



TO: City Council Neighborhood and Plans Subcommittee
FROM: David Gaspers, Senior City Planner
DATE: December 4, 2014
RE: Official Zoning Map Amendment Application #2014I-00066
60.10 Acres Northwest of the Intersection of Pena Boulevard & Green Valley Ranch Boulevard; Rezoning from Former Chapter PUD-#515 to DIA Zone District

Staff Report and Recommendation

Based on the criteria for review in the Denver Zoning Code, Staff recommends approval for Application #2014I-00066 for a rezoning from Former Chapter 59 PUD-#515 to Denver International Airport (“DIA”) Zone District.

Request for Rezoning

Application: #2014I-00066
Address: 60.10 Acres Northwest of the Intersection of Pena Boulevard & Green Valley Ranch Boulevard
Neighborhood/Council District: Gateway/Green Valley Ranch Neighborhood / Council District 11
RNOs: Alliance for Justice
Denver Neighborhood Association, Inc.
Montbello 2020
Northern Corridor Coalition
Green Valley Ranch Citizen's Advisory Board
Inter-Neighborhood Cooperation (INC)
Area of Property: 2,617,956 square feet or 60.15 acres
Current Zoning: Former Chapter 59, PUD-#515 Zone District
Proposed Zoning: Denver Zoning Code, DIA Zone District
Property Owner(s): Denver International Airport
Owner Representative: Dan Poremba, DIA Managing Director of Airport City Development

Summary of Rezoning Request

Application #2014-00066 seeks to rezone approximately 60.15 acres of vacant land in the Gateway/Green Valley Ranch Neighborhood, currently owned by the Denver International Airport (“DIA”), from Former Chapter PUD-#515 zone district to a special airport context DIA zone district under the Denver Zoning Code. DIA acquired the subject property in 1994 in anticipation of Pena Boulevard and airport construction and ultimate opening to the public in 1995.

The subject property is located within an area known as the “Pena Boulevard Transportation Corridor,” which is subject to development restrictions under the terms of a 1988 Intergovernmental Agreement (“IGA”) between the City of Denver and Adams County. More specifically, the subject parcel falls within a subarea of the Transportation Corridor called out as “Scenic Buffer,” which the IGA states must be

preserved in perpetuity as open space. Residential, commercial, and industrial developments are prohibited.

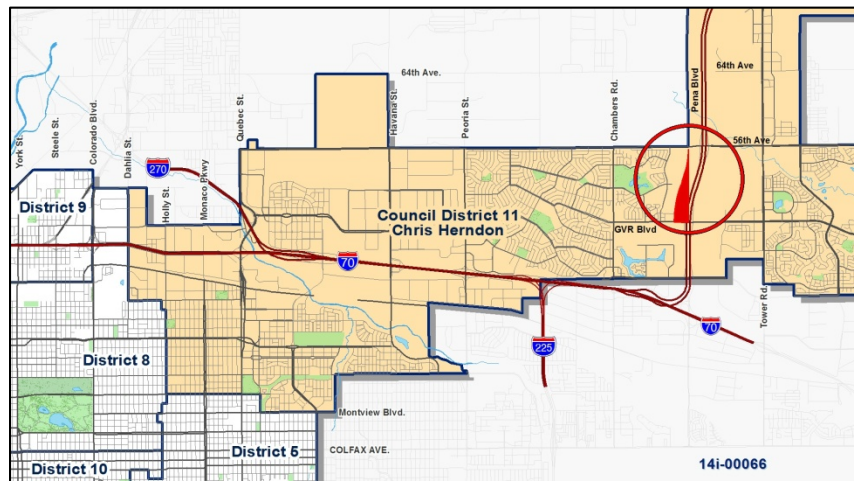
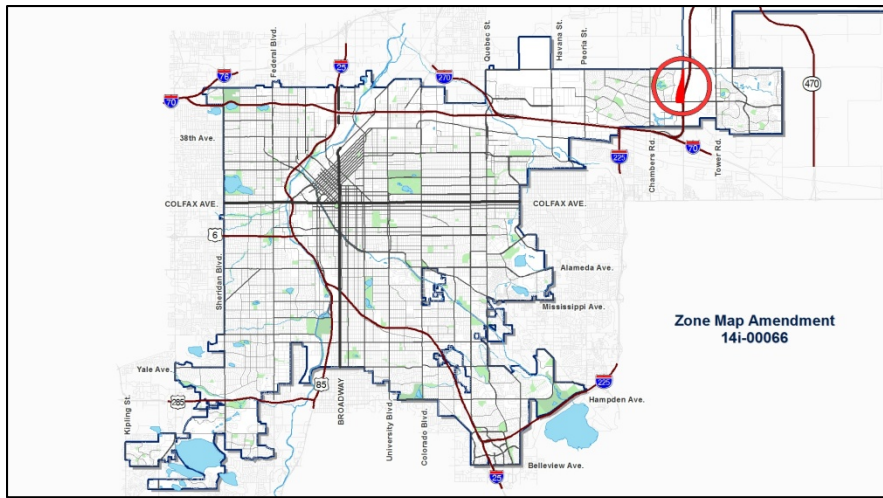
The current zoning, PUD-#515 is a customized zone district that originally applied not only to the subject property, but also to a much larger 647-acre area, intended for development of the Parkfield master-planned community in Green Valley Ranch. PUD-#515 is actually the 4th PUD zone district that has applied to this subject property, with the first PUD zoning approved in 1980. Overall, PUD zoning for the larger land area, of which the subject property is just one small part, enabled the continued build-out of over 5,000 new homes, new public parks and open space, public schools and safety facilities, and more than 4 million square feet of nonresidential floor area within Parkfield. These PUDs divided the larger 647-acre property into "superblocks." The subject property comprises the entirety of superblock "R", whose intended character, as most recently described in PUD-#515, is as follows (PUD-#515, p. 17, emphasis added):

"Superblock R consists of that portion of land between the east line of Section 17, township 35, Range 66W, and west right-of-way of Pena Boulevard, including a portion of the Highline Canal lateral. Superblock R is 60.1 acres. Land Use and Character: This superblock will remain in its present condition as a corridor for Pena Boulevard."

As stated, the purpose of the subject property as part of the Pena Transportation Corridor and Scenic Buffer was explicitly recognized and protected in the PUD-#515 rezoning of 2001. The PUD zoning allows no land uses within the superblock, instead requiring 100% of the subject property land area be "unobstructed open space" (PUD-#515, p. 30, as "unobstructed open space" is defined in Former Chapter 59, Section 59-2). In the next most recent PUD zoning applicable to the subject property (approved in 1992), the zoning regulations also recognized the subject property as part of the planned right-of-way for future "Airport Boulevard" (now Pena Boulevard). However, in the 1st PUD zoning for the future Parkfield community, approved in 1980, the subject property was planned for medium-density residential development.

In 2010, as part of the Denver Zoning Code update, the City Council did not re-map the majority of lands zoned PUD, including PUD-#515, because of their customized nature and link typically to site-specific, detailed development plans. At that time, the City Council deliberately chose to focus on re-mapping the majority of the city into the new code and not divert the time and resources necessary to translate each of those customized old-code zone districts into a new DZC zone district.

The owner, DIA, now seeks to make the zoning of the subject property consistent with the rest of DIA-owned lands in the Pena Boulevard Transportation Corridor, which are all zoned into the DIA zone district. The DIA zone district was approved by City Council as part of the Denver Zoning Code update in 2010 to apply to all lands owned by the airport; the zoning cedes control over such lands' future land use and development to DIA consistent with the airport's master plans and other controlling legal agreements, such as the IGA. Accordingly, the DIA zoning does not specify allowed land uses or applicable building form standards or other development or design standards; instead, final decision over such matters is left to the discretion of the Denver Manager of Aviation, subject to already existing checks and balances in Denver's legislative and executive systems to ensure the public's health, safety and general welfare.



Existing Context

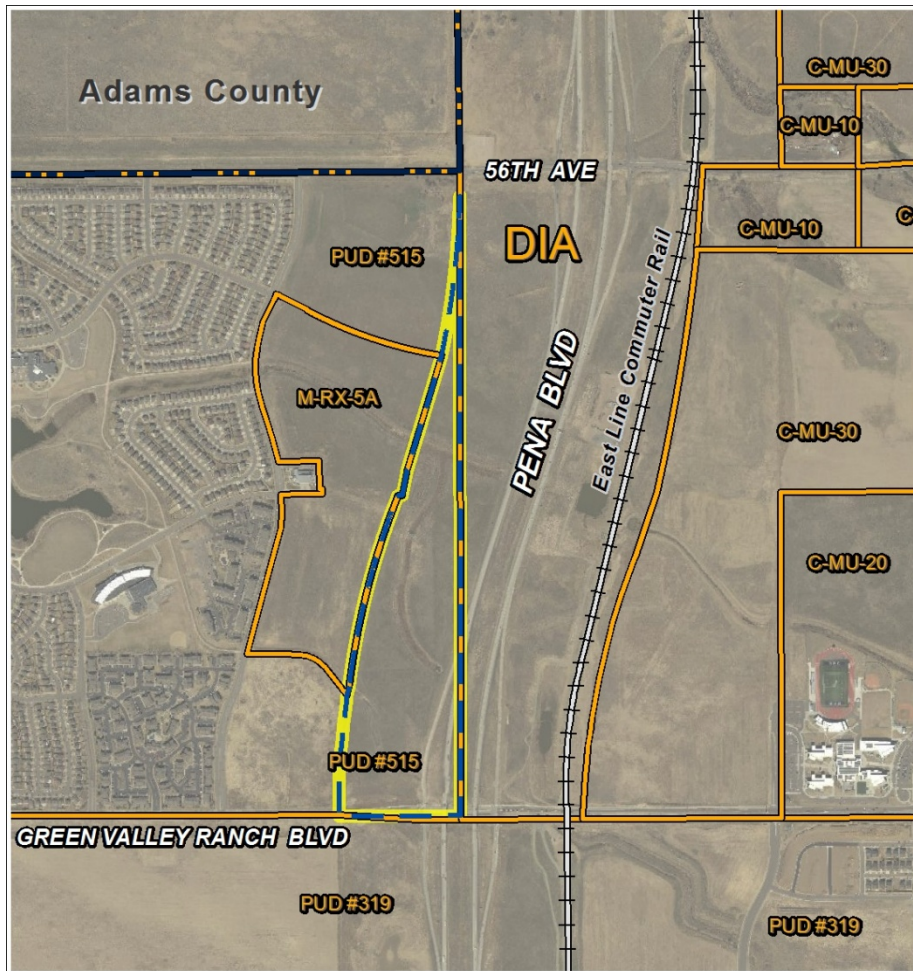
As noted previously, the subject property is vacant and part of the Pena Boulevard Transportation Corridor and, critically, within the Scenic Buffer sub-area. The Scenic Buffer encompasses lands located 1,000 feet from the centerline of both sides of Pena Boulevard. Again, no development is allowed within the Scenic Buffer under the terms of the IGA.

Immediately west of the subject property, outside the Transportation Corridor, lands are developed under PUD-#515 for predominantly single-family and multi-family residential use, and neighborhood serving parks, schools and recreation centers. Immediately east of the subject property, on the other side of Pena Boulevard, the Scenic Buffer continues for 1,000 feet. Further east, outside the Transportation Corridor/Scenic Buffer, is the Green Valley Ranch community, comprised of a variety of residential land uses and building types, as well as neighborhood-serving commercial sales and services and the campus of the Denver School of Science & Technology public school.

The following table summarizes the existing context proximate to the subject site:

	Existing Zoning	Existing Land Use	Existing Building Form/Scale	Existing Block, Lot, Street Pattern
Site	PUD-#515	Vacant / Open	None	<u>For developed areas in proximity, west and east of the subject property:</u> Suburban neighborhood patterns of larger blocks, curvilinear streets (non-grid), and primary vehicle access direct from collector streets and local streets.
North	DIA	Scenic Buffer – open lands within the Pena Boulevard Transportation Corridor	None	
South	DIA	Scenic Buffer – open lands within the Pena Boulevard Transportation Corridor	None	
East	DIA	Scenic Buffer – open lands within the Pena Boulevard Transportation Corridor	None	
West	PUD-#515	Predominantly single-unit and multi-unit dwellings, schools, parks/recreation	Suburban homes and apartments, 2 to 4 stories in height, with large setbacks and surface parking serving nonresidential uses.	

1. Existing Zoning

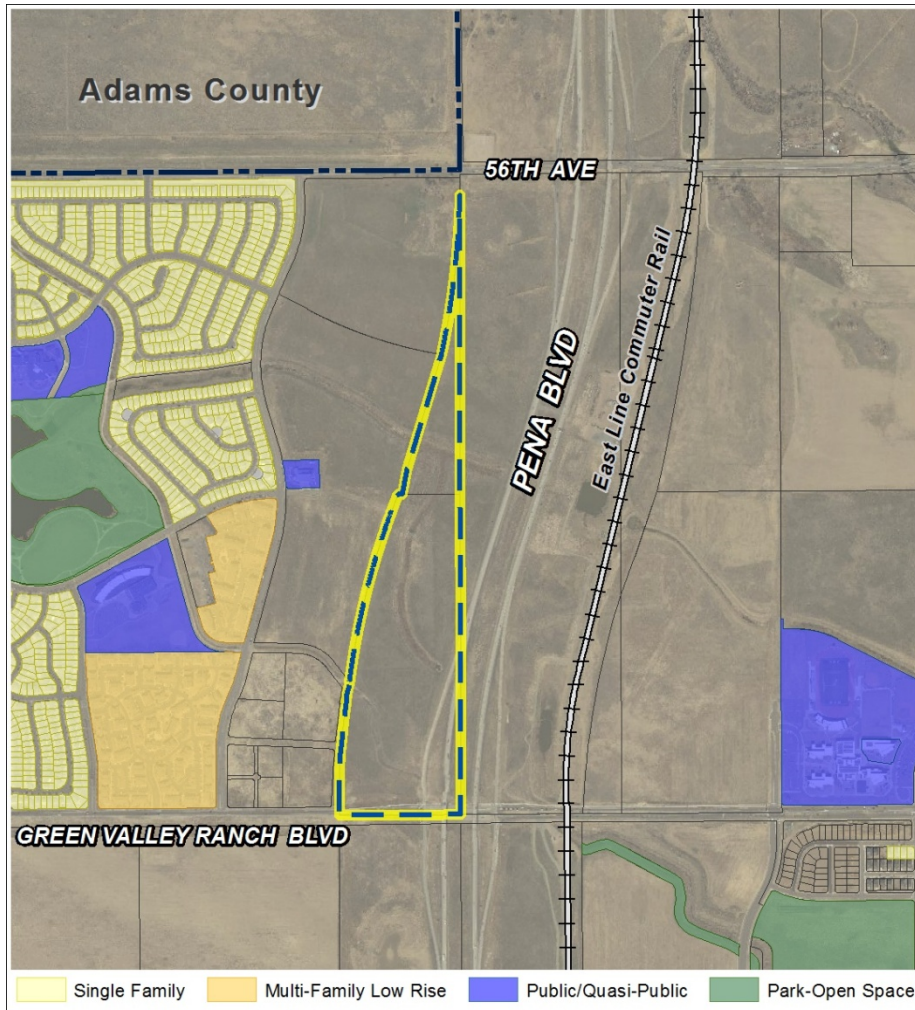


The subject property's current zoning, PUD-#515 under Former Chapter 59, is a customized zone district that was applied to the subject property in 2001, superseding an older PUD that was on the property. The PUD-#515 was adopted and applied after Pena Boulevard was open and after the 1988 IGA that obligated DIA to retain this piece of land as Scenic Buffer. Accordingly, the entire subject property was identified as "superblock R" in the PUD zoning, and reserved exclusively for open space use; no vertical permanent development of any kind is allowed.

In 2010, as part of the Denver Zoning Code update, the City Council did not re-map most lands zoned PUD because of customized contents and, often, their link to detailed site-specific development plans. At that time, the City Council deliberately chose to focus on re-mapping the majority of the city into the new code and not divert the time and resources necessary to translate each of those customized old-code zone districts into a new DZC zone district.

2. Existing Land Use Map

The existing land use on the subject property, as shown in the map below, is categorized as “vacant.” Surrounding land uses include multi-unit and single-unit dwellings, as well of schools and recreation centers, north of Green Valley Ranch and west of Memphis Street, within the Parkfield community.



3. Existing Building Form and Scale

The subject property is vacant and does not have any buildings on-site. The Parkfield community, comprised primarily of single-family structures not more than 2.5 stories tall, is seen below in the aerial photo to the west of the subject property. The DSST campus can be seen to the east on Green Valley Ranch Boulevard.



Summary of City Agency Referral Comments

As part of the DZC review process, the rezoning application is referred to potentially affected city agencies and departments for comment. A summary of agency referral responses follows:

Asset Management: Approve – No comments.

Development Services-Project Coordination: Approve – No comments.

Parks Department: Approve – No comments.

Denver Fire Department: Approve – No comments.

Development Services – Wastewater: Approve – No comments.

Public Works – City Surveyor: Legal description is approved.

Public Review Process

- Notice of Planning Board Public Hearing Notification: The subject property was legally posted for a period of 15 days announcing the November 19, 2014, Denver Planning Board public hearing.
- CPD sent written (email) notification of the hearing to all affected registered neighborhood organizations and City Council members 15 days prior to the hearing date on November 4, 2014.
- To date, no public comments have been received on this application.
- Following Planning Board review, the rezoning application was referred to the Neighborhood and Plans Sub-Committee of the City Council for review at a public meeting scheduled on December 10, 2014 and written notification of the hearing has been sent to all affected registered neighborhood organizations and City Council members.

Criteria for Review / Staff Evaluation

The criteria for review of this rezoning application are found in DZC, Sections 12.4.10.7 and 12.4.10.8, as follows:

DZC Section 12.4.10.7 – Criteria Applicable to All Rezonings

1. Consistency with Adopted Plans
2. Uniformity of District Regulations and Restrictions
3. Public Health, Safety and General Welfare

DZC Section 12.4.10.8 – Additional Criteria Applicable to All Non-Legislative Rezonings

4. Justifying Circumstances
5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

1. Consistency with Adopted Plans

The following adopted plans apply to this property:

- Denver Comprehensive Plan 2000

- Blueprint Denver (2002)
- Gateway Concept Plan (1990)

Denver Comprehensive Plan 2000

The proposal is consistent with Denver Comprehensive Plan objectives and strategies related to generally supporting the growth and maintenance of Denver International Airport as a major economic engine for the City of Denver, including:

1. **Mobility Objective 10 – Air Transportation** – Provide residents and visitors using DIA with an airport that is a leader in service, efficiency, innovative practices, safety, convenience and aesthetics.

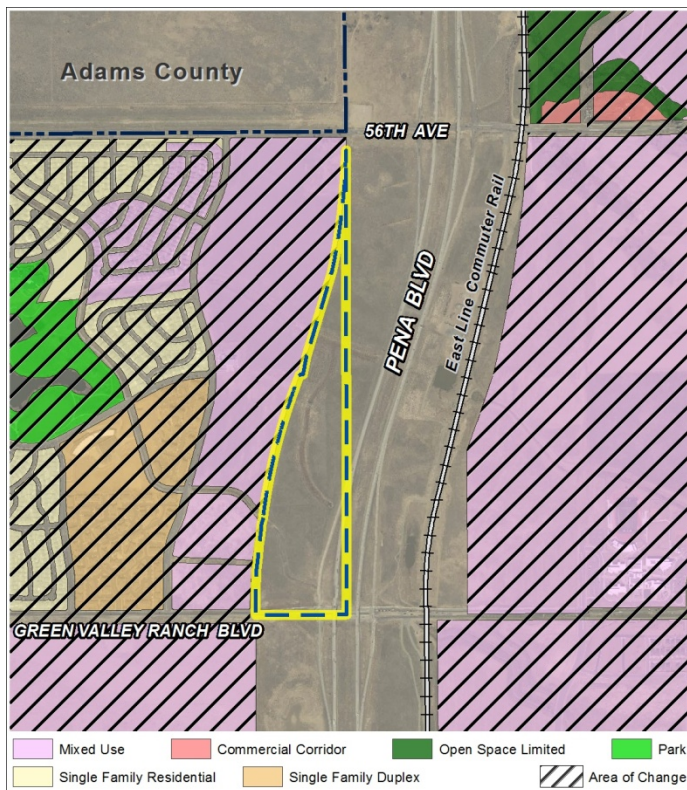
The proposed rezoning of the subject property to the DIA zone district will enable DIA to assure the aesthetic benefits to airport visitors and users traveling Pena Boulevard by car or by mass transit promised in the IGA through creation of the Scenic Buffer area. Accordingly, CPD staff finds the rezoning is consistent with Denver Comprehensive Plan 2000 recommendations.

Blueprint Denver

Blueprint Denver is the City’s long-range Land Use and Transportation Plan, adopted in 2002. Blueprint Denver provides broad guidance in the rezoning process through its adopted land use and development policies, objectives, and strategies.

Future Land Use and Area of Stability/Area of Change

One component of Blueprint Denver is the “Future Land Use Map,” which provides a high-level recommendation of future land use for all property in Denver. According to the Blueprint Future Land Use Map, the specific subject property does NOT have a concept future land use assigned to it, nor is it specified as within either an Area of Stability or Area of Change. See Future Land Use map excerpt from Blueprint Denver below.



However, Blueprint Denver does identify the larger “DIA/Gateway” area as a significant Area of Change to which a substantial portion of Denver’s future job and housing growth should be targeted. (Blueprint, pp. 19-20, 135) Consistent with this general policy direction, the subject property is adjacent to the Gateway Areas of Change designated on both sides of Pena Boulevard. The absence of a specific future land use designation for the subject property supports the intent of this property to be considered an integrated part of the Pena Boulevard Transportation Corridor, subject to the terms and limits on development spelled out in the IGA, which was already in

place at the time of Blueprint Denver's adoption in 2002.

Street Classifications

Blueprint Denver classifies Pena Boulevard as an "Undesignated – Arterial" and designates Green Valley Ranch Boulevard on both sides of Pena Boulevard as a "Mixed-use Arterial" street. Pena Boulevard is a high-speed, limited access arterial with posted speeds of over 55 mph, which serves a regional purpose of connecting the Denver metropolitan area with the airport.

The proposed DIA district provides for the subject property is consistent with the Pena Boulevard classification of Pena Boulevard. The "undesignated" portion of the "Undesignated – Arterial" classification signals no specific direction for adjacent land use and development directly abutting Pena Boulevard. The DIA zoning will enable the DIA Manager of Aviation to ensure the property remains in compliance with the terms of the IGA to keep the subject property open and undeveloped.

Gateway Concept Plan (1990)

The Denver Gateway Concept Plan was adopted by City Council in 1990 and carried forward as a supplement to the Comprehensive Plan 2000 when the latter was adopted. While the subject property is generally considered part of the Gateway planning area, this specific plan excludes the subject property from a specific future land use and development recommendation.

Instead, this portion of the planning area immediately abutting Pena Boulevard is intended by the Plan to remain open and provide persons traveling Pena Boulevard (referred to in the Plan as "Airport Boulevard") with "striking mountain and prairie views". (Gateway Plan, p. 5) DIA zoning to ensure the subject property remains open and undeveloped, consistent with the IGA terms for the Transportation Corridor and Scenic Buffer, is also consistent with one of the key Gateway Plan's goals is: "The Gateway area should provide A Striking Entryway for Denver and for Colorado. It should celebrate the best of the Rocky Mountain West in terms of panoramas and urban design." (Gateway Plan, p. 21)

2. Uniformity of District Regulations and Restrictions

The proposed rezoning to DIA will result in the uniform application of zone district building form, use and design regulations within this special context zone district, as authorized by the DZC, Division 9.5, DIA Zone Districts.

3. Public Health, Safety and General Welfare

The proposed official map amendment furthers the public health, safety, and general welfare of the City primarily through implementation of the City's adopted land use plans, as described in more detail above. Achieving uniformity of zoning of all lands owned by DIA in the Pena Boulevard Transportation Corridor, including the subject property, will also facilitate the airport's control and management of its land use and development obligations under the IGA, which furthers the public's general welfare.

4. Justifying Circumstance

The application identifies several changed or changing conditions as the Justifying Circumstance under DZC Section 12.4.10.14.A.4, "The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area." After the original PUD zoning was adopted in 1980 and updated in 1992, the City of Denver bought the subject property in 1994 as part of the Denver International Airport land purchase to be used for the future Pena Boulevard Transportation Corridor. While PUD-#515 requires only "open space" use of the subject property, PUD-#515 is primarily intended to entitle private sector development of the Parkfield community, not uphold DIA's obligation to keep the subject property open as part of its IGA obligations and other legal constraints.

In 2010, because the subject property was zoned a part of a PUD, it was not rezoned to the DIA zone district like the remainder of DIA-zoned land in the Pena Transportation Corridor located due north and east of the subject property. Today, the paramount desire of the City to more formally manage its commitment to maintaining the subject property as Scenic Buffer land, consistent with the IGA, is a change in the land's circumstances that justifies rezoning the subject property to the DIA zone district. This will make the subject property's zoning consistent with the surrounding parcels and all other parcels owned by Denver-Department of Aviation in the same corridor.

5. Consistency with Neighborhood Context Description, Zone District Purpose and Intent Statements

The Denver Zoning Code does not provide a description of the special DIA context. However, in Section 9.5.5.1, the DZC spells out a detailed DIA zone district purpose and intent. The DIA zone district is intended to acknowledge the special character of the 53 square miles of land that comprise the Denver International Airport and its environs, all owned and managed by the City of Denver's Department of Aviation. The zoning is more specifically intended to, among other things, maintain consistency with DIA's vision, mission and goals and to support DIA's role as the key economic engine for the region and state.

Rezoning the subject property to DIA zoning is consistent with the above-stated intent of the DIA zone district because the new zoning will allow DIA to manage all of its property within the Pena Boulevard Transportation Corridor and Scenic Buffer under the same set of land use laws. This ease in future land management supports DIA's mission and goals to ensure compliance with the terms of the IGA and maintain the corridor and Scenic Buffer as open lands, which in turn supports the vision of ensuring open views from Pena Boulevard west to the mountains and east across the prairie.

Planning Board Recommendation

The Denver Planning Board held a properly noticed public hearing on this application on November 19, 2014. The Planning Board voted to recommend approval unanimously.

Staff Recommendation

Based on the analysis set forth above, CPD staff finds that the application for rezoning 60.10 Acres Northwest of the Intersection of Pena Boulevard & Green Valley Ranch Boulevard to the DIA zone district meets the requisite review criteria. Accordingly, staff recommends **approval**.

Rezoning Application #2014I-00066

60.10 Acres Northwest of the Intersection of Pena Boulevard & Green Valley Ranch Boulevard

December 4, 2014

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Attachments

1. Application #2014I-00066

Zone Map Amendment (Rezoning) - Application

PROPERTY OWNER INFORMATION*		PROPERTY OWNER(S) REPRESENTATIVE**	
<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION		<input type="checkbox"/> CHECK IF POINT OF CONTACT FOR APPLICATION	
Property Owner Name		Representative Name	
Address		Address	
City, State, Zip		City, State, Zip	
Telephone		Telephone	
Email		Email	
<p>*If More Than One Property Owner: All standard zone map amendment applications shall be initiated by all the owners of at least 51% of the total area of the zone lots subject to the rezoning application, or their representatives authorized in writing to do so. See page 3.</p>		<p>**Property owner shall provide a written letter authorizing the representative to act on his/her behalf.</p>	
<p>Please attach Proof of Ownership acceptable to the Manager for each property owner signing the application, such as (a) Assessor's Record, (b) Warranty deed or deed of trust, or (c) Title policy or commitment dated no earlier than 60 days prior to application date.</p>			
SUBJECT PROPERTY INFORMATION			
Location (address and/or boundary description):			
Assessor's Parcel Numbers:			
Area in Acres or Square Feet:			
Current Zone District(s):			
PROPOSAL			
Proposed Zone District:			
Does the proposal comply with the minimum area requirements specified in DZC Sec. 12.4.10.3:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	

REVIEW CRITERIA	
<p>General Review Criteria: The proposal must comply with all of the general review criteria DZC Sec. 12.4.10.13</p>	<p><input type="checkbox"/> Consistency with Adopted Plans: The proposed official map amendment is consistent with the City's adopted plans, or the proposed rezoning is necessary to provide land for a community need that was not anticipated at the time of adoption of the City's Plan</p> <p>Please provide an attachment describing relevant adopted plans and how proposed map amendment is consistent with those plan recommendations; or, describe how the map amendment is necessary to provide for an unanticipated community need.</p> <p><input type="checkbox"/> Uniformity of District Regulations and Restrictions: The proposed official map amendment results in regulations and restrictions that are uniform for each kind of building throughout each district having the same classification and bearing the same symbol or designation on the official map, but the regulations in one district may differ from those in other districts.</p> <p><input type="checkbox"/> Public Health, Safety and General Welfare: The proposed official map amendment furthers the public health, safety, and general welfare of the City.</p>
<p>Additional Review Criteria for Non-Legislative Rezoning: The proposal must comply with both of the additional review criteria DZC Sec. 12.4.10.14</p>	<p>Justifying Circumstances - One of the following circumstances exists:</p> <p><input type="checkbox"/> The existing zoning of the land was the result of an error.</p> <p><input type="checkbox"/> The existing zoning of the land was based on a mistake of fact.</p> <p><input type="checkbox"/> The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including, but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage.</p> <p><input type="checkbox"/> The land or its surroundings has changed or is changing to such a degree that rezoning that it is in the public interest to encourage a redevelopment of the area to recognize the changed character of the area</p> <p><input type="checkbox"/> It is in the public interest to encourage a departure from the existing zoning through application of supplemental zoning regulations that are consistent with the intent and purpose of, and meet the specific criteria stated in, Article 9, Division 9.4 (Overlay Zone Districts), of this Code.</p> <p>Please provide an attachment describing the justifying circumstance.</p> <p><input type="checkbox"/> The proposed official map amendment is consistent with the description of the applicable neighborhood context, and with the stated purpose and intent of the proposed Zone District.</p> <p>Please provide an attachment describing how the above criterion is met.</p>
REQUIRED ATTACHMENTS	
Please ensure the following required attachments are submitted with this application:	
<input type="checkbox"/> Legal Description (required to be attached in Microsoft Word document format) <input type="checkbox"/> Proof of Ownership Document(s) <input type="checkbox"/> Review Criteria	
ADDITIONAL ATTACHMENTS	
Please identify any additional attachments provided with this application:	
<input type="checkbox"/> Written Authorization to Represent Property Owner(s)	
Please list any additional attachments:	

PROPERTY OWNER OR PROPERTY OWNER(S) REPRESENTATIVE CERTIFICATION/PETITION

We, the undersigned represent that we are the owners of the property described opposite our names, or have the authorization to sign on behalf of the owner as evidenced by a Power of Attorney or other authorization attached, and that we do hereby request initiation of this application. I hereby certify that, to the best of my knowledge and belief, all information supplied with this application is true and accurate. I understand that without such owner consent, the requested official map amendment action cannot lawfully be accomplished.

Property Owner Name(s) (please type or print legibly)	Property Address City, State, Zip Phone Email	Property Owner Interest % of the Area of the Zone Lots to Be Rezoned	Please sign below as an indication of your consent to the above certification statement (must sign in the exact same manner as title to the property is held)	Date	Indicate the type of ownership documentation provided: (A) Assessor's record, (B) warranty deed or deed of trust, (C) title policy or commitment, or (D) other as approved	Property owner representative written authorization? (YES/NO)
EXAMPLE John Alan Smith and Josie Q. Smith	123 Sesame Street Denver, CO 80202 (303) 555-5555 sample@sample.gov	100%	<i>John Alan Smith</i> <i>Josie Q. Smith</i>	01/01/12	(A)	NO
Dan Poremba representative for City & County of Denver-Department of Aviation	8500 Peña Blvd. Denver CO 80249 303-342-2260	100%	<i>Dan Poremba</i>	9/30/14	(D)	(Y)

Parcel 2-

Justifying Circumstance:

This parcel is currently zoned PUD #515. In 1994 this parcel was acquired by the City and County of Denver as part of the New Denver Airport (Denver International Airport) land purchase to be used for the future Peña Blvd Transportation Corridor. This parcel's zoning should be amended to be consistent with the surrounding parcels and all other parcels owned by the City and County of Denver-Department of Aviation.

Consistency with the applicable neighborhood context:

This parcel is proposed to be rezoned to DIA Zone District. This parcel abutts DIA Zone District to the south, north and east. Permitted uses, required minimum parking, number of uses, and any applicable use limitations in the DIA Zone District, shall be determined by the Denver Manager of Aviation. This parcel also falls within the Peña Blvd. Transportation Corridor-Scenic Buffer as defined in Section 2.4 of the 1988 Intergovernmental Agreement of Annexation between the City and County of Denver and Adams County. Section 2.4 of the IGA defines the scenic buffer as extending 1,000 feet on either side of the centerline of Peña Boulevard which shall be preserved as open space. No residential, commercial, or industrial development can occur here.

Parcel No. 2

A parcel of land situated in a portion of the east one-half of the east one-half of Section 17, Township 3 South, Range 66 West of the 6th Principal Meridian, City and County of Denver, State of Colorado, being more particularly described as follows:

Beginning at the southeast corner of Section 17; thence $S89^{\circ} 36' 15''W$ along the south line of said Section 17 a distance of 999.40 feet to a point of curvature; thence along the arc of a non-tangent curve to the right an arc distance of 2925.56 feet to a point of curvature, said curve having a central angle of $19^{\circ} 24' 03''$, a radius of 8640.00 feet, a chord bearing of $N11^{\circ} 04' 22''E$ and a chord distance of 2911.62 feet, thence along the arc of a curve to the left an arc distance of 2511.42 feet to the northeast corner of Section 17, said curve having a central angle of $21^{\circ} 40' 15''$, a radius of 6640.00 feet, a chord bearing of $N09^{\circ} 56' 16''E$ and a chord distance of 2496.48 feet; thence $S00^{\circ} 03' 52''E$ along the east line of said Section 17 a distance of 2668.28 feet to the east one-quarter corner of said section; thence $S00^{\circ} 08' 17''E$ continuing along said east line a distance of 2641.25 feet more or less to the Point of Beginning.

Parcel contains 2,617,956 Sq. Ft. or 60.10 acres, more or less.

DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO

Case No. 92 CV 1536, Courtroom 1

RULE AND ORDER

CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado,
Petitioner,

v.

FEDERAL DEPOSIT INSURANCE CORPORATION; SCHOOL DISTRICT NO. 1 in
City and County of Denver, State of Colorado; PATRICIA BEER, Manager of Revenue
and Ex Officio Treasurer of the City and County of Denver, State of Colorado; and
ANY AND ALL PERSONS WHO MAY CLAIM AN INTEREST IN THE SUBJECT
MATTER OF THIS ACTION,

Respondents.

THIS MATTER came on regularly for consideration of the Consent to Entry of Rule and Order with respect to the acquisition of the property which is the subject matter of this action; and said Consent being duly executed by the Respondent, Federal Deposit Insurance Corporation, and it appearing to the Court from said Consent and the other pleadings that said Respondent is the record owner of the property or those with a record interest therein and that said Respondent has agreed with the Petitioner upon the compensation to be paid herein:

THE COURT FINDS: That it has full and complete jurisdiction of the subject matter of this action and the parties thereto; that service has been made upon all interested parties as required by law; that the only party having any interest in the subject matter is the Federal Deposit Insurance Corporation and it has agreed with the Petitioner that the total sum of \$800,000 represents the full compensation to be paid for the taking of said property described in the Petition in Condemnation filed herein, including all appurtenances thereto and any and all interests therein, and damages, and for any and all other costs of said parties, including, but not limited to, appraisal and other expert witness fees, including all reports, discovery costs and expenses, trial preparation time, reimbursable costs, and any and all interest before and after entry of judgment, to which the Respondents may be entitled, if any; and

THE COURT FURTHER FINDS: That in accord with the agreement of the parties, the Federal Deposit Insurance Company is entitled to any and all interest accrued or to be accrued on any funds deposited by Petitioner in this action; and therefore it is

ORDERED, ADJUDGED, AND DECREED that the parcel of land described in Exhibit A attached hereto and incorporated herein by reference has been duly and lawfully taken by the Petitioner pursuant to the statutes and the Constitution of the State of Colorado; that all interests of the Respondents in said parcel have been acquired by the Petitioner; and that the title to the property described in Exhibit A, together with all appurtenances thereto belonging, free and clear of all liens and encumbrances, not expressly excepted in Exhibit A, is hereby vested in the Petitioner; and it is

FURTHER ORDERED that Petitioner shall deposit the sum of \$15,000 into the Registry of the Court, which sum, together with the \$785,000 previously deposited by Petitioner in this action, represents the amount of full settlement of all claims against the Petitioner for the condemnation of said property and costs related thereto; and it is

FURTHER ORDERED that upon the deposit by Petitioner of the additional funds into the Court Registry, the Clerk of the Court shall disburse such funds and any remaining funds on deposit and any interest thereon as requested by Respondent, Federal Deposit Insurance Corporation, and it is

FURTHER ORDERED that a certified copy of this Rule and Order be recorded and indexed in the office of the Clerk and Recorder of the City and County of Denver, in like manner and with like effect, as if it were a deed of conveyance from the Respondents to the Petitioner herein.

DONE IN OPEN COURT this 27 day of JANUARY, 1998. ⁴

BY THE COURT:

Robert P. Bullington
District Court Judge

SPECIAL COUNSEL shall serve copies of the Order on all parties pursuant to C.R.C.P. 5 and file a certificate of service with the Court within 10 days

2

District Court
City & County of Denver, Colo.
Certified to be a full, true and correct
copy of the original in my custody.

Court
Seal

By

John M. ...
Clerk of the District Court
Deputy Clerk

APPROVED AS TO FORM:

OPPERMAN & ASSOCIATES, P.C.

By 

Marlin D. Opperman, #3946
William M. Schell, #11848
Bruce G. Smith, #3646
511 16th Street, Suite 410
Denver, Colorado 80202
(303) 623-1970

SPECIAL COUNSEL FOR PETITIONER
CITY AND COUNTY OF DENVER

CITY AND COUNTY OF DENVER

Daniel E. Muse, #6229
City Attorney

By 

Nicholas Pijoan, #5056
Assistant City Attorney
Stapleton International Airport
Terminal Building, Room 3231
Denver, CO 80207
(303) 270-1475

FEDERAL DEPOSIT INSURANCE CORPORATION

By 

Stuart L. Shapiro, #19278
Attorney
707 17th Street, Suite 3000
Denver, CO 80202
(303) 296-4703

GRIMSHAW & HARRING, P.C.

By Wayne B. Schroeder
Wayne B. Schroeder, #2447
1700 Lincoln Street, #3800
Denver, CO 80202
(303) 839-3800

ATTORNEYS FOR RESPONDENT
FEDERAL DEPOSIT INSURANCE CORPORATION

GRIMSHAW & HARRING, P.C.

By Wayne B. Schroeder
Wayne B. Schroeder, #2447
1700 Lincoln Street, #3800
Denver, CO 80202
(303) 839-3800

ATTORNEYS FOR RESPONDENT
FEDERAL DEPOSIT INSURANCE CORPORATION

SEMPLE & JACKSON, P.C.

By: Michael H. Jackson
Michael H. Jackson, #1057
The Chancery, Suite 1603
1120 Lincoln Street
Denver, CO 80203
(303) 595-0941

ATTORNEYS FOR RESPONDENT
SCHOOL DISTRICT NO. 1 IN THE
CITY AND COUNTY OF DENVER, STATE OF COLORADO

DANIEL E. MUSE #6229
City Attorney

KAREN A. AVILÉS #13989
Assistant City Attorney

BY:

Karen A. Avilés

KAREN A. AVILÉS #13989
Assistant City Attorney
1437 Bannock Street, Room 353
Denver, Colorado 80202
Telephone: (303) 640-2665

ATTORNEYS FOR RESPONDENT
MANAGER OF REVENUE AND EX-OFFICIO
TREASURER OF THE CITY AND COUNTY OF
DENVER

EXHIBIT A

Legal description of land being acquired

A parcel of land situated in a portion of the east one-half of Section 17, Township 3 South, Range 66 West of the 6th P.M., City and County of Denver, State of Colorado, more particularly described as follows:

Beginning at the southeast corner of Section 17; thence south 89 degrees 36 minutes 15 seconds west along the south line of said Section 17 a distance of 999.40 feet to a point of curvature; thence along the arc of a non-tangent curve to the right an arc distance of 2925.56 feet to a point of curvature, said curve having a central angle of 19 degrees 24 minutes 03 seconds, a radius of 8640.00 feet, a chord bearing of north 11 degrees 04 minutes 22 seconds east and a chord distance of 2911.62 feet, thence along the arc of a curve to the left an arc distance of 2511.42 feet to the northeast corner of Section 17, said curve having a central angle of 21 degrees 40 minutes 15 seconds, a radius of 6640.00 feet, a chord bearing of north 09 degrees 56 minutes 16 seconds east and a chord distance of 2496.48 thence south 00 degrees 03 minutes 52 seconds east along the east line of said Section 17 a distance of 2668.28 feet to the east one-quarter corner of said section; thence south 00 degrees 08 minutes 17 seconds east continuing along said east line a distance of 2641.25 feet more or less to the point of beginning.

("Land")

Together with

All property interests in, above and below the surface of the Land.

Any and all improvements and fixtures located on the Land.

All appurtenances thereunto appertaining.

Reserving

Specifically reserving to the Respondent Owner(s) the right to decree, permit or otherwise develop any tributary, nontributary or not nontributary bedrock groundwater appurtenant to the Land, including the right to enter upon such Land to explore for and develop any such water. This right to enter upon such Land and develop any water shall be subject to the reasonable restrictions of any governmental agency having jurisdiction over such Land, and any such entry and development shall not, in any case, take place within 100 feet of any existing or proposed roadway or other public improvement. Respondent Owner(s) shall pay the damaged party for any damages caused by its operations. Respondent Owner(s) shall not open cut any existing roadway upon such Land for any purpose whatsoever. This reservation and the restrictions thereon shall be binding upon the heirs, successors and assigns of Respondent Owner(s).

Also reserving to Respondent Owner(s) any and all rights in any oil and gas, together with the right to enter upon such Land to explore for and develop such oil and gas. This right of entry and the right to develop shall be subject to the reasonable restrictions of any governmental agency having jurisdiction over such Land and any such entry and development shall not, in any case, take place within 100 feet of any existing or proposed roadway or other public improvement. Respondent Owner(s) shall pay the damaged party for any damages caused by its operations. Respondent Owner(s) shall not open cut any existing roadway upon such Land for any purpose whatsoever. This reservation and the restrictions thereon shall run with said mineral estate and be binding upon the heirs, successors and assigns of Respondent Owner(s).

Subject to

1. A Right of Way for pipelines as granted to Wyco Pipe Line Company by instrument recorded March 23, 1966 in Book 1283 at Page 210 in the office of the Clerk and Recorder for Adams County, Colorado.
2. A Perpetual Easement for transmission, distribution or both of electricity and for the transmission of communication signals as granted to Public Service Company of Colorado recorded January 9, 1968 in Book 1410 at Page 389 and rerecorded January 25, 1968 in Book 1413 at Page 428 in the office of the Clerk and Recorder for Adams County, Colorado.
3. A Participation Agreement between Nu-West Corporation and the Board of Water Commissioners recorded March 16, 1981 in Book 2339 at Page 347 in the office of the Clerk and Recorder for the County of Adams, Colorado.
4. The effect of Parkfield Place P.U.D.-Planned Unit Development No. 23 recorded August 31, 1983 under Reception No. 054167 in the office of the Clerk and Recorder for the City and County of Denver, Colorado.
5. A right of way for Derby Lateral "A" Canal, now known as the Highline Canal Lateral and Roadway as conveyed by Margaret Bollers to the United States of America in Easement Deed recorded February 19, 1944 in Book 295 at Page 333 in the office of the Clerk and Recorder for Adams County, Colorado.
6. The rights, title and interests of the City and County of Denver in and to the North 60 feet of Section 17, Township 3 South, Range 66 West, for road, public highway, right of way and other statutory purposes.

D:\A\IRP\PARKFLD\120691LH.002
March 2, 1992/11:37am

RECORDED & INDEXED
BY [unclear]
MARCH 2 1992
ADAMS COUNTY
CLERK AND RECORDER



Executive Office
Airport Office Building
8500 Peña Boulevard, Room 9860
Denver, Colorado 80249

(303) 342-2206
www.flydenver.com



September 29, 2014

Tina Axelrad, Principal City Planner
Community Planning & Development, Planning Services
201 W. Colfax Ave., Dept. 205
Denver, Colorado 80202

Re: Application for Rezoning of Four DIA Properties

Dear Ms. Axelrad:

As you know, the Department of Aviation is applying for rezoning of four parcels of property managed by DIA, as described in the recently submitted application. As CEO of DIA, I have authority over these parcels under the Denver Revised Charter. This letter is to inform Community Planning and Development that I have authorized Dan Poremba, DIA's Managing Director of Airport City Development, to sign for, represent, and speak for the Department of Aviation on all matters related to the rezoning of these four parcels.

Please contact Mr. Poremba or Assistant City Attorney Debra Overn if you have any questions.

Sincerely,

Kim Day
Chief Executive Officer
Denver International Airport

cc: Dan Poremba
Debra Overn