

ZONE CHANGE APPROVAL CRITERIA:

A proposal for the establishment or change of zone district boundaries may be approved by the City Council only if the following findings are made:

1. The action will not be detrimental to the public interest, health, safety, convenience OR general welfare.

NES:

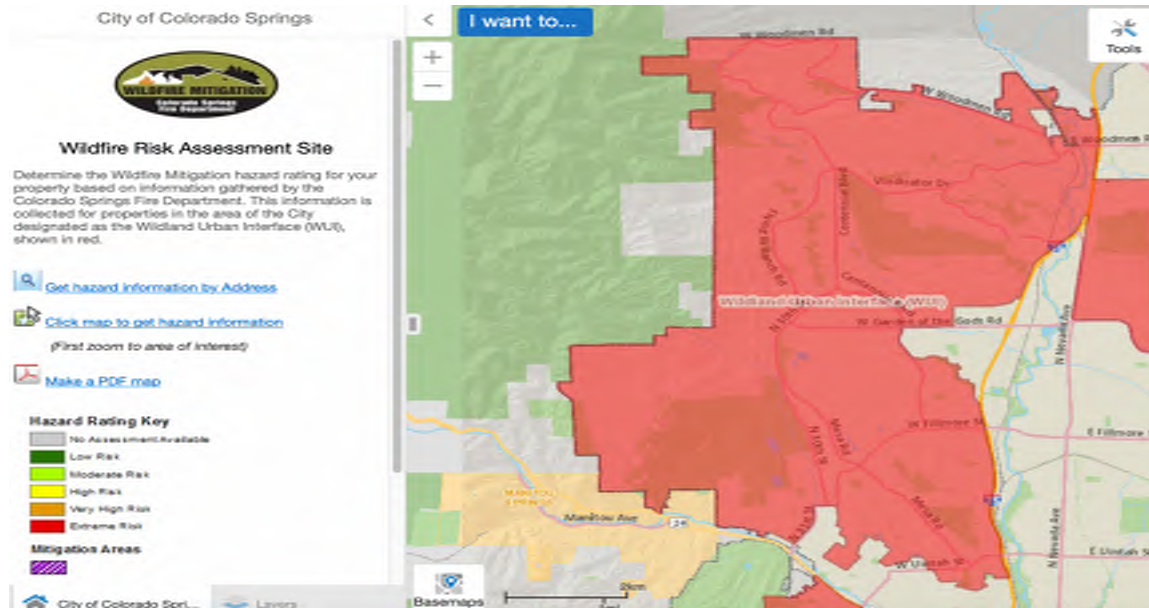
Conformance with Zone Change Criteria (Section 7.5.603) 1. THE ACTION WILL NOT BE DETRIMENTAL TO THE PUBLIC INTEREST, HEALTH, SAFETY, CONVENIENCE OR GENERAL WELFARE.

“The land uses proposed by the PUD are based upon the less intensive uses allowed in both the PIP1 zone and the OC zone and are uses that are generally considered more compatible with residential areas than many of the uses permitted in the current PIP1 zone. The PUD limits the height of the zoning to 45 feet, which is consistent with the existing PIP1 zone. The zoning maintains the PIP1 setbacks, which includes a 100-foot setback adjacent to residential areas. The proposed rezone will improve the transition from the Mountain Shadows single-family neighborhood to the north to the industrial uses along parts of 30th Street and Garden of the Gods Road and will not be detrimental to public interest, health, safety, convenience, or general welfare.”

MSCA:

The Developer uses general concepts to claim this proposed development will NOT BE DETRIMENTAL to the Public Interest, Health, Safety, Convenience or General Welfare; but fails to address the real DETRIMENTAL issues that negatively impact this unique geographic location with associated harm to the citizens of Mountain Shadows and our surrounding communities.

The Developer fails to address the added traffic congestion from the new apartment residents at this emergency wildfire evacuation chokepoint—added congestion that will further imperil the Health and Safety of the existing neighborhood and surrounding communities. This proposed development with over 1150 new apartment residents would add nearly one-third of the entire existing population of Mountain Shadows to this one single location. The Northwest side of Colorado Springs is designated as an Extreme Wildfire Risk with six local wildfires in the last six months alone. There are only four limited eastbound and southbound escape routes from the entire Northwest side of Colorado Springs, and this proposed development sits squarely at the intersection of two of them—Garden of the Gods Road to the east and 30th Street to the south.



The recent Colorado Wildfire Summit in February 2021 was hosted by Colorado Congressman Joe Neguse, along with Senators Bennet and Hickenlooper, Governor Polis, and the Colorado Executive Director of Public Safety Stan Hilkey. In the Wildfire Summit public discussion, Director Hilkey raised the concern of limited emergency wildfire evacuation routes and the resulting fatalities incurred in the wildfires that ravaged Colorado this last fall. The example of Colorado Springs in the 2012 Waldo Canyon Wildfire and the problem with limited evacuation routes was discussed along with the more recent local Colorado Springs wildfires in the fall of 2020. The specific issue of local government development “infill” versus “public wildfire safety” impacts in fire-prone areas of the **Wildland Urban Interface (WUI)** was recognized as a valid concern by both Congressman Neguse and Director Hilkey. They acknowledged that this potential “local governance” inconsistency needed to be addressed as part of the overall continued wildfire planning resulting from the Colorado Wildfire Summit. Like Mountain Shadows, several other neighborhoods in Northwest Colorado Springs including Peregrine face exactly the same public Health and Safety risk evidenced by the same limited east and southbound evacuation routes—including the Woodman Road corridor exit to I-25.

The Developer fails to address the negative impact to the Public Interest and General Welfare associated with high-density, multi-family apartments with a height above ground level of up to 45 feet blocking views and view corridors of the mountains and hillsides at this gateway location to the Garden of the Gods. The existing 2424GOTG building and the Navigators Headquarters building to the South were specifically designed and constructed with height limitations and significant setbacks from public rights-of-way along Flying W Ranch Road and 30th Street to ensure the existing mountain and hillside views and view corridors would not be obstructed.

The Convenience of the citizens in Mountain Shadows and the surrounding communities is yet another issue resulting from the added (non-emergency) traffic congestion from this proposed development. The Colorado Springs head traffic engineer, Todd Frisbie, recently stated that in Colorado Springs traffic congestion “is the biggest hurdle facing our road system.” He identified the “Garden of the Gods

corridor” as one of the largest CURRENT congestion concerns in the City along with Woodman Road. This is not only a clear daily Inconvenience to the public now, but will be further exacerbated by adding yet another third of the existing population of Mountain Shadows from the proposed 2424GOTG development, making an already bad situation even worse.

The Developer does not propose to meet the new Park Land Dedication Ordinance (PLDO) requirement for “5.5 acres Level of Service (LOS) of park land per 1000 residents,” but rather proposes to pay a fee to the City to **avoid having to provide 6.3 acres of required dedicated community park land** for the planned 1150 apartment residents. City Council has already just approved a reduction in the PLDO LOS requirement from 7.5 to 5.5. The LOS for the Northwest side of Colorado Springs that includes this proposed development, at 2.0 acres per 1000, is already one of the very lowest levels of service in the entire City. Adding another 1150 residents without dedicated park land will cause the level of service to decline even further below 2.0 putting even more stress on the already limited park resources in this sector. This is not just an inconvenience for the residents of Mountain Shadows community. It negatively impacts the Public Interest and General Welfare of the entire community by not helping to meet the 5.5 LOS Ordinance, making the already bad situation even worse.

Yet another negative impact to the Public Interest is the likely disruption to the local Bighorn sheep population, their habitat and their migration and birthing (lambing) areas that will be caused by 1150 high-density apartment residents at this location. Without dedicated park land at 2424GOTG, these residents will use the open space and possibly the private property to the West of this proposed development to hike and walk their dogs. The Colorado Parks and Wildlife (CPW) Bighorn Sheep Management Plan under “Human Disturbance” specifically identifies that people “walking with dogs, and activity near lambing areas may be most detrimental” to resident Bighorn. The lambing area for this herd is approximately 1400 feet from this development and numerous documented eye-witness accounts prove this resident herd frequents this very same 2424GOTG property.

This proposed development only adds to an already bad situation on so many levels: it is significantly detrimental to the Public Interest, Health, Safety, Convenience, and General Welfare of our community—it FAILS to meet ALL of the applicable Zone Change Approval Criteria under this section.

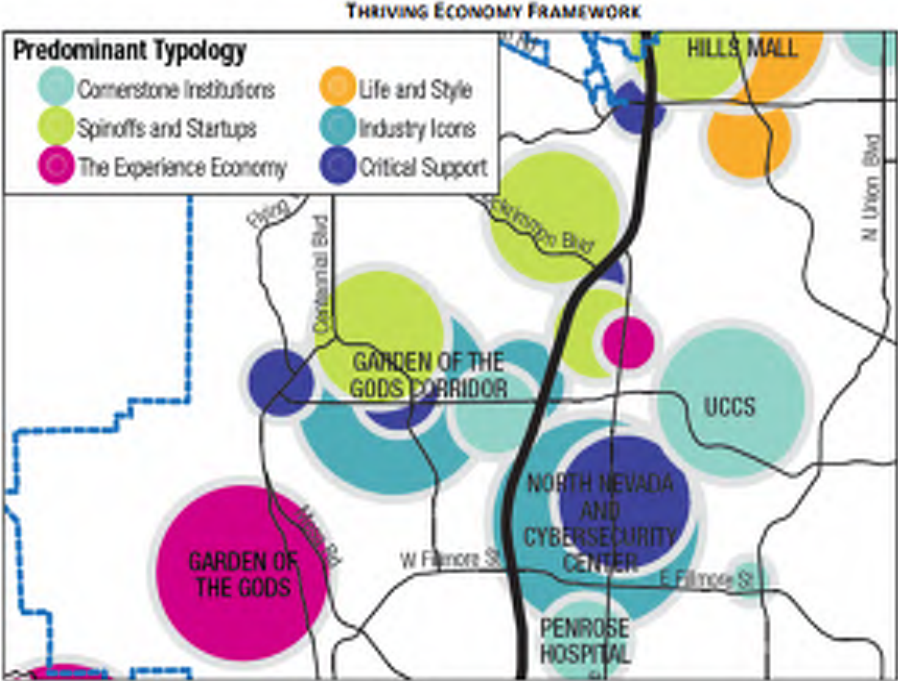
2. The proposal is consistent with the goals and policies of the Comprehensive Plan (PlanCOS).

NES:

Conformance with Zone Change Criteria (Section 7.5.603) 2. THE PROPOSAL IS CONSISTENT WITH THE GOALS AND POLICIES OF THE COMPREHENSIVE PLAN.

“This approach is consistent with the PlanCOS emphasis on infill and adapting to ever-changing market needs and demands. Policy UP-2.A supports infill and land use investment throughout the mature and developed areas of the city. PlanCOS also focuses on the importance of creating vibrant neighborhoods and providing diverse housing choices. Strategy VN-2.A-3 supports land use decisions and projects that provide a variety of housing types and sizes, serving a range of demographic sectors, and meeting the

needs of residents and families through various life stages and income levels.



The Thriving Economy Framework Plan shows the Garden of the Gods Road corridor as a major employment corridor with a focus on Industry Icons, Spinoffs and Startups, and Critical Support. The

Note that the blue dot over 2424GOTG is NOT consistent with the Critical Support Center PlanCOS Definition

2424 Garden of the Gods property is **shown** as a Critical Support center. PlanCOS strategies to support these typologies include: Strategy TE-1.C-2: Support and leverage projects and initiatives with mixed uses, transit supported and walkable attributes to attract and retain a skilled workforce and business investment Strategy TE-1.C-3: Ensure an adequate supply of attainable housing for the workforce across all industries, and that it is conveniently located near hubs of employment and/or public transportation. Strategy TE-4.A-1: Encourage revitalization and infill in underutilized urban places. Strategy TE-4.A-2: Ensure land use regulations allow for increased density in areas identified for this, including Downtown, activity centers, and urban corridors.”

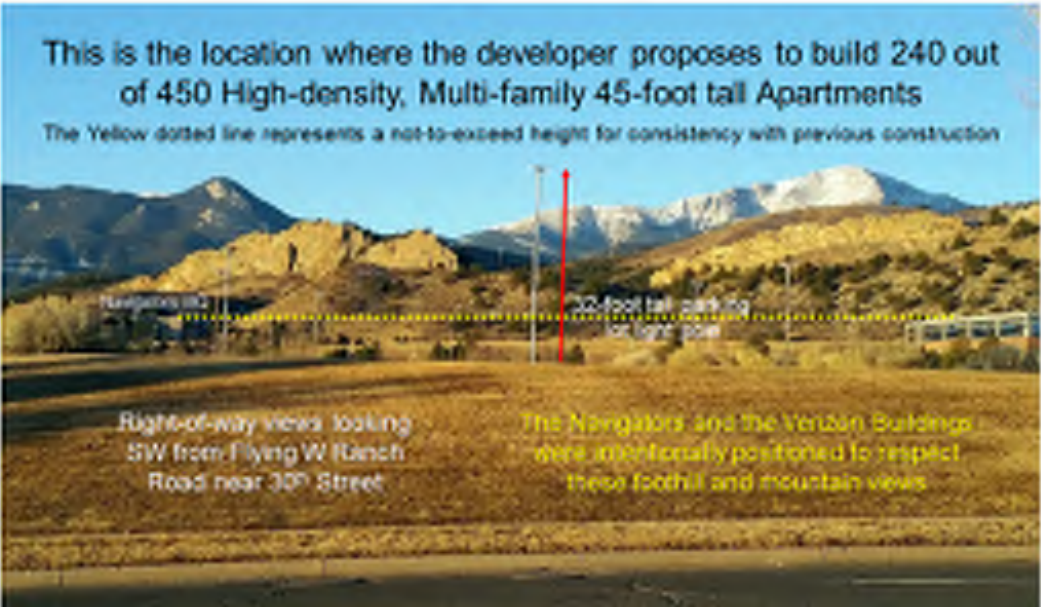
MSCA:

Note that many of the failed approval criteria identified in the earlier Zone change criteria discussion are also directly associated with parallel inconsistencies with goals and policies of PlanCOS discussed in the following section.

PlanCOS: “EMBRACE **CREATIVE INFILL**, ADAPTATION, AND LAND USE CHANGE. **“Unique Places” GOAL UP-2:** Embrace **thoughtful, targeted, and forward-thinking changes in land use, infill**, reinvestment, and redevelopment to respond to shifts in demographics, technology, and the market.”

The NES approach IS NOT thoughtful and forward-thinking relative to INFILL. Infill is appropriate in an underutilized ‘greenspace’ area on the East side of COS or downtown where additional housing choices are needed to match industrial and business growth in emerging activity centers; NOT in the Garden of the Gods corridor where ALL existing apartment complexes are underutilized with active rental promotions and incentives, and where additional high-density residential multi-family apartments are already being planned in the nearby true ‘greenfield’ area of west Fillmore Street and Centennial Blvd. "The Overlook" apartments will have up to 1075 units with over 2600 residents adding to the traffic congestion along the Garden of the Gods corridor. In response to this glut of local apartment residences in the Garden of the Gods corridor, the Developer has stated in public testimony that “residential need is not a requirement” for justifying the proposed 2424GOTG development. Yet the Developer tries to falsely embrace “housing choices and types” under PlanCOS “Vibrant Neighborhoods” as justification for adding even more multi-family high-density “market rate” housing where no need exists. Apartments are not housing choices, they are only one type of housing choice.

Infill at the 2424GOTG location is not consistent with PlanCOS and runs counter to being thoughtful and forward-thinking in several different key areas including “preserving and protecting our viewscapes” under PlanCOS “Majestic Landscapes” Goal MP-4, “limiting Development Encroachment” under Topology #3 recommendations identifying the Garden of the Gods Westside foothills area as a specific example of the kind unique iconic natural features that need to be respected and protected. It is in conflict with specific requirements of City Ordinance 96-80 14.1-2 504 (Hillside Overlay) and corresponding City Code 7.3.504 and the Hillside Design Manual that incorporates those code requirements. Specifically, the proposed 2424 GOTG development does not avoid/mitigate visual impacts upon offsite areas, respect existing views to the mountains and foothills, retain significant views of the natural ridge silhouette from public rights-of-way, nor enhance the quality of life of existing or future residents of Mountain Shadows and the surrounding communities.



The added traffic congestion from 1150 apartment residents at this critical emergency wildfire evacuation chokepoint will only further imperil the health and safety of the public when, not if, the next fire disaster happens. This is evidenced by the 5 local Colorado Springs wildfires in just 5 weeks during the fall of 2020 and, most recently, the wildfire off of 30th Street just down the road from this very same proposed high-density, multi-family apartment complex.

PlanCOS Goal ML-5 for “Hazard Mitigation Planning” and the supporting Strategy ML-5.A-5 to “*implement the Colorado Springs Hazard Mitigation Plan*” has not been addressed with this proposed development. Specifically, the implementation steps include identifying past events, impacts and vulnerabilities (like the limited evacuation routes demonstrated in 2012 Waldo Canyon wildfire disaster and other deadly wildfires across Colorado in the fall of 2020), assessment of hazard prone areas (like the mountains and foothills in proximity of this proposed development) and identifying gaps (like potential emergency evacuation traffic chokepoints and the added congestion presented by an additional 1300+ residents at 2424GOTG) and recommendations. The Hazard Mitigation Plan “serves as a tool to help decision makers direct and coordinate mitigation activities and resources, including local land use policies.” This PlanCOS Hazard Mitigation Planning strategy and implementation process have not been properly addressed for 2424GOTG and therefore present a direct threat to the existing and future residents of Mountain Shadows and the neighboring communities. As described earlier, the recent Colorado Wildfire Summit in February 2021 also raised the concerns with limited emergency wildfire evacuation routes and the resulting fatalities incurred in the wildfires that ravaged Colorado this last fall. The specific issue of local government development “infill” versus “public wildfire safety” impacts in fire-prone areas of the Wildland Urban Interface (WUI) was recognized as a valid concern and that this potential “local governance” inconsistency needed to be addressed as part of the overall continued planning resulting from the Wildfire Summit. This further highlights yet another inconsistency with PlanCOS goals.

The Developer has repeatedly stated that this project will not impact the resident Bighorn sheep “primary” habitat. This resident herd is one of Colorado Parks & Wildlife’s primary ‘feeder herds’ to help repopulate other Bighorn herds in Colorado and other parts of the Southwest. There have been numerous documented eye-witness testimonies that this herd is often found on and around the 2424GOTG property and that their birthing (lambing) area is just to the West of the planned 2424GOTG open space. PlanCOS “Majestic Landscapes” Goal ML-3 and supporting Strategy ML-3.A-4 addresses the “*impact of development on wildlife*” and “*preservation of significant wildlife corridors.*” PlanCOS Goal ML-4 and supporting Strategy ML-4.A-3 emphasizes “*protection of significant wildlife habitat in coordination with development proposals.*” The fact of the matter is this development with 1150 apartment residents poses a direct threat to the resident Bighorn population, their habitats (primary, secondary and transitory corridors), and their lambing area. 1150 residents with people hiking or walking dogs off this property into the adjacent open space and beyond will be “most detrimental” to this herd as documented in the Colorado Parks and Wildlife Bighorn Sheep Management Plan under the category of “Human Disturbance.” This proposed development is not consistent with these important PlanCOS goals and strategies to protect and preserve this critical wildlife habitat and migration corridors of this essential Colorado Springs Bighorn sheep herd.

In addition, the Developer states (incorrectly) that 2424GOTG is an actual Critical Support Center as defined by the PlanCOS “Thriving Economy.” Reference Typology 6: Critical Support Center examples identified in PlanCOS are the **El Paso County Citizens’ Service Center** (a mile and a half East down

Garden of the Gods Road from this proposed development), Colorado Springs Utilities, waste haulers, construction companies, and outdoor storage facilities. Such Critical Support Centers provide fundamental services and activities, accommodate large-scale utilities, and Incorporate and distribute Government Support Services—none of which apply to this current 2424GOTG property. 2424GOTG is not consistent with PlanCOS in its claim to be a Critical Support Center offering no more essential service capabilities than the new brewery across the street from this same location.

In summary, the proposed 2424GOTG development is not consistent with the Comprehensive Plan (PlanCOS) goals, strategies, objectives and recommendations concerning “*thoughtful and forward-thinking infill*” under PlanCOS “Unique Places” as well as “*preserving and protecting our Viewscapes,*” “*protecting and preserving wildlife habitat*” and “*implementing Hazard Mitigation Planning*” with respect to land use policies and strategies under PlanCOS “Majestic Landscapes.” It improperly claims this development is an essential “*critical support center*” under PlanCOS “Thriving Economy” and fails to justify the need/requirement for “*additional housing needs and types*” at this overserved location under PlanCOS “Vibrant Neighborhoods.” Based on this, the developer fails to address or misrepresents key aspects of PlanCOS and therefore fails to demonstrate overall consistency with the goals and policies of the Comprehensive Plan.

MSCA Demonstrating NES Visual Impact Analysis INACCURACIES

Prepared March 14, 2021

NES Response to MSCA Concerns

March 2, 2021

The building heights (33' for the 2-story building and 42' for the 3-story building) were accounted for in SketchUp which has full parameter capabilities.

The following diagram is from the NES Visual Impact Analysis document and is used to perform this analysis.

Looking south on N. 30th St.

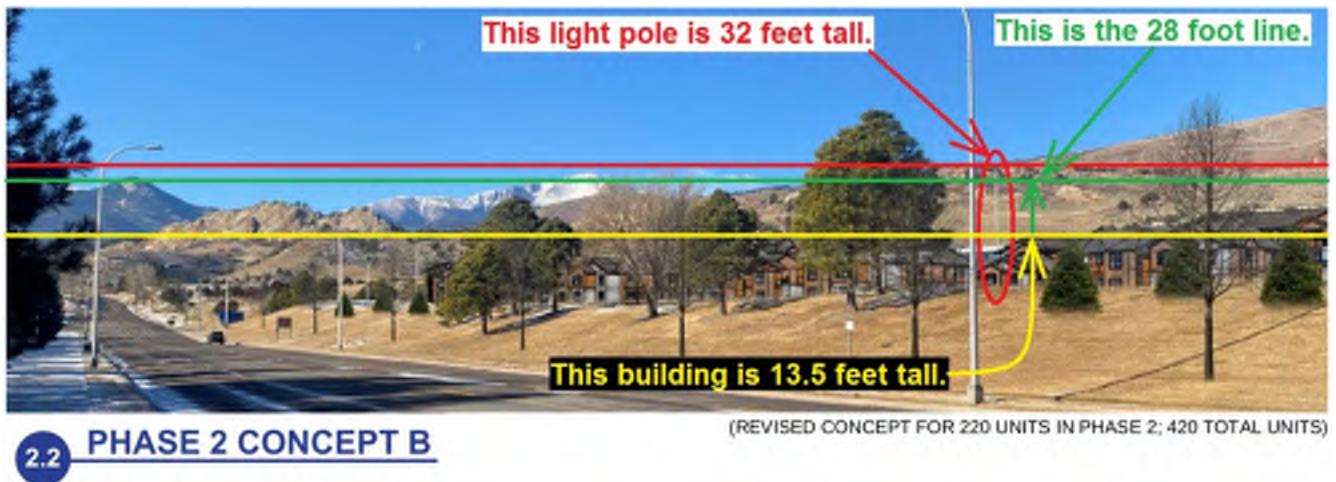
The 32 ft light pole is circled in RED (the exact location is explained below).

The Red horizontal line represents the height of the 32 ft light pole.

The Yellow horizontal line is the height of the NES depicted 2-story buildings for Concept B which are SUPPOSED to be defined as being 33 ft tall in the "NES Response to MSCA Concerns" (see above).

Using proportional calculations against the known height of the light pole, the NES depicted buildings are 13.5 feet tall.

The Green horizontal line at 28 feet was the MSCA assumed building height before NES provided their 33 ft tall building parameter.



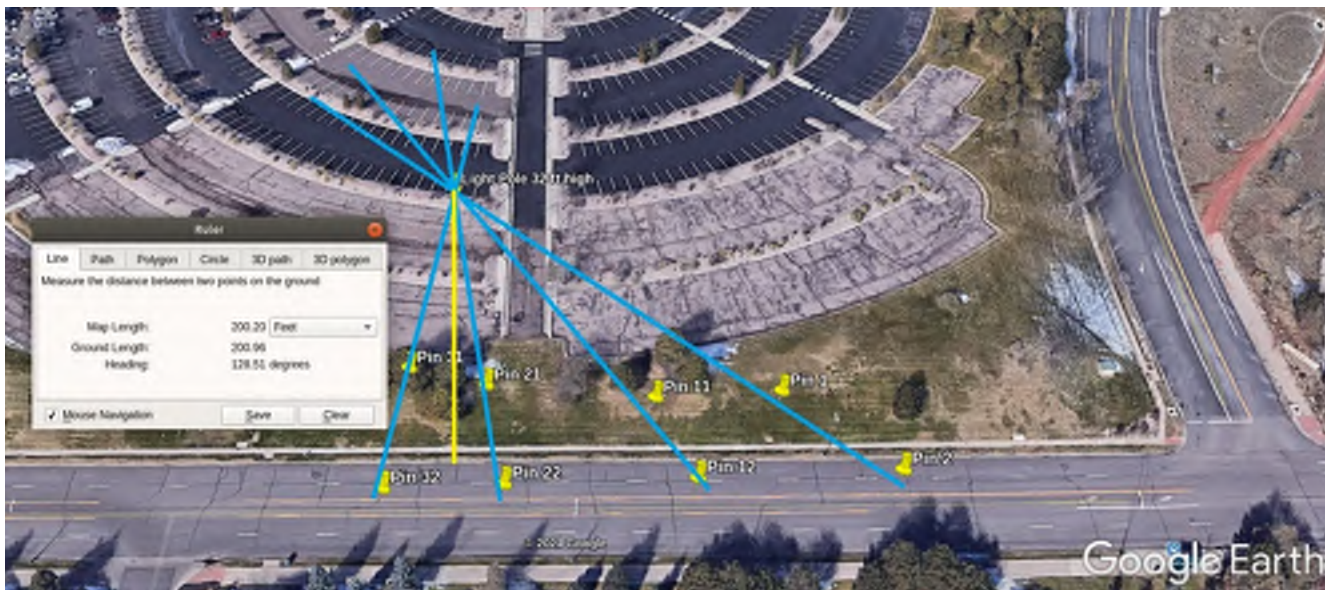
To determine the exact location of the light pole in the NES rendering, the “street view” option in Google Earth Pro was used to obtain the near identical view. The subject light pole is circled in Red.



The following diagram shows pairs of yellow Pins being placed along the road and hill while siting the light pole in Google Earth Pro and “driving” south (or to the left in the diagram) on N. 30th St.

The blue lines connect the pairs of Pins to establish the triangulation of the subject light pole.

Google Earth Pro was then used to establish the 200 foot setback. NOTE: Google Earth Pro accuracy is withing 1 foot.



At street view on N. 30th St., the NES subject light pole is identified in the Blue circle. The Red horizontal line represents the 32 ft height of the light pole. As mentioned above, the NES defined height of a 2-story building is 33 feet. This diagram clearly demonstrates that from street view and a 200 foot setback, the views of the hillsides and mountains are 100% blocked.



Thank you for reviewing:

MSCA Demonstrating NES Visual Impact Analysis INACCURACIES