



TO: City Council Neighborhood and Plans Subcommittee
FROM: David Gaspers, Senior City Planner
DATE: December 4, 2014
RE: Official Zoning Map Amendment Application #2014I-00067
16100 E. 56th Ave. & 16101 Green Valley Ranch Boulevard
Rezoning from Former Chapter PUD-#319 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-00067 for a rezoning from Former Chapter 59 PUD-#319 to Denver International Airport (“DIA”) Zone District.

Request for Rezoning

Application:	#2014I-00067
Address:	16100 E. 56 th Ave. & 16101 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:	3,231,121 sq. feet and 74.17 acres
Current Zoning:	Former Chapter 59, PUD-#319 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 #2014-00067 seeks to rezone approximately 74.17 acres of vacant land in the Gateway/Green Valley Ranch Neighborhood, generally bounded by Green Valley Ranch Boulevard, Bolling Drive and the new East Line Commuter Rail line, and currently owned by the Denver International Airport (“DIA”), from Former Chapter PUD-#319 zone district to a special airport context DIA zone district under the Denver Zoning Code. DIA acquired the subject property in 1995 at approximately the same time Pena Boulevard and airport construction was completed, also 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.

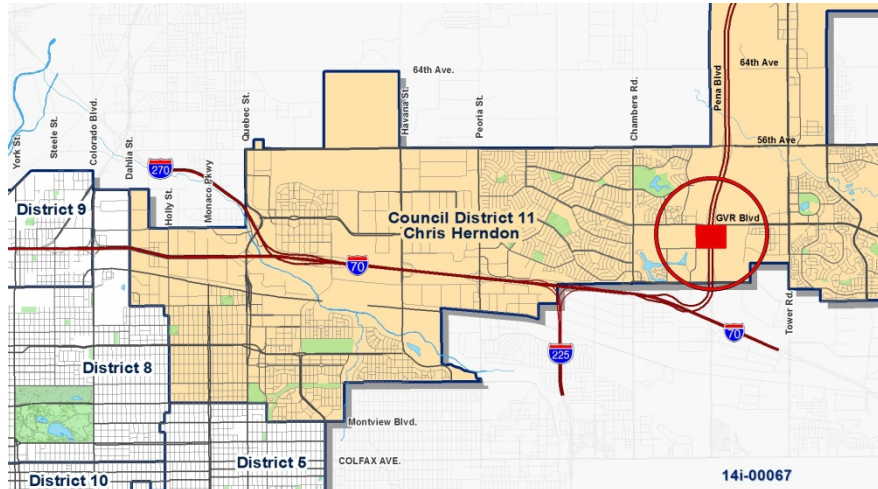
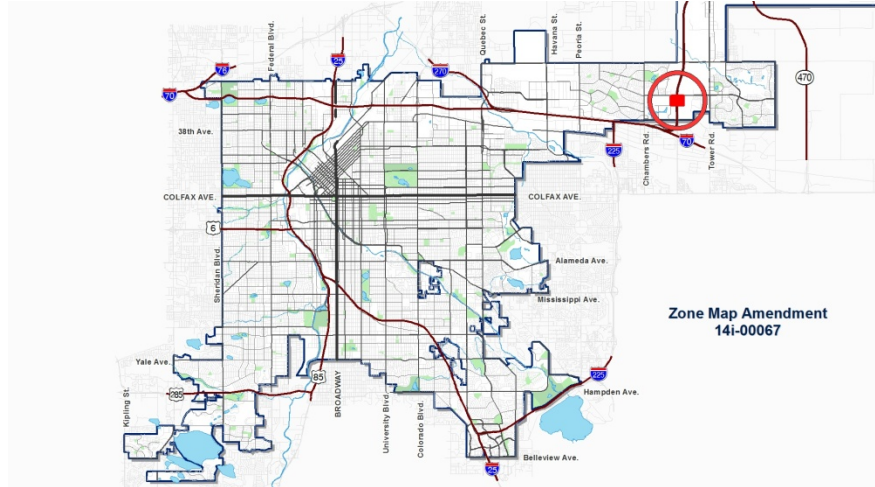
The current zoning, PUD-#319 is a customized zone district that applies not only to the subject property, but also to a much larger 430-acre area, intended for development of a master-planned community in Green Valley Ranch straddling both sides of Pena Boulevard and stretching between Chambers Road and Tower Road. To date, much of the land area subject to PUD-#319 remains vacant, with only recent new single-family residential development occurring on the east side of Pena Boulevard south of the new DSST public school campus at Green Valley Ranch Boulevard and Telluride Street. Overall, the PUD zoning for the larger land area, of which the subject property is just one small part, enables the build-out of over 2,000 new homes, new public parks and open space, public schools and safety facilities, and more than 3 million square feet of nonresidential uses. PUD-#319 divides the larger 430-acre property into "superblocks." The subject property comprises the entirety of superblock "G", whose intended purpose is described as follows (PUD-#319, p. 1c):

"Superblock G: This 74.10 acre Superblock is located in the central part of the property and consists of proposed right-of-way for Airport [now 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-#319 zone district. The PUD zoning allows no land uses within the superblock, instead requiring 100% of the subject property land area be "unobstructed open space" (PUD-#319, p. 3d, as "unobstructed open space" is defined in Former Chapter 59, Section 59-2).

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-#319, 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

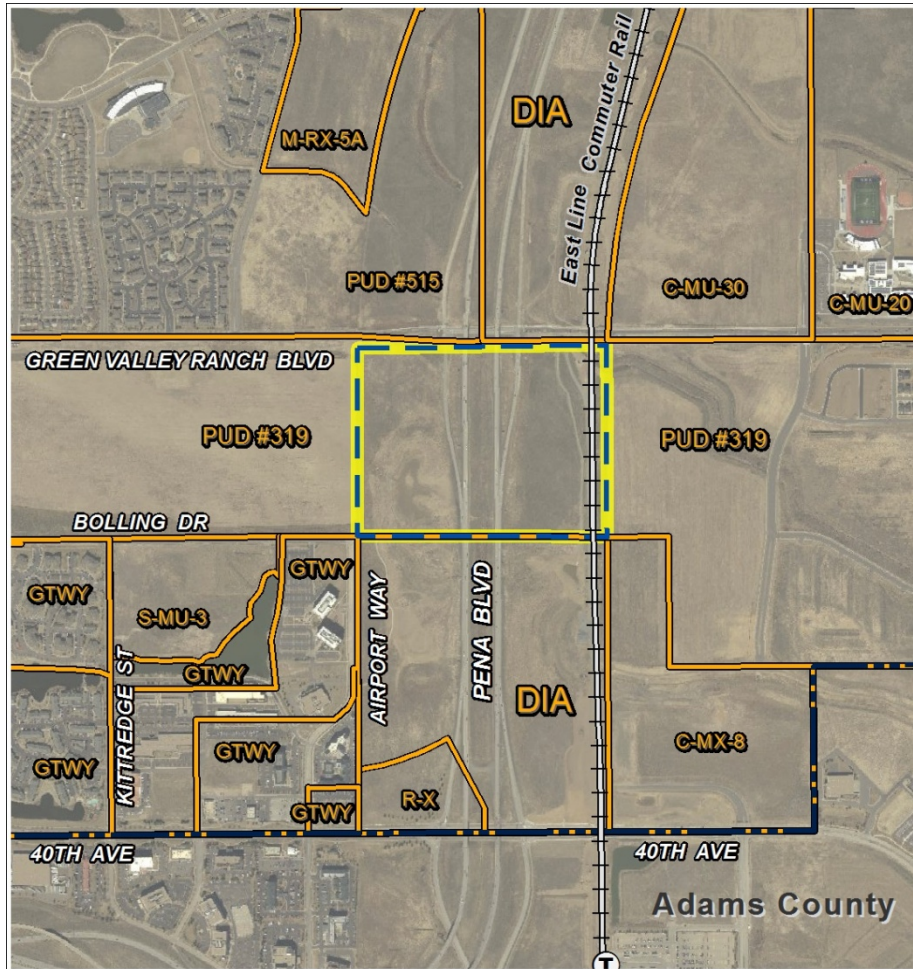
As noted previously, the subject property is vacant and part of the Pena Boulevard Transportation Corridor and, critically, within the Scenic Buffer sub-area. The Scenic Buffer encompasses lands located 1,000 feet from the centerline of both sides of Pena Boulevard. Again, no development is allowed within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

Immediately west of the subject property, outside the Transportation Corridor, the remaining land area within PUD-#319 is vacant. East of the subject property, lands within the PUD-#319 are platted for single-family development, which has recently begun in that portion of the PUD between Telluride and Yampa Streets just south of Green Valley Ranch Boulevard. Also east, outside PUD-#319, 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-#319	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	PUD-#319	Vacant; east of Telluride, platted for new single-family development; some new single-unit development occurring	Single-family, 2-2 ½ story suburban homes	
West	PUD-#319	Vacant	None	

1. Existing Zoning

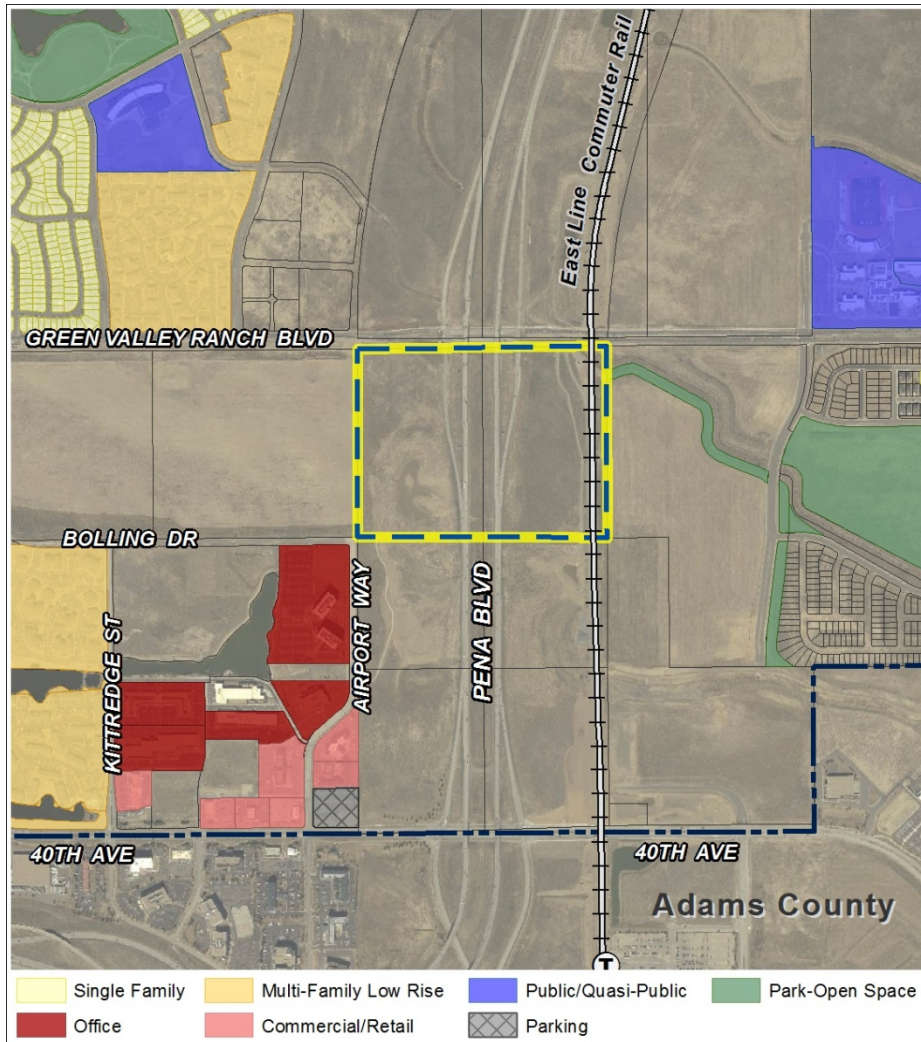


The subject property's current zoning, PUD-#319 under Former Chapter 59, is a customized zone district that was applied to the subject property in 1992. The PUD-#319 was adopted and applied before Pena Boulevard was open but after the 1988 IGA that obligated DIA to retain this piece of land as Scenic Buffer. Accordingly, the entire subject property was identified as "superblock G" 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 in the vicinity of the subject property include multi-unit and single-unit dwellings to the southwest and northwest, as well as schools, parks, offices and retail commercial.



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 northwest of the subject property. The DSST campus can be seen to the east on Green Valley Ranch Boulevard. To the southwest is a community of 2-story apartment buildings, low-scale office buildings, and a small node of commercial retail uses near the intersection of E. 40th Avenue and Airport Way.



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 Rezoning

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 Rezoning

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.

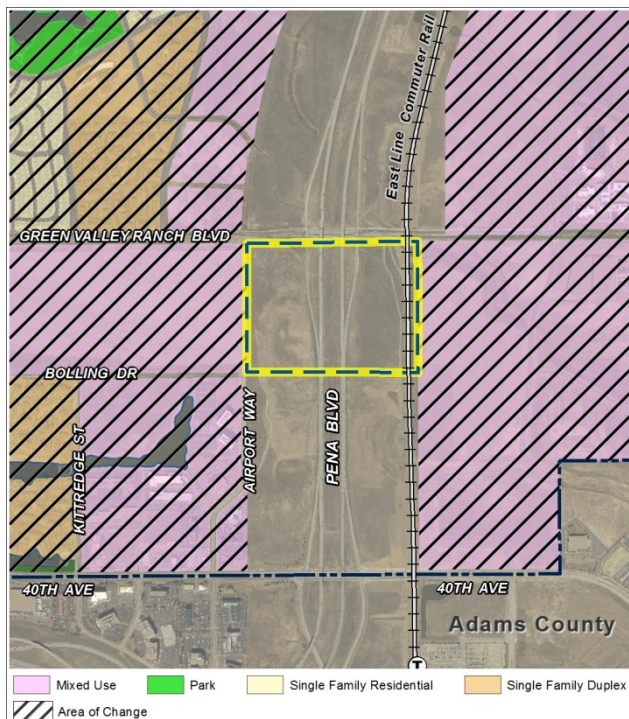
The proposed rezoning of the subject property to the DIA zone district will enable DIA to assure the aesthetic benefits to airport visitors and users traveling Pena Boulevard by car or by mass transit promised in the IGA through creation of the Scenic Buffer area. Accordingly, CPD staff finds the rezoning 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 Blueprint Denver street 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-#319 zoning was adopted in 1992, the City of Denver bought the subject property in 1995 as part of the Denver International Airport land purchase to be used for the future Pena Boulevard Transportation Corridor. While PUD-#319 requires only "open space" use of the subject property, the PUD's primary intent is to entitle private sector development of a new master-planned 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 manager 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 74.10 acres of land located approximately at 16100 E. 56th Ave. & 16101 Green Valley Ranch Boulevard, to the DIA zone district, meets the requisite review criteria. Accordingly, staff recommends **approval**.

Rezoning Application #2014I-00067
16100 E. 56th Ave. & 16101 Green Valley Ranch Boulevard
December 4, 2014
Page 12

Attachments

1. Application #2014I-00067

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>	<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 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.
	<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.
	<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>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> <input type="checkbox"/> The existing zoning of the land was the result of an error. <input type="checkbox"/> The existing zoning of the land was based on a mistake of fact. <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. <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 <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>Please provide an attachment describing the justifying circumstance.</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>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:

- Legal Description (required to be attached in Microsoft Word document format)
- Proof of Ownership Document(s)
- Review Criteria

ADDITIONAL ATTACHMENTS

Please identify any additional attachments provided with this application:

- 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 3-

Justifying Circumstance:

This parcel is currently zoned PUD #319. 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 north and south. 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. 3

A parcel of land situated in a portion of the Northwest One-Quarter of Section 21 and the Northeast One-Quarter of Section 20, 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 Northeast corner of said Section 20; thence N89° 39' 51"E along the north line of said Section 21, a distance of 1001.80 feet to a point of curvature; thence along the arc of a non-tangent curve to the left an arc distance of 228.75 feet; said curve having a central angle of 01° 58' 26", a radius of 6640.00 feet, a chord bearing of S00° 54' 33"W and a chord distance of 228.74 feet; thence S00° 04' 40"E, a distance of 1381.76 feet, more or less to a point on the north line of a parcel of land as recorded at Reception No. 217775, dated 12/17/1987, in the Records of the City and County of Denver; thence S89° 22' 13"W, along said north line a distance of 992.08 feet, more or less to a point on the east line of Section 20; thence S89° 22' 13"W, continuing along the north line of said parcel a distance of 1008.02 feet; thence N00° 04' 40"W a distance of 1401.03 feet; to a point of curvature; thence along the arc of a curve to the right an arc distance of 218.67 feet to a point on the north line of Section 20; said curve having a central angle of 01° 27' 00", a radius of 8640.00 feet, a chord bearing of N00° 38' 50"E and a chord distance of 218.66 feet; thence N89° 36' 15"E along the north line of said Section 20 a distance of 999.40 feet more or less, to the Point of Beginning.

Parcel contains 3,231,121 Sq. Ft. or 74.17 acres, more or less.

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

Case No. 92 CV 1535, Courtroom 8

AMENDED RULE AND ORDER - SECTION 38-1-114(1) C.R.S APPLICABLE

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

Petitioner,

v.

CHAMBERS-TOWER #1, INC., a Colorado corporation; M.D.C. HOLDINGS, INC., a Colorado corporation; UNION PACIFIC LAND RESOURCES CORPORATION, a Nebraska corporation; FEDERAL DEPOSIT INSURANCE CORPORATION; ARIE P. TAYLOR, Public Trustee, County of Denver, 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 hearing this day upon the City and County of Denver's Motion for Entry of an Amended Rule and Order and upon the Commission's Certificate of Ascertainment and Assessment filed December 8, 1994, which Commission was duly appointed to determine the compensation to be paid Respondents interested in the property and the property interests which are the subject of this action; and it appearing to the Court from the pleadings herein that all persons interested as owners or otherwise, as appearing of record, have been joined 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 Commission, after hearing the evidence and arguments of the parties, did find and determine in accordance with the laws of the State of Colorado:

1. That the accurate description of the property and property interests being acquired by the Petitioner herein is attached hereto as Exhibit A; and
2. That the value of the property actually taken by the Petitioner is \$ 760,140.00.
3. That the damages to the residue of such property are \$ 0.00
4. That the specific benefits to the residue of such property are \$1,094,208.00.

THE COURT FURTHER FINDS that consistent with its Order dated January 30, 1995, Section 38-1-114(1) C.R.S. (1994 Cum. Supp.) applies to this action and therefore the total just compensation to which the Respondents are entitled for the taking of the above described property, all appurtenances thereto, and all interests therein is the amount of \$ 760,140.00.

THE COURT FURTHER FINDS that on May 29, 1992 it entered an Order authorizing Petitioner to deposit the sum of \$407,500.00 into the Registry of the Court, and that Petitioner has deposited such sum. Therefore an additional of \$352,640.00 must be deposited by Petitioner to meet the award of just compensation. Additionally, the sum of \$69,164.52 is due Respondents as interest pursuant to Section 38-1-116 C.R.S. Post judgment interest is also due on the total sum of \$421,804.52 from December 12, 1994 until the date the additional sums are deposited with the court registry.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the property 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 Constitution of the State of Colorado; that the interests of Respondents in said property have been acquired by Petitioner and that upon the deposit by Petitioner of the sum of \$352,640.00 into the registry of the court, the title to said property, together with all appurtenances thereto belonging, free and clear of all liens and encumbrances, shall be vested in Petitioner; and it is

FURTHER ORDERED that any issues relating to the amount of reimbursable costs or the compensability and amounts of any fees and expenses necessarily incurred by the parties shall be resolved by the Court at a later time, and each party shall have the right to raise any issues and make any claims and assert any defenses thereto; and it is

FURTHER ORDERED that this Amended Rule and Order supersedes the Rule and Order entered by the Court on January 30, 1995; and it is

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

DONE IN OPEN COURT this 21 day of March, 1995.

BY THE COURT

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

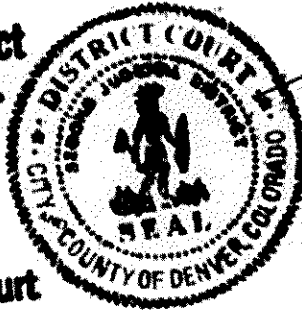
APR 24 1995

Court
Seal

By

Deputy Clerk

Janet M. Leland
Clerk of the District Court



Robert M. J. [Signature]
District Court Judge

EXHIBIT A

Legal description of land being acquired

A parcel of land situated in a portion of the Northwest One-Quarter of Section 21 and the Northeast One-Quarter of Section 20, Township 3 South, Range 66 West of the 6th Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

Beginning at the Northeast corner of said Section 20; thence North 89°39'51" East along the North line of said Section 21, a distance of 1001.80 feet to a point of curvature; thence along the arc of a non-tangent curve to the left an arc distance of 228.75 feet; said curve having a central angle of 01°58'26", a radius of 6640.00 feet, a chord bearing of south 00°54'33" West and a chord distance of 228.74 feet; thence South 00°04'40" East, a distance of 1381.76 feet, more or less to a point on the North line of a parcel of land as recorded at Reception No. 217775, dated 12/17/87, in the Records of the City and County of Denver; thence South 89°22'13" West, along said North line a distance of 992.08 feet, more or less to a point on the East line of Section 20; thence South 89°22'13" West, continuing along the North line of said parcel, 1008.02 feet; thence North 00°04'40" West, a distance of 1401.03 feet; to a point of curvature; thence along the arc of a curve to the right an arc distance of 218.67 feet to a point on the North line of Section 20; said curve having a central angle of 01°27'00", a radius of 8640.00 feet, a chord bearing of North 00°38'50" East and a chord distance of 218.66 feet; thence North 89°36'15" East along the North line of Section 20, a distance of 999.40 feet more or less, to the **POINT OF BEGINNING**

("Land").

Together with

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

Any and all improvements and fixtures located on the Land.

All appurtenances thereunto appertaining.

Together with all the rights, title and interests of Respondent Owner(s) (1) in the Non-Drilling Agreement by Amoco Production Company recorded December 28, 1984 at Reception No. 058081 and as amended by document recorded April 4, 1985 at Reception No. 097935; (2) in the Non-Drilling Agreement by Champlin Petroleum Company recorded December 28, 1984 at Reception No. 058080; and (3) the Lease Agreement between Rock Springs Royalty Company and M.D.C. Land Corporation recorded April 8, 1985 at Reception No. 098956, all as recorded in the office of Clerk and Recorder, City and County of Denver, State of Colorado, to the extent such rights, title and interests relate to the Land.

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).

Subject to

1. Right of way as granted to the City and County of Denver dated December 15, 1986 and recorded December 23, 1986 at Reception No. 00067751 in the office of the Clerk and Recorder, City and County of Denver, State of Colorado.
2. A reservation of all minerals and all mineral rights and the right to explore for, remove and dispose of minerals but without entering upon or using the surface and in such a manner so as to damage the surface or to interfere with the use thereof, and the reservation of the right to enter such lands to construct streets as contained in General Warranty Deed dated December 3, 1985 between Union Pacific Land Resources Corporation, grantor and M.D.C. Holdings, Inc., grantee, and recorded December 5, 1985 at Reception No. 000225 in the office of the Clerk and Recorder, City and County of Denver, State of Colorado.
3. Easement and right of way for pipelines as granted to Colorado Interstate Gas Company by Bertha M. and Walter S. Hopkins, by instrument recorded September 23, 1955 in Book 570 at Page 458 in the office of the Clerk and Recorder of Adams County, State of Colorado.
4. Easement and right of way for pipelines as granted to Wyco Pipe Line Company by Franklin L. Burns, Sam G. Russell and C. M. Dickinson Company in the instrument recorded April 20, 1966 in Book 1289 at Page 118 in the office of the Clerk and Recorder of Adams County, State of Colorado.
5. Perpetual easement for pipeline purposes as granted to Phillips Petroleum Company by Union Pacific Land Resources Corporation in the instrument recorded October 12, 1971 in Book 1744 at Page 390 in the office of the Clerk and Recorder of Adams County, State of Colorado.

6. Right of way and easement for irrigation lateral or feeder ditch as conveyed by Platte Land Company to Antero and Lost Park Reservoir Company by instrument recorded October 20, 1916 in Book 79 at Page 414 in the office of the Clerk and Recorder of Adams County, State of Colorado.

7. Right of way for the Highline Extension Canal System as disclosed by instrument recorded December 18, 1948 in Book 367 at Page 242 in the office of the Clerk and Recorder of Adams County, State of Colorado.

8. Right of way and easement for irrigation canal and roadways as granted to the United States of America by Walter S. and Bertha Martha Hopkins in instrument recorded February 2, 1944 in Book 295 at Page 43 in the office of the Clerk and Recorder of Adams County, State of Colorado.

9. The conveyance of all oil, gas and associated liquid hydrocarbons from Union Pacific Land Resources Corporation to Champlin Petroleum Company by Mineral Deed recorded March 31, 1977 in Book 2132 at Page 787 in the office of the Clerk and Recorder of Adams County, State of Colorado.

10. The conveyance of all minerals and mineral rights, except oil and gas from Union Pacific Land Resources Corporation to Rock Springs Royalty Company by Deed recorded April 8, 1985 as Reception No. 098955 in the office of the Clerk and Recorder of Denver County, State of Colorado.

11. Amoco Production Company's and its successors' or assigns' interests in a Non-Drilling Agreement by Amoco Production Company recorded December 28, 1984 at Reception No. 058081 and as amended by document recorded April 4, 1985 at Reception No. 097935 in the office of the Clerk and Recorder, City and County of Denver, State of Colorado.

12. Champlin Petroleum Company's and its successors' or assigns' interests in a Non-Drilling Agreement by Champlin Petroleum Company recorded December 28, 1984 at Reception No. 058080 in the office of the Clerk and Recorder, City and County of Denver, State of Colorado.

13. Rock Springs Royalty Company's and its successors' or assigns' interests in a Lease Agreement for non-oil and gas minerals by and between Rock Springs Royalty Company and M.D.C. Land Corporation recorded April 8, 1985 at Reception No. 098956 in the office of the Clerk and Recorder, City and County of Denver, State of Colorado.



Executive Office
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Denver, Colorado 80249

(303) 342-2206
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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