Parks

Memo Claims	The Truth
The PD is “entirely reliant on connection to existing Town trails and sidewalks to complete linkages”	The PD will provide vital and needed connections for multi-modal trails which will help complete the regional trail system and fill currently existing voids. These trails will be open and enjoyed by citizens of the project area and those who live outside the project alike.
“The Applicant has not made any commitment to the Town to mitigate any of the development’s impacts upon the Town’s trail system or recreational facilities.”	The Applicant has committed to dedications and fees necessary to mitigate impacts to off-site recreational facilities.

Connection to Town Right of Way and Trails, Etc.

Memo Claims	The Truth
<p>“The applicant has indicated that the Colorado Annexation Act at C.R.S. 31-12-105 gives them the right to force urban level development connections to roadways owned by the Town. This is not correct and in fact, the cited statutory provision makes clear that the <i>annexor</i> must allow <i>reasonable</i> access to owners adjoining an annexed parcel:</p> <p><i>‘Annexation shall not deny reasonable access to landowners, easement owners or franchise owners adjoining a platted street or alley that has been annexed and is not bounded on both sides by the municipality. C.R.S. 31-12-105(1)(g).’</i></p>	<p>The Applicant has responded thoroughly to the Town’s factually inaccurate claim that it can deny access to public roadways, both in this response and in multiple earlier responses. In this attempt to rebut the Applicant’s response, the Town has misquoted Colorado Statute. The Memo has changed the verbiage of the law and replaced the words “a municipality” with the word “annexation”. This alteration by the Town changes the clear meaning, and the very law itself.</p> <p>Additionally, the claim highlights the word “reasonable” in its response. The Applicant’s planned roadway network complies with the Transportation Master Plans of both Douglas County and the Town itself;</p>

	<p>the Applicant’s TIA was completed by a leading firm used by multiple government agencies in the region, and that TIA has been reviewed and accepted by Douglas County Engineering, and by Referral Agencies including the Town and CDOT during multiple Referral Periods. The Applicant’s planned roadway connections are eminently reasonable.</p>
<p>“All points of connection to Town of Castle Rock roadways, right-of way (ROW), trails, etc. shown on the current version of the Pine Canyon PD under consideration by the County should be deleted.”</p>	<p>This comment was evaluated by Douglas County Planning Staff and this requested change was never included by County Planning Staff as a desired change in any of the subsequent review rounds conducted between the County and Applicant.</p>
<p>“The Applicant states in their September 2023 resubmittal to the County that they have proposed substantial transportation and trail improvements, and objective, calculated impact mitigation fees for all planned roadway connections. Please be aware that the Applicant has not reached out to the Town with any calculated impact mitigation fees for our review or consideration.”</p>	<p>The September 2023 County resubmittal came 5 months after the Referral Period. Referencing this resubmittal in a Memo purporting to consolidate the comments from that Referral Period is out of order.</p> <p>As previously stated, all of the calculated impact mitigations required by the Applicant’s TIA are thoroughly detailed in the TIA (and in other supporting documents in the Applicant’s submittals). These mitigations were available for the Town to review not just by the County, but twice by the Town during formal Referral Periods.</p>

Easements for and Construction of Water and Wastewater Facilities.

Memo Claims	Response
<p>“The Applicant responded in September 2023 by stating that they did not have any easements</p>	<p>The September 2023 County resubmittal came 5 months after the Referral Period. Referencing this</p>

<p>planned”</p>	<p>resubmittal in a Memo purporting to consolidate the comments from that Referral Period is out of order.</p>
<p>The PD would require infrastructure which would necessarily cross Town owned rights-of-way which the Town will deny both easement and construction of.</p>	<p>Denial of easements and construction for public utilities is not a power which the Town has.</p>
<p>“Construction and operation of any component of a domestic water and wastewater system requires a permit under the Town's Matters of State Interest regulations and/or its Watershed Protection District regulations”</p>	<p>The Applicant has thoroughly responded to claims that the Town’s Matters of State Interest (“1041 Powers”)/Watershed Protection District regulations can apply to the Applicant’s proposed water and wastewater system and facility. 1041 Powers clearly cannot be used outside of a jurisdiction’s own boundaries.</p>
<p>“The Applicant states in their September 2023 resubmittal to the County that Castle Rock Water and the Town have “chosen to accept the Applicant’s CDPHE approvals”, because the Town and Castle Rock Water did not actively appeal the CDPHE site location approval for the wastewater plant. This is not the case. The Town has not and cannot agree to the wastewater plant unless, or until, the Town Council issues permits for the plant and all its components.</p>	<p>The September 2023 County resubmittal came 5 months after the Referral Period. Referencing this resubmittal in a Memo purporting to consolidate the comments from that Referral Period is out of order.</p> <p>Furthermore, the Town and Castle Rock Water could have chosen to not accepted the CDPHE approvals. The prescribed procedure in Colorado Regulation 22 for those government entities to do so would have been for them to appeal CDPHE’s approval. They actively chose not to appeal those approvals.</p> <p>The Town does not have any authority to issue permit the Applicant’s water reclamation facility.</p>
<p>“The construction of another wastewater treatment plant to serve an area where the Town has</p>	<p>CDPHE thoroughly evaluated consolidation to existing facilities and found consolidation to be</p>

<p>the existing capacity to serve raises serious concerns.”</p>	<p>infeasible when it issued its approvals for the Applicant’s water reclamation facility.</p>
<p>“The plant is proposed to be located in the center of Castle Rock, along one of the most used recreational trails in Castle Rock, and within close proximity to residential development, causing serious impacts that must be assessed and mitigated regardless of any CDPHE approvals.”</p>	<p>This location is further from any planned or existing residences than Town approved residences are to the Plum Creek Wastewater Reclamation Authority’s facility, which treats water to a lesser standard than the Applicant’s proposed facility. The Town’s water treatment facility is significantly closer to the exact same trail that Town Staff claims the Applicant’s facility is near.</p>
<p>The Applicant’s plant will not be financially viable.</p>	<p>CDPHE conducted a exhaustive review of a financial model forecast for the planned water and sanitation district which will operate and maintain the Applicant’s facility as part of its approval of the Applicant’s water and wastewater facility. During this process, CDPHE requested additional information from both the Applicant and the Town in order to ensure the thoroughness of its review which concluded with the issuance of all approvals.</p>
<p>“The Applicant has not addressed runoff or percolation into the groundwater from the proposed land application management system to the satisfaction of Castle Rock Water”</p>	<p>One of CDPHE’s approvals for the Applicant’s water and wastewater system is the approval of a Land Application Management Plan (LAMP). This scientifically engineered plan was thoroughly crafted by the Applicant’s team via multiple iterations with the experts at CDPHE to ensure its viability. Moreover, the Applicant retained the leading expert in the Mountain West region to craft a Phosphorus Management Plan for the project.</p>

	<p>This plan systematically evaluated the possibility for any of the proposed recycled reuse water, and specifically any of the nutrients within that water, of reaching groundwater. The plan found that it would take tens of thousands of years of application of the recycled reuse water at the rate mandated by CDPHE for any of that water to reach the groundwater.</p>
<p>“The differing standards that will be required in the proposed development, which is surrounded by communities that are subject to Town standards to meet permit and to dispose of wastewater will create confusion and challenges with respect to outdoor watering rules and requirements.”</p>	<p>The Applicant has made it clear that future residents will not control outdoor irrigation at Pine Canyon. Moreover, the community will incorporate multiple layers of education for all residents and businesses regarding its water system as required by the regulations governing the recycled reuse water. These educational efforts will be similar to those of other communities which practice the same type of recycled water reuse that the Applicant proposes.</p>
<p>“The Town's permitting process will allow the Applicant and the public to identify and respond to these and other impacts of concern and to inform the Town Council's ultimate decision to approve, approve with conditions, or deny the application for the wastewater system.”</p>	<p>The Town’s permitting process does not apply outside of its jurisdictional boundaries.</p>
<p>“Castle Rock also will have an opportunity to comment on any proposed permit for the Applicant’s proposed wastewater system, and how concerns related to irrigation by residential property owners and operations of the wastewater plant and other infrastructure will be handled. We will provide those</p>	<p>CDPHE, as the authoritative entity who will issue the final permit for the Applicant’s water reclamation facility, will take all public comment into consideration and will incorporate comments into the draft permit as it sees fit.</p> <p>Again, residential property owners</p>

<p>comments and health and safety concerns to CDPHE, once the draft permit has been issued for comment.”</p>	<p>will not have control over outdoor irrigation at Pine Canyon.</p>
<p>“The Town is requesting the following change to the PD proposal before the County: (Sheet 5 of 15) Section 3.d”</p>	<p>This comment was evaluated by Douglas County Planning Staff and this requested change was never included by County Planning Staff as a desired change in any of the subsequent review rounds conducted between the County and Applicant.</p>

Off-Site Roadway Improvements and Traffic Impacts.

<p>Memo Claims</p>	<p>The Truth</p>
<p>“The property is completely surrounded by the Town of Castle Rock”</p>	<p>The Pine Canyon parcels are bordered on the north by a 400-acre parcel located in unincorporated Douglas County, on the east by a state owned highway, on the west by an unincorporated railroad right-of-way, and on the west by many small unincorporated parcels.</p>
<p>“All of the site generated traffic will drive on and impact the Town’s roadways and community”</p>	<p>Many trips could be generated which would involve traffic not driving upon Town roadways. For instance, residents could drive from a Pine Canyon residence to Founders Parkway (a CDOT-owned state highway) to I-25.</p>
<p>“No mitigation has been proposed to the Town for consideration.”</p>	<p>The Applicant’s TIA includes recommendations for mitigations and improvements to numerous off-site intersections in the regional transportation network (Town-maintained or otherwise). These recommendations were thoroughly reviewed by Douglas County Engineering and accepted as sufficient to address the project’s impact. The Applicant has detailed its commitment</p>

	<p>to providing these improvements, and any called for by any subsequent traffic analyses, in the PD documentation. As a Referral Agency, the Town was given multiple opportunities to review and comment on these mitigation improvements.</p>
<p>“The Applicant states in their September 2023 resubmittal to the County that they have proposed substantial transportation and trail improvements, and objective, calculated impact mitigation fees for all planned roadway connections. Please be aware that the Applicant has not reached out to the Town with any calculated impact mitigation fees for our review or consideration.”</p>	<p>The September 2023 County resubmittal came 5 months after the Referral Period. Referencing this resubmittal in a Memo purporting to consolidate the comments from that Referral Period is out of order.</p> <p>As previously stated, all of the calculated impact mitigations required by the Applicant’s TIA are thoroughly detailed in the TIA (and in other supporting documents in the Applicant’s submittals). These mitigations were available for the Town to review not just by the County, but twice by the Town during formal Referral Periods.</p>
<p>“The impacts to the transportation network of the project will be taken into account as part of the Town's permit process.”</p>	<p>The Town’s permitting process does not apply outside of its jurisdictional boundaries.</p>
<p>“The Applicant’s attorney proposes that the Matters of State Interest do not apply, as the development is occurring outside of the Town’s boundary. The off-site roadway impacts of this proposed urban level development will occur within the Town’s jurisdictional boundaries, and no mitigation has been proposed to the Town for consideration.”</p>	<p>As the Applicant has stated multiple times, Colorado Statute is very clear, 1041 Powers do not apply to a project outside of a municipality’s jurisdictional boundaries.</p> <p>As previously stated, all of the calculated impact mitigations required by the Applicant’s TIA are thoroughly detailed in the TIA (and in other supporting documents in the Applicant’s submittals). These mitigations were available for the Town to review not just by the County, but</p>

	twice by the Town during formal Referral Periods.
“As already discussed throughout these comments and in previous reviews of this proposed urban level development, the Town has not approved any connections to its roadway system and is concerned about impacts associated with the proposed density. The Applicant should remove all proposed road connections to Town owned roadways, and resubmit an updated Traffic Impact Study (TIS)”	This comment was evaluated by Douglas County Planning Staff and this requested change was never included by County Planning Staff as a desired change in any of the subsequent review rounds conducted between the County and Applicant.
“The Town is requesting the following change to the PD currently before the County: (Sheet 5 of 15) Section 2.4.C.a: Delete list of off-site roadway improvements and revise note”	This comment was evaluated by Douglas County Planning Staff and this requested change was never included by County Planning Staff as a desired change in any of the subsequent review rounds conducted between the County and Applicant.
“Further, the Town of Castle Rock requests that the following condition be added to the General Provisions” (Condition relates to Town’s 1041 Powers)	This comment was evaluated by Douglas County Planning Staff and this requested change was never included by County Planning Staff as a desired change in any of the subsequent review rounds conducted between the County and Applicant.

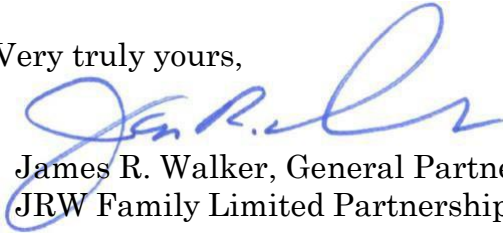
Requests to Work with Applicant

Memo Claims	The Truth
The Applicant “did not reach out to or respond to” a request by the Mayor to meet to discuss the project.	The Applicant sent a letter individually to each member of Town Council, including the Mayor, in January 2024. Included in the email to which the was attached was a personal invitation to the Mayor (and every other Town Council member) to the Applicant’s ranch house to discuss the project and a path forward. No member of Town Council, nor Town Staff, ever responded

	to the letter. Only one member of Town Council ever chose to meet with the Applicant.
<p>“In August of 2023, the Town Manager met with Kurt Walker, and followed up with a letter indicating that Town staff could favorably recommend a Pine Canyon development within the Town of Castle Rock that meets Town standards, laws, and policies, if it was annexed into the Town.”</p>	<p>This meeting was requested by the Applicant specifically to discuss a path forward by which the Town and Applicant could work together through and after the Applicant’s rezoning process in the County. Unfortunately, despite the Applicant’s efforts, the Town Manager was not willing to engage on any topic other than the complete and total cessation of the County process by the Applicant. The Applicant was clear that it would be seeing through its rezoning efforts in the County, and would commit to engaging the Town in substantive cooperation discussions after County approvals. This was rebuffed by the Town Manager who stated that the Town would engage in a hostile “enclave annexation” to force the Applicant into the Town’s jurisdiction.</p>

The Applicant appreciates County Staff and its professionalism evidenced throughout of rezoning submittals and resubmittals. If County Staff wishes to discuss these matters further, we are happy to meet regarding them.

Very truly yours,



James R. Walker, General Partner
 JRW Family Limited Partnership LLLP

JRW: tmk

Cc: Terence Quinn

Curt Weitkunat

Encl.: Otten + Johnson letter dated April 24, 2023.

April 24, 2023

VIA E-MAIL

Matt Jakubowski, Chief Planner
Mike Pesicka, Principal Planner
Department of Community Development
Douglas County
Planning Services Division
100 Third Street
Castle Rock, Colorado 80104

Re: Pine Canyon Planned Development (ZR2020-10) – Response to Town of Castle Rock Comments

Dear Mr. Jakubowski and Mr. Pesicka:

This firm represents JRW Family Limited Partnership, LLLP (the “Applicant”) in the above-referenced application (the “Application”) for property located in Douglas County (the “County”). As part of the referral comments received by the County during the second referral period for the Application, we reviewed the External Referral Comment Letter prepared by the Town of Castle Rock (the “Town”), dated April, 12, 2023 (the “Letter”). After carefully review of the Letter and based on our firm’s extensive work with C.R.S. § 24-65.1-101, *et seq.*, Areas and Activities of State Interest (the “Act”) and 1041 regulations, we provide our response below to the Town’s matters of state interest assertions.

While we appreciate the thoughtfulness and time the Town took to provide its comments on the Application in its Letter, we would like to remind the Town that its authority under the Act extends only as far as its own Town boundaries. While the Act provides local governments with certain powers to designate and regulate areas and activities of state interest, it does not allow the exercise of such powers to extend beyond a local government’s jurisdiction.

Under Section 401 of the Act, a local government may designate matters of state interest, but only “within its jurisdiction.” This does not provide the Town with authority to regulate such matters in the County. Further, Section 501 of the Act allows only “the local government in which such development or activity is to take place” to require a matters of state interest permit. The Application proposes development within the County, and therefore, the Town has no authority to impose any 1041 regulations or require a matters of state interest permit as part of the Application.

On behalf of the Applicant, we look forward to continuing to work with the County in connection with the Application. Please do not hesitate to contact me should you have any questions or require additional information regarding the matters set forth in this letter.

Sincerely,

Thomas J. Ragonetti

JRW FAMILY LIMITED PARTNERSHIP LLLP

**5975 East Jamison Place
Centennial, CO 80112**

July 29, 2024

VIA E-MAIL MJAKUBOW@DOUGLAS.CO.US

Matt Jakubowski, AICP
Chief Planner Planning Services Division
Douglas County Department of Community Development
100 Third Street
Castle Rock, CO 80104

Re: Pine Canyon Rezoning and PD Application
Possible Interest in Replacement Ball Fields

Dear Matt:

The Pine Canyon Applicant is pleased to address a late-breaking issue regarding our Rezoning and PD Applications.

We acknowledge that our hearings are fast approaching, and County Staff has many pressing land use responsibilities. The timing of this is not ideal. Nevertheless, we appreciate your work ethic and professionalism as you address our applications and your many other duties.

We have followed the recent proposed redesign plan for the Douglas County Fairgrounds which calls for the elimination of several of the operating ball fields, and the subsequent citizen input and public concerns. As you are aware, several replacement locations have been discussed.

Pine Canyon would be an excellent landing spot for replacement fields. Locating replacement fields close to the existing fields should be a top priority, as this will allow for continuity for the youth leagues and teams which use the fields today. We believe that we have ideal locations on the property – including some that would allow for joint-use between the County and other government agencies (like the Douglas County School District), and some which would facilitate multi-field tournaments that youth sports often demand. These tournaments bring vibrant economic benefit and prestige to the communities capable of hosting them. Our property's central location will also allow for a seamless transition for the County's maintenance teams, whose facilities are located nearby our holdings.

As currently proposed, our land use application does not contemplate the possible location of replacement ball fields on the Pine Canyon holdings. We are, however, very open to this possibility of including replacement fields on the property. Such a use could be accommodated by very minor changes to our PD. We would be very willing to work with staff to make these simple changes to the PD, after feedback from the Planning Commission and Board of County Commissioners, and/or upon PD approval.

Matt Jakubowski, AICP
Chief Planner – Planning Services Division
Douglas County Department of Community Development
July 29, 2024
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We have appreciated the professionalism evidenced by County Staff throughout of rezoning submittals and resubmittals. We are open to accommodating such minor revisions to our PD, if desired by the County and the Board of County Commissioners.

Very truly yours,



Kurt Walker, Partner

JRW Family Limited Partnership LLLP

Cc: Terence Quinn
Curt Weitkunat