



Planning Division
15151 E. Alameda Parkway, Ste. 2300
Aurora, Colorado 80012
303.739.7250

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August 17, 2023

Patrick Chelin
Matrix Design Group Inc
1601 Blake Street Ste 508
Denver, CO 80202

Re: Fourth Submission Review – The Aurora Highlands North – Area A - Site Plan
Application Number: **DA-2062-31**
Case Numbers: **2022-4027-00**

Dear Mr. Chelin:

Thank you for your fourth submittal. We have reviewed your Site Plan and attached our comments along with this cover letter. The first section of our review highlights our major comments. The following sections contain more specific comments, including those received from other city departments and agencies.

Your Administrative Decision is scheduled for August 23, 2023. Following this, you will need to make a technical submission to address outstanding items. Please revise your previous work and send us a new submission. There are a number of outstanding comments from previous reviews that still need to be addressed. Please let me know if you would like to schedule a meeting to discuss any issues with staff.

Note that all our comments are numbered. When you resubmit, include a cover letter specifically responding to each item. The Planning Department reserves the right to reject any resubmissions that fail to address these items. If you have made any other changes to your documents other than those requested, be sure to also specifically list them in your letter.

As always, if you have any comments or concerns, please give me a call. I may be reached at 303-739-7261.

Sincerely,

Debbie Bickmire, Senior Planner
City of Aurora Planning and Development Services

Attachment: Roundabout Redlines, DEN Avigation Easement

cc: Jeff Killion, Matrix Design Group
Jacob Cox, ODA
Robert Taylor, Consultant
Filed: K:\SDA\2062-31rev4.rtf



Fourth Submittal Review

SUMMARY OF KEY COMMENTS FROM ALL DEPARTMENTS

- Clarify the total Site Plan acreage, revise tract labels and acreage to be consistent, show/label existing and proposed easements on all sheets, and address maximum building height in the future (Planning)
- Show fence locations, note setbacks/fence types for reverse lots, and add columns for fences/walls adjacent to arterials and collectors (Planning)
- Provide Lot and Tract Key Map, revise tract areas, add a note for maintenance responsibility of medians and tracts, revise lot typical landscape designs (Landscape)
- Show and label access from parks into adjacent areas (PROS)
- Meet minimum slopes, add easements for dry utilities and sidewalks, public street lighting must meet 2023 standards (Public Works Engineering)
- Revise roundabout design, show the full design of 48th Ave., including northside geometry, show striping and movements, verify monument signs are outside of signal easements (Traffic)
- Update the labels to reflect the 23' fire lane easement, include a "Signage and Striping" package, and show accessible parking signs (Life/Safety)
- Provide an inlet where two streets slope down to an intersection (Water)
- Review tract labels and area (Real Property)

PLANNING DEPARTMENT COMMENTS

1. Completeness and Clarity of Application

Site Plan

- 1A. The maximum building height of any portion of a primary structure shall not exceed 38 feet (Section 146-4.4.3 Building Height). Below describes how building height is measured:

Building Height. For a building, the vertical distance above a reference point is measured to the highest point of the coping of a flat roof or the deck line of a mansard roof or to a point halfway between the eave and the highest point on a pitched or hipped roof.

For a non-building structure, the vertical distance above a reference point is measured to the highest point on the structure. For both buildings and structures, the reference point shall be whichever of the following yields a greater height of building or structure:

1. The elevation of the highest adjoining sidewalk or ground surface within a five-foot distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade.
 2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in Subsection 1 of this definition is more than 10 feet above the lowest grade.
- The height of a stepped or terraced building is the maximum height of any segment of the building.

We understand there is a possibility PA-4 may exceed the maximum 38' building height, however, since building elevations are not required with the Site Plan, we are not dealing with specific dimensions at this time. [Section 146-5.4.4.F.1](#), Table 5.4-1 allows an administrative adjustment for up to 10% of the building height (an additional 3'10") for development in the MU-A district, therefore, anything in excess of 41'10" may be considered a major adjustment which would require approval by the Planning and Zoning Commission.

I recommend proceeding with administrative approval of the entire Site Plan and address the building height for PA-4 separately, when and if necessary. It is unknown at this time if any adjustment would even be required. We would like to have the opportunity to work with the applicant and builder when there are specific building dimensions and elevations for consideration.



- 1B. The Site Plan area increased by approximately 13 acres. Explain why and where it is located.
- 1C. The legal description is for 119.186 acres, the site date includes 158.1 acres. The Tracking Chart on Sheet 6 identifies a total of the Planning Areas as 158.1 acres. Why is there a discrepancy? If the Planning Areas include 158.1 acres, please provide an updated legal description.
- 1D. A portion of the site is within the Mixed Use-Airport (MU-A) zone district. Please revise the site data and adjacent zone districts on the Site Plan.
- 1E. Revise the lot typicals on Sheet 3 per the redlines. Label the setbacks and easements separately because they are not the same.
- 1F. Previous comment asked for a typical to show how all (wet and dry) utilities will be provided to alley-loaded and green court lots. The response said it was provided. Please clarify where it is located.
- 1G. There are more colors in the Lot Tracking Exhibit on Sheet 6 than there are in the legend. Please show all colors in the legend and how each is categorized. Additionally, increase the tract labels. The Key Map on Sheet 62 should be consistent with the map.
- 1H. Tract areas are referenced inconsistently throughout the Site Plan and associated tables, the landscape plans and the landscape tables. Review and revise all to be consistent.
- 1I. Remove the disclaimer note regarding lot and tract adjustments on Sheet 6.
- 1J. Review the triggers for the design and completion of 48th Avenue in the phasing plans with Traffic. Improvements are linked to CO's in PA-29 which isn't a part of this Site Plan. Additionally, if a PA is referenced as a trigger, please make sure it is labeled on the Phasing Plan.
- 1K. Repeat comment: Street names, right-of-way width, and classification should be shown on all sheets, including phasing and landscape plans. Labels need to be enlarged and more visible.
- 1L. Remove references to right-of-way from private streets and alleys.
- 1M. Fences are in the Site Plan legend but are not shown on the plans.
- 1N. Label adjacent Site Plans and include the Case Number. Please let me know if you need any.
- 1O. Monument signage labels are inconsistent. Please revise the plans and details to be the same. Ensure details are included for all proposed signage.
- 1P. Repeat comment: Provide detail for entry medians. Show/label any proposed signs and include details.
- 1Q. Revise the areas where corner signage is proposed to show the pavement scoring in gray and the proposed signage and wall footprints in black.
- 1R. Is there an interim condition for dead-end streets? If so, show and label.
- 1S. Show and label the E-470 right-of-way and MUE. Use black linework to be visible.
- 1T. Previous comment: *The Green Court open space area should be designed to accommodate foot traffic and play areas. Sidewalks should be located to accommodate pedestrian access while maximizing the use of the Green Court open space. Please review the sidewalk locations and try to reposition them to create usable play areas.* The comment response that the provided lawns are adequate is not acceptable, nor does the centrally located sidewalk create pockets of open space that could be used for gathering or play. Explore and alternative sidewalk layout to open up the centers of the green courts.
- 1U. Revise the guest parking spaces (Sheet 19) to meet the required dimensions for diagonal and parallel parking.
- 1V. Show the trail connection from the approved Highland Green Park to Tract F in PA-12. The Site Plan and landscape plans have different alignments.
- 1W. Not all comments are included in this letter. Please address all comments and notations in the redlines.

2. Landscaping Issues (Debbie Bickmire / 303-739-7261 / dbickmir@auroragov.org / Comments in teal)

- 2A. Tract areas on the site plan sheets, landscape sheets and the Tract Landscape Table do not match. All should be consistent. Additional comments may be forthcoming.
- 2B. Increase the size of the Key Map on Sheet 62 and include the following:
 - Label all tracts and include the area of each. Use a leader line and make sure each is readable.
 - Keep color code to identify lot size (width) relative to the landscape requirements and add a color key that corresponds to the requirements on Sheet 64.
- 2C. Add a sheet Key Map on Sheet 62.



- 2D. Clarify what/where the Non-Street Frontage Buffers are located. They only reference streets and appear to have the same information as the Street Perimeter Buffer Table.
- 2E. Add Note(s) to identify who is responsible for median and tract landscape.
- 2F. Include all symbols and hatches in the Legend. Add labels to all sheets.
- 2G. Add tree equivalents in the notes: 12 5-gal shrubs per 2.5" caliper tree, 10 5-gal shrubs per 2" caliper tree.
- 2H. Repeat comment: The typicals for the front yard landscape requirements do not consistently meet the plant quantity requirements. The shrub requirement must be adjusted if the grass is used. Three grasses equal one 5-gal shrub. Additionally, if a corner lot is wider it may require additional plant material.
- 2I. Repeat comment: Each lot landscape typical should be designed differently to represent the diversity requirement.
- 2J. Repeat comment: Show where/how the 180 square feet of open space will be provided for the alley loaded small lots. Front-loaded small lots can meet the requirement with the rear lot setback. A front yard may be counted toward this requirement if the front yard meets the minimum length and width dimensions of 10 feet, and the space includes a front porch, deck, or similar space with minimum dimensions of six feet by eight feet.
- 2K. Add the landscape diversity note: Matching landscape designs shall be no closer than every third lot or directly across the street from each other. Matching shall mean the same layout with 50% or more of the same plant material.
- 2L. Show utility and setback dimensions separately. The setbacks appear to be the same, but they are different. Verify easement widths. Some lots have more than one easement shown along the same property line with different dimensions.
- 2M. Revise the lot typical for paired homes adjacent to a collector to move the house footprint out of the 25' buffer.
- 2N. Additional landscape has been shown on the lots with the wider setback adjacent to the collector. If that is a requirement it needs to be specifically itemized.
- 2O. Address redlines and edits to all lot typicals on Sheet 64.
- 2P. Locate trees outside of utility easements.
- 2Q. Is it accurate to state, "Open space landscape around the detention pond shall be designed and provided in a future site plan" regarding Pond 8521? If so, please revise the notes or discuss options with staff.
- 2R. Repeat comment: Include street names, right-of-way width, and classification on all landscape sheets. Labels also need to be larger or bolder to be more easily identified.
- 2S. Buffers are not required where alley-loaded lots front the streets. Adjust the labels to remove the buffer label.
- 2T. Make sure all intersections have sight triangles.
- 2U. The area in PA-4, adjacent to Alley D has been revised since the last review and doesn't match site plan Sheet 18. Revise to be consistent and provide access through the green court to connect the alley to the private street.
- 2V. Because tracts are identified by Planning Area, please add PA labels on the landscape sheets for reference.
- 2W. Ensure the ultimate condition, including movements and turn lanes on 48th Avenue, is shown and represented accurately in the next submittal.
- 2X. Clarify if any neighborhood signage is proposed in the entry medians. If so, show and label on the landscape sheets and include a detail.
- 2Y. Clarify whether one or two entry monument signs are proposed at the Fultondale/48th Avenue entrance.
- 2Z. There are two different fence types along the east and west sides of Fultondale, just south of 48th Avenue. Please clarify the reason or revise it to match. The fences also require columns since Fultondale is a collector.
- 2AA. Label or remove the hatch in the center of Denali on Sheet 67.
- 2BB. Revise detail references to increase the size.
- 2CC. Add adjacent Site Plan names and Case Numbers. Most have been provided on the plans. Please ask for any that may have been missed. Add these in all applicable locations.
- 2DD. There is a path/trail in Filing 3 that used to tie into the adjacent neighborhood. How will it be redirected? It cannot just dead end.
- 2EE. The buffer along Denali, south of 48th Avenue does not meet the 20' minimum requirement. It also appears the curbside landscape area is overlapping the sidewalk. Per previous discussions, this is not permitted where turn lanes are needed. Please revise or an adjustment will be required.



- 2FF. Revise plans on Sheet 81 to remove landscape in the sidewalk. Additionally, add/disperse trees in the buffer so each lot gets some benefit from the buffer.
- 2GG. Make sure the following are included on the enlarged plans:
- Tract label and area (square feet)
 - Sidewalk dimensions
 - Existing and proposed easements
 - Street/alley labels
 - Full legend with all materials, hatches, and symbols
 - Adjacent fencing (to indicate open space fence type)
 - Show the enlargement location on the Key Map
- 2HH. Show planting bed limits and ground cover materials. Edger is required to separate planting beds from turf/grass areas.
- 2II. Provide a detail for the proposed seat walls.
- 2JJ. Label signage and shade structures consistently throughout.

Fencing

- 2KK. Masonry columns are required in all fences/walls along arterial and collector streets. Please revise the plans to show the columns and add the note included on Sheet 63.
- 2LL. Per a previous comment about fence setbacks on side lot lines, add the note provided on Sheet 63.
- 2MM. Fence linework in the legend needs to be consistent with the scale of the plans. As shown, they don't read the same.
- 2NN. There are several reverse lots noted on the plans. Add the note provided regarding the fence setbacks for adjacent lots based on what type of fence may be installed.
- 2OO. The fence layer appears to be turned off on Sheets 88-90. Please show the fences, label the streets and street classifications, and tracts.

REFERRAL COMMENTS FROM OTHER DEPARTMENTS AND AGENCIES

3. Civil Engineering (Kendra Hanagami / 303-739-7295 / khanagam@auroragov.org / Comments in green)

- 3A. Dry utilities need to be fully contained within the dry utility easement. See Sheet 4.
- 3B. A sidewalk easement is required for paths outside of the right-of-way. Overlaying of a sidewalk easement and utility/gas easement is not permitted.
- 3C. Advisory comment for civil plan review: Minimum 2% for disturbed non-paved areas.
- 3D. Public street lighting must match the pre-approved 2023 public street and pedestrian lighting equipment list.
- 3E. Advisory comment: Public street lighting must match the pre-approved 2023 public street and pedestrian lighting equipment list.
- 3F. Advisory comment for this submittal: Future submittals must include a table showing all missing criteria required on site plans for public street lighting per section 2.12.0.1.

4. Traffic Engineering (Carl Harline / 303-739-7548 / charline@auroragov.org / Comments in amber)

- 4A. Show the latest design for 48th Avenue on this Site Plan, or an interim plan for 48th to demonstrate that proposed movements in this Site Plan are constructable at time of occupancy. This site plan shows barricades at full-movement intersections.
- 4B. The northside geometry for 48th Ave. looks offset. Please adjust. All Site Plans are required to demonstrate alignment with opposing (north of 48th in this case) access points.
- 4C. The plans appear to show a barricade at Fultondale north of 48th Avenue. How are northbound left movements accommodated, if this is interim? We need an updated 48th Avenue ISP to be background on Sheet 20. Doing so obligates this Site Plan to ensure that proper access is provided once this site is permitted to be occupied.
- 4D. Remove "potential" and "future" from the signal easements. They will be required with this development.



- 4E. Review speed limit(s) to determine the taper rate per comments on the redlines. Taper rates are shown for some intersections, but not all. Please be consistent and show all.
- 4F. Make the village monument signs at the Denali/48th Avenue intersection more visible. Verify the signs are placed outside of the signal easements, and confirm the landscape/hardscape conforms to easement language.
- 4G. Show the 48th Ave. striping per the latest ISP submittal. Signage/striping comments are for reference only and will not be comments that will impede approval of this site plan, in as much as those comments do not impact this Site Plan's operations.
- 4H. Revise/provide signage per comments on the redlines.
- 4I. Repeat comment: Mail kiosks need to be located *no further than 50'* from a curb ramp.
- 4J. The roundabout redlines are attached to this letter as a separate document and shall be addressed in the final version on the next submittal of this Site Plan.
- 4K. Per previous offline correspondence, show the interim roundabout condition (i.e. barricades or straight curbline with no curb returns for the west exit/approach), as agreed upon with the City.
- 4L. In coordination with The Aurora Highlands, in order to accept the private status of the Duquesne Street in tandem with head-in parking, it was discussed that traffic calming elements should be utilized north and south of the parking section of the roadway. In this case, speed cushions may be a good candidate to reduce speeds. Please coordinate with Traffic prior to the next submittal.
- 4M. If Duquesne St. remains private, 47th Place west of Denali Blvd. should also be private as it does not provide connectivity to public infrastructure.
- 4N. Locate crossings to align with the trail(s) and add crosswalk markings as noted on the redlines.
- 4O. The kiosk south of 47th Avenue is located "off" the roadway, however, people will be parking inside the intersection of Eaton Park Street to access it. Move the kiosk to minimum 30' (max. 50') upstream of the curb ramp, fronting street.
- 4P. Per previous comments, the background layers show barricades and striping at the Main Street/42nd Avenue intersection that will not be in place once the project is complete. Revise the background lays to show the completed project and show signal easements.

5. Fire / Life Safety (William Polk / 303-739-7371 / wpolk@auroragov.org / Comments in blue)

- 5A. Please update the labels to reflect the 23' fire lane easement.
- 5B. Update the sign package. A "Signage and Striping" package shall be included for approval with the Site Plan and shall include fire lane and handicapped parking signs, sign details, handicapped parking stall details, and locations for all. The sign package shall include all signs as required by other City of Aurora departments.
- 5C. Check with Traffic to determine if the "No Parking Signs" noted on the redlines are acceptable.
- 5D. Work with Land Development Services to update the Plat to reflect the fire lane easements.
- 5E. Show the accessible parking signs/locations.

6. Aurora Water (Steve Dekoskie / 303-739-7490 / sdekoski@auroragov.org / Comments in red)

- 6A. Per Section 4.03.3 of the Roadway Manual, at a street intersection where two streets slope down to the intersection, an inlet shall be placed on the through street's uphill point of curb return and on the intersecting street's uphill point of curb return.

7. PROS (Michelle Teller / 303-739-7437 / mteller@auroragov.org / Comments in purple)

- 7A. General comment: make sure all adjacent parks and open spaces are labeled and connectivity into the next site is referenced.
- 7B. See comments within the landscape plan.

8. Real Property Maurice Brooks / 303-739-7294 / mbrooks@auroragov.org / Comments in magenta)

- 8A. Check the tract designations. They should be consistent with the proposed plat(s). Easement designations also need to be checked against the Plat.



9. DEN Planning + Design (Lisa Nguyen / lisa.nguyen@flydenver.com)

9A. No additional comments beyond what were provided on 4/21/2023. This development will require an Avigation Easement, an example is attached.

Overall also needed to be included in next submittal:
Signage and striping elements for review
Pedestrian facilities - including sidewalk/trail interactions with roundabout, crosswalk design and placement, curb ramps (including ensuring proper design of ADA ramps inside splitter islands)

A page flip of the redlines is highly recommended. Please coordinate with Traffic Engineering so that we can arrange a time to discuss with our reviewer.

Current concept layout shows radial approach. Recommend revising approach geometry to promote left offset. Left offset will enhance the speed control measures and assist with the current concept's entry/exit path overlap concerns.

Left offset will also reduce the width of the splitter medians. It also reduces the size of the conflict area to prevent merging and weaving operation in the circle.

To address mobility interest, suggest integrating sidewalks and bike paths. Show pedestrian crossings and connectivity. Show bike lanes and lane terminations etc.

Outside edge geometry to be revised to remove concentric curves. Current R1 value is too fast.

Recommend utilizing 2 - 12-ft lanes and a 4-ft buffer - total entry width is 28-ft stripe to stripe.

Spiral is required to allow left turn to push to the outside lane and exit circulatory roadway.

Buffer to be maintained in circulatory roadway - match entry and exit dimensions 28-ft stripe to stripe.

Recommend extending splitter median as shown, min 100-ft. Flattening exit will assist in extending splitter.

Outside edge geometry to be revised to remove concentric curves.

Spiral is required to allow left turn to push to the outside lane and exit circulatory roadway. Spiral will help shrink the conflict area and affords the entering driver a clearer definition of the circulating traffic priority.

Recommend utilizing 2 - 12-ft lanes and a 4-ft buffer - total exit width is 28-ft stripe to stripe.

Recommend flattening exit to promote efficient geometry and less turbulent movements. Left offset will allow for the reduction in median width, along with the reduction in ICD.

Recommend utilizing 2 - 12-ft lanes and a 4-ft buffer - total exit width is 28-ft stripe to stripe.

Large conflict area promotes unsafe merging and weaving. (typ)

Buffer to be maintained in circulatory roadway - match entry and exit dimensions.

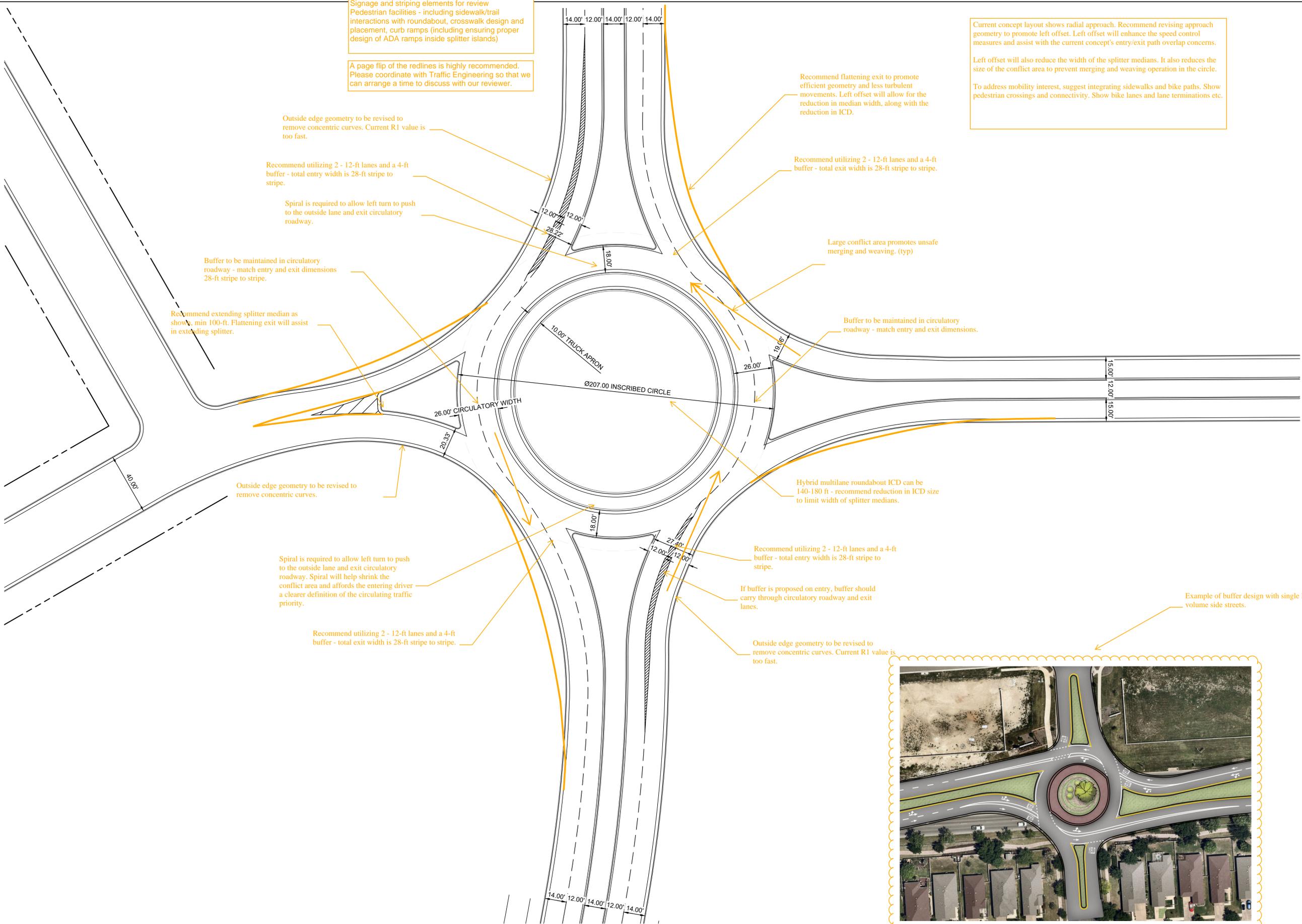
Hybrid multilane roundabout ICD can be 140-180 ft - recommend reduction in ICD size to limit width of splitter medians.

Recommend utilizing 2 - 12-ft lanes and a 4-ft buffer - total entry width is 28-ft stripe to stripe.

If buffer is proposed on entry, buffer should carry through circulatory roadway and exit lanes.

Outside edge geometry to be revised to remove concentric curves. Current R1 value is too fast.

Example of buffer design with single lane low volume side streets.



AURORA HIGHLANDS

Matrix

2435 Research Parkway, Suite 300
Colorado Springs, CO 80920
Contact:
Phone (719) 575-0100 | Fax (719) 575-0208
R:\21.1229.002 (The Aurora Highlands_North SP)\500 CADD\505 Exh10
2023-06-08_RAB

**PRELIMINARY
ROUNABOUT DESIGN**

JUNE 2023

R1 speeds for north/south entry are too fast. Revising geometry to provide left offset will lower R1 values.

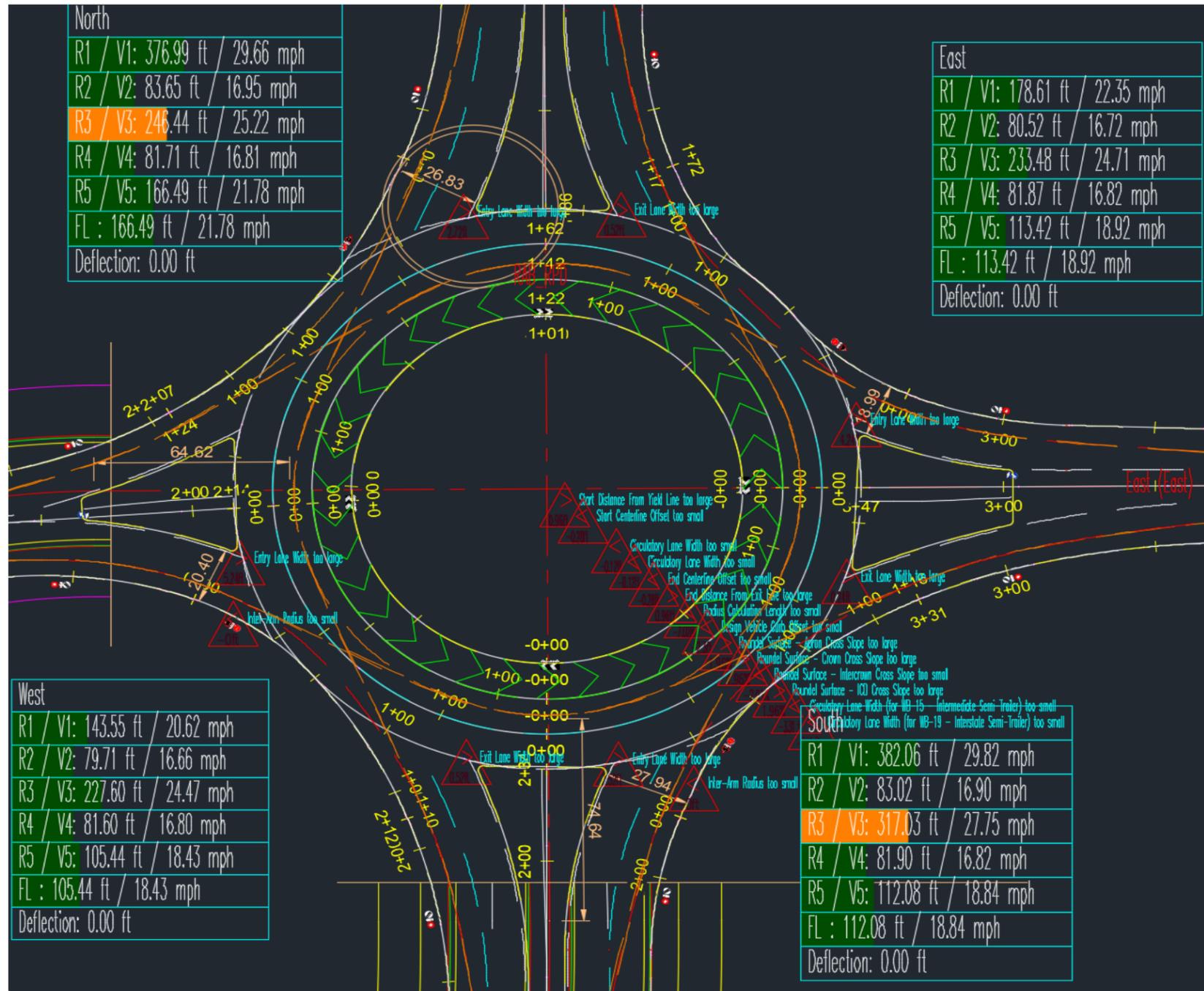
R5 values are too fast. Revising outside edge geometry and providing left offset will lower R5 values.

AURORA HIGHLANDS
PRELIMINARY ROUNDABOUT DESIGN

JUNE 2023

	NORTH			EAST			SOUTH			WEST		
	Radius [ft]	Speed [mph]		Radius [ft]	Speed [mph]		Radius [ft]	Speed [mph]		Radius [ft]	Speed [mph]	
		e = +0.02	e = -0.02		e = +0.02	e = -0.02		e = +0.02	e = -0.02		e = +0.02	e = -0.02
R1	376.99	34.00	30.59	178.61	25.48	23.25	382.06	34.18	30.74	143.55	23.42	21.45
R2	83.37	18.99	17.57	80.52	18.73	17.35	83.02	18.96	17.55	79.71	18.66	17.29
R3	246.44	28.85	26.17	233.48	28.26	25.65	317.03	31.80	28.70	227.60	27.98	25.41
R4	81.71	18.84	17.44	81.87	18.85	17.46	81.90	18.86	17.46	81.61	18.83	17.44
R5	166.49	24.80	22.66	113.42	21.38	19.68	112.08	21.28	19.59	105.74	20.81	19.18

Slope	Coefficient	Exponent
e = +0.02	3.4415	0.3861
e = -0.02	3.4614	0.3673



Intersection								
FASTEST SPEED PATH	Leg 1		Leg 2		Leg 3		Leg 4	
	North Leg	West Leg	South Leg	East Leg	North Leg	West Leg	South Leg	East Leg
R ₁ , Radius/Speed, FT/MPH	377	34	144	24	383	34	179	26
R ₂ , Radius/Speed, FT/MPH	84	20	80	19	84	20	81	19
R ₄ , Radius/Speed, FT/MPH	82	20	82	20	82	20	82	20
R ₅ , Radius/Speed, FT/MPH	167	25	106	21	113	22	114	22

R1 and R5 values are outside acceptable ranges, due to the large ICD and radial alignment of approaches.

GRANT OF AVIGATION EASEMENT

This GRANT OF AVIGATION EASEMENT (“**Avigation Easement**”) is executed and delivered as of this _____ day of _____, 2023, by _____ [a Colorado corporation _____], as owner of the Property as described below (“**Grantor**”), and **the City and County of Denver**, a municipal corporation of the State of Colorado (“**Grantee**”).

RECITALS

A. Grantor is the owner [in fee simple] of that certain real property located in the [City and County of Denver] [Aurora] [County of Adams], State of Colorado, legally described in **Exhibit A** attached hereto and incorporated herein by reference (the “**Property**”).

B. Grantee is the owner and operator of Denver International Airport (the “**Airport**”) situated in the County of Adams and in the City and County of Denver, State of Colorado.

1. GRANT OF AVIGATION EASEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor, for itself and its successors and assigns, does hereby grant, bargain, sell, and convey to Grantee and its successors and assigns, for the use and benefit of Grantee, the public, and all users of the Airport, the following easements, rights, and servitudes, which shall be appurtenant to the Airport as to Grantee, and in gross as to tenants and licensees of Grantee, and as to all users of the Airport, based on current as well as full Airport buildout of at least twelve runways, and other future development and/or increase in or expansion of Airport operations (collectively the “**Avigation Easement**”):

1.1 **Passage of Aircraft.** A perpetual nonexclusive easement and right of way for the passage of any and all **Aircraft** (as defined below) landing at, taking off from, or otherwise operating to or from the Airport in, to, over and through all airspace of the Property to an indefinite height (“**Passage of Aircraft**”).

1.1.1 As used herein, the term “**Aircraft**” shall include, but not be limited to, any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, whether manned or unmanned and regardless of propulsion method.

1.2 **Incidental Effects.** A perpetual nonexclusive easement and right to cause or create noise from the Passage of Aircraft over or above the Property, and to enter or penetrate into or transmit through any improved or unimproved portion of the Property or any airspace above the ground surface of the Property (the “**Airspace**”), such noise, sounds, vibrations, dust, turbulence, illumination, electronic interference, fumes, fuel vapor particles, interference with sleep and communication, and all other effects that may reasonably be caused by the Passage of Aircraft, (collectively “**Incidental Effects**”), including, without limitation, any Incidental Effects that may be objectionable or would otherwise constitute a trespass, a permanent or continuing

nuisance, personal injury or taking or damage to the Property due to invasiveness, intermittence, frequency, loudness, intensity, toxicity of Aircraft emissions or fuel, interference, emission, odor, annoyance or otherwise. This grant includes Incidental Effects from any future additions to or increases in or changes made to operations at the Airport, including full Airport buildout of at least twelve runways, and other future development and/or increase in or expansion of Airport operations.

1.3 **Waiver of Claims.** Grantor hereby waives, remises, and releases any right or cause of action Grantor may now have or which Grantor may have in the future against Grantee and any department, division, or agent of Grantee or the Airport and the United States of America due to the Passage of Aircraft or Incidental Effects. However, nothing stated in this easement shall divest Grantor or its heirs, successors or assigns of any right or cause of action for damages resulting from the unlawful or negligent operation of any aircraft.

2. COVENANTS

2.1 **Interference With Air Navigation.** In furtherance of the easements and rights herein granted, Grantor hereby covenants, for itself and its successors and assigns, at all times hereafter, as follows:

2.1.1 Grantor will not take any action, cause or allow any electronic, electromagnetic or light emissions, allow any obstruction to exist that would penetrate the “imaginary surfaces” per 14 CFR Part 77 for the Airport’s full twelve runway buildout, or construct any structure on the Property which would conflict or interfere with or infringe Grantee’s rights hereunder, including the full use and enjoyment of the Avigation Easement.

2.1.2 Grantor, its heirs, successors, and assigns shall comply with 14 C.F.R. Part 77 including as it may be amended or replaced.

2.1.3 Grantee may clear and keep the Airspace clear of any portions of buildings, structures, or improvements of any and all kinds, and of trees, vegetation, or other objects, including the right to remove or demolish those portions of such buildings, structures, improvements, trees or any other objects, which extend into the Airspace and the right to cut to the ground level and remove any trees which extend into the Airspace.

2.1.4 Grantee may mark and light, or cause or require to be marked or lighted, as obstructions to air navigation, any and all buildings, structures, or other improvements, and trees or other objects now upon, or that in the future may be upon, the Property, and which extend into the Airspace.

2.1.5 Grantor will not use or permit the use of the Property in such a manner as to create electrical or electronic interference with radio communication or radar operation between any installation upon the Airport and any Aircraft.

2.2 **Changes.** The rights, easements, benefits, waivers, covenants and Agreements granted hereunder, including the Avigation Easement, shall continue notwithstanding any

increase or other change in the boundaries, volume of operations, noise, development of new runways or pattern of air traffic at the Airport. The Avigation Easement and this Avigation Easement may not be modified, amended, terminated or abandoned except by execution and delivery of an instrument executed and acknowledged by Grantee, and Grantor agrees that, in the absence of such an instrument, no conduct by Grantee or increase, diminution or change in use of the Avigation Easement shall constitute either an overburdening of the Avigation Easement or a termination or abandonment of the Avigation Easement.

3. GENERAL PROVISIONS

3.1. **Interpretation.** No provision of this Avigation Easement is to be interpreted for or against any party because that party or that party's legal representative drafted such provision.

3.2. **Waiver.** No violation or breach of any provision of this Avigation Easement may be waived unless in writing. Waiver of any one breach of any provision of this Avigation Easement shall not be deemed to be a waiver of any other breach of the same or any other provision of this Avigation Easement.

3.3. **Severability.** In the event that any one or more covenant, condition, right, or other provision contained in this Avigation Easement is held to be invalid, void, or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Avigation Easement and shall in no way affect, impair, or invalidate any other covenant, condition, right, or other provision contained in this Avigation Easement.

3.4. **Additional Documents.** In addition to the documents and instruments to be delivered as provided in this Avigation Easement, Grantor or its successors and assigns shall, from time to time at the request of Grantee, execute and deliver to Grantee such other documents and shall take such other action as may be reasonably required to carry out more effectively the terms of this Avigation Easement.

3.5. **Governing Law.** This Avigation Easement Agreement has been negotiated and entered into in the State of Colorado, and shall be governed by, construed and enforced in accordance with the statutory, administrative and judicial laws of the State of Colorado. Venue for any action arising from this agreement shall be in the City and County of Denver.

3.6. **Integration.** This Avigation Easement, including the exhibits, constitutes the final, complete and exclusive statement of the parties relative to the subject matter hereof and there are no oral or parol agreements existing between Grantor and Grantee relative to the subject matter hereof which are not expressly set forth herein and covered hereby. This is an integrated agreement.

3.7. **Recordation.** This Avigation Easement shall be recorded in the real property records of the Clerk and Recorder of *[the City and County of Denver]* *[the County of Adams]*, State of Colorado.

[END OF PAGE]

IN WITNESS WHEREOF, the Grantor(s) have executed and delivered this Grant of Avigation Easement as of the date first set forth above.

ATTEST:

“GRANTOR”

Owner

By _____

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ____ day of _____,
2023 by_____.

My commission expires

Notary Public