

**CITY OF COLORADO SPRINGS PLANNING COMMISSION  
RECORD-OF-DECISION**

**NEW BUSINESS CALENDAR**

**DATE:** November 20, 2014  
**ITEM:** 6.A-6.C  
**STAFF:** Larry Larsen  
**FILE NO.:** CPC MP 02-00254-A3MJ14, CPC ZC 14-00080, CPC CP 14-00081  
**PROJECT:** Powerwood No. 2 North

**STAFF PRESENTATION**

Mr. Larry Larsen, City Senior Planner presented PowerPoint slides (Exhibit A) and offered his recommendation for approval of the project.

Mr. Steve Kuehster, City Engineering, reviewed the drainage report for this site at a concept plan level based upon the current criteria, which is a 2002 Council-approved drainage basin study. He explained that a detailed final drainage plan will be provided and reviewed at the time of development plan and subdivision plat submittal.

**APPLICANT PRESENTATION**

Ms. Andrea Barlow, NES Inc., presented PowerPoint slides (Exhibit B).

Commissioner Henninger now excused.

**CITIZENS IN FAVOR**

None.

**CITIZENS IN OPPOSITION**

Mr. Ross Clinger said he did not oppose the project, but asked the Commission to approve it subject to conditions. He felt conditions should be imposed related to previous commitments for sidewalk, trail and road connections, and that drainage issues and concerns being fixed, which he stated did not occur because the project was never approved. He displayed a restricted deed that was to be recorded but claimed it was never signed. He said the deed was imposed by the State Health Department as a condition of a state required cleanup plan for an abandoned shooting range. (Exhibit C)

Mr. Larsen displayed a copy of the same 2009 letter from the State Public Health Department, explaining that the cleanup plan was implemented, that no further action was needed, and the proposed use of the property for residential use was acceptable.

Commissioner Donley suggested that prior to release of the development plan that an updated letter from State Public Health Department. should be received.

# CITY OF COLORADO SPRINGS PLANNING COMMISSION

## RECORD-OF-DECISION

### APPLICANT REBUTTAL

Ms. Barlow stated the applicant will comply with all City Engineering's requirements for stream bank and drainage. There is no requirement that the property remain vacant. She objected to the requirement for a revised State letter because nothing has occurred on the site since the 2009 letter was issued and the development may be "held for ransom" if a response is not received.

Commissioner Shonkwiler agreed.

### DECISION OF THE PLANNING COMMISSION

Commissioner Markewich found that all applications have merit and comply with the review criteria. He supported the applications.

Commissioners McDonald and Smith agreed with Commissioner Markewich's comments.

Commissioner Donley found the project complied with the Comprehensive Plan and review criteria.

Ms. Renee Congdon stated the Release of Deed Restriction provided by Mr. Clinger cites the 2009 letter and took into account the public County record.

Moved by Commissioner Donley, seconded by Commissioner Phillips, to approve **Item No. 6.A-File No. CC MP 02-00254-A3MJ14**, the Powerwood No. 2 Master Plan Amendment based upon the finding that the plan amendment complies with the review criteria of City Code Section 7.5.408, subject to the following conditions, and technical and informational modifications:

1. The entire property is included in Woodmen Heights Metropolitan District No. 3 which is a commercial district. Prior to approval of this master plan, the Woodmen Heights Metropolitan Districts will need to exclude this property from District 3 and include it in District No. 2 (the residential district). Provide the District's approval that this has been accomplished.
2. Provide Engineering Development & Subdivision Review's approval of the drainage report.
3. Provide City Traffic acceptance of the updated traffic impact analysis for this project.
4. On the Sheet 2 graphic insert "Reserve R.O.W." between the neighborhood commercial and the community commercial pods.
5. On Sheet 2, align the proposed internal access with Sorpresa Lane.
6. The plan indicates a signal at the two proposed internal accesses with Tutt Blvd intersection. The Traffic Impact Analysis prepared by LSC on 10/24/2014 does not warrant signals at those intersections. On Sheet 2, remove the traffic signals shown on the plan.

Motion carried 6-0 (Commissioners Henninger and Walkowski excused).

Moved by Commissioner Donley, seconded by Commissioner Phillips, to approve **Item No. 6.B-File No. CPC ZC 14-00080**, the rezone to the R-5/AO/SS (Multi-Family Residential with Airport and Streamside Overlays) zone district, based upon the finding that the change complies with the zone change criteria found in City Code Section 7.5.603.B. Motion carried 6-0 (Commissioners Henninger and Walkowski excused).

# CITY OF COLORADO SPRINGS PLANNING COMMISSION

## RECORD-OF-DECISION

Moved by Commissioner Donley, seconded by Commissioner Phillips, to approve **Item No. 6.C-File No. CPC CP 14-00081**, the Powerwood No. 2 North concept plan based upon the finding that the plan complies with the concept plan review criteria in City Code Section 7.5.501.E, subject to the following conditions and technical and informational modifications:

1. Show the City file number, "CPC CP 14-00081", in the lower right corner of the each sheet.
2. On Sheet 2, indicate the existing City boundary along the northern project boundary.
3. On Sheet 1, add the following new general note: "At the time of final plat recording, an Avigation Easement or proof of previous filing (book/page or reception number) will be provided".
4. ~~Prior to development plan, staff will contact the State Health Dept. and verify the letter received in 2009 gave full consideration to deed restriction regarding the firing range and associated buried material. If the State Health Dept. is nonresponsive, staff is free to proceed with approval of a development plan.~~

Commissioner Markewich felt the additional language is appropriate to reach out to the State.

Commissioner Smith did not support the additional modification and felt it was not necessary. He felt the lack of time limit would freeze the staff.

Commissioner McDonald agreed a time limit is necessary, and doesn't hurt to double check with the State.

Commissioner Donley withdrew his additional modification, and was seconded by Commissioner Smith (see strikethrough above).

Motion carried 6-0 (Commissioners Henninger and Walkowski excused).

\_\_\_\_\_  
November 20, 2014  
Date of Decision

\_\_\_\_\_  
Planning Commission Chair

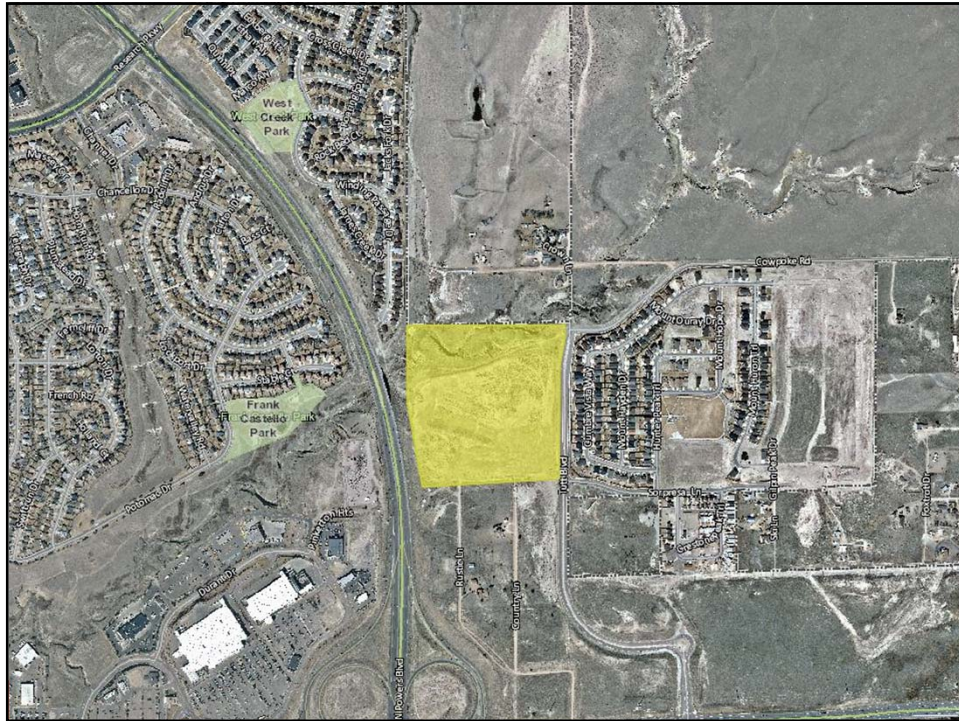
Powerwood No.2 North Master Plan Amendment,  
Zone Change & Concept Plan

City Planning Commission  
November 20, 2014

Larry Larsen, Senior Planner

Powerwood No.2 North Master Plan Amendment,  
Zone Change & Concept Plan

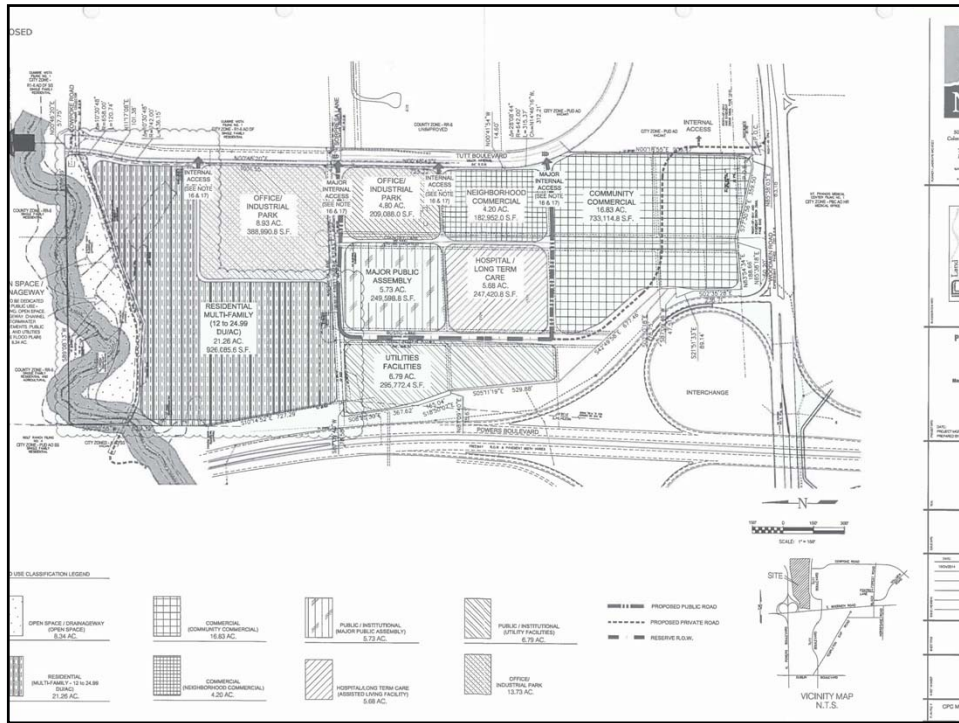
- ✓ Powerwood No.2 Master Plan Amendment (CPC MP 02-00254-A3MJ14);
- ✓ Powerwood No. 2 North Change of Zoning to “R-5/AO/SS” (Multi-Family Residential with Airport & Streamside Overlays) (CPC ZC 14-00080); and
- ✓ Powerwood No.2 North Concept Plan (CPC CP 14-00081)



Powerwood No.2 North Master Plan Amendment,  
Zone Change & Concept Plan

MASTER PLAN AMENDMENT:

- ✓ From: Office / Industrial Park  
To: Residential (12 to 24.99 dwelling units per acre)
- ✓ Multi-family Residential (Apartments)
- ✓ Primary Access: Sorpresa Lane to Tutt Boulevard
- ✓ New Internal Private Streets.



## Powerwood No.2 North Master Plan Amendment, Zone Change & Concept Plan

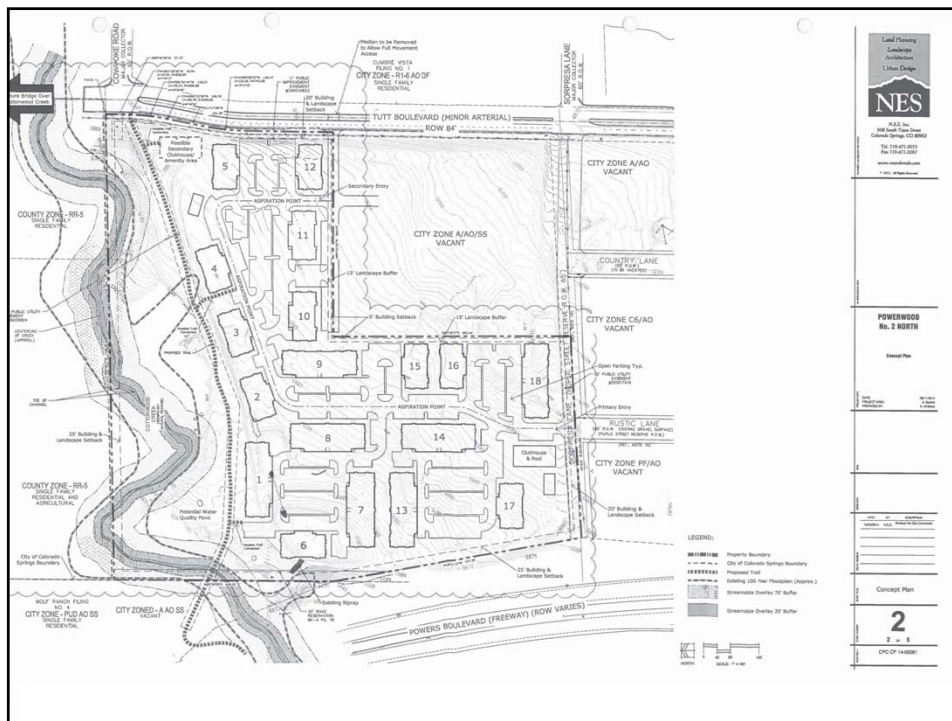
### ZONE CHANGE:

- ✓ From: Agricultural with Airport and Streamside Overlays (A/AO/SS)
- ✓ To: Multi-Family Residential with Airport and Streamside Overlays (R-5/AO/SS)

## Powerwood No.2 North Master Plan Amendment, Zone Change & Concept Plan

### CONCEPT PLAN:

- ✓ Allow Multi-Family Residential Use
- ✓ Conceptual site layout:
  - ✓ Building location & orientation
  - ✓ Parking
  - ✓ Access via Sorpresa & Tutt
  - ✓ Open Space, trails and drainage
  - ✓ "R-5" Development Standards



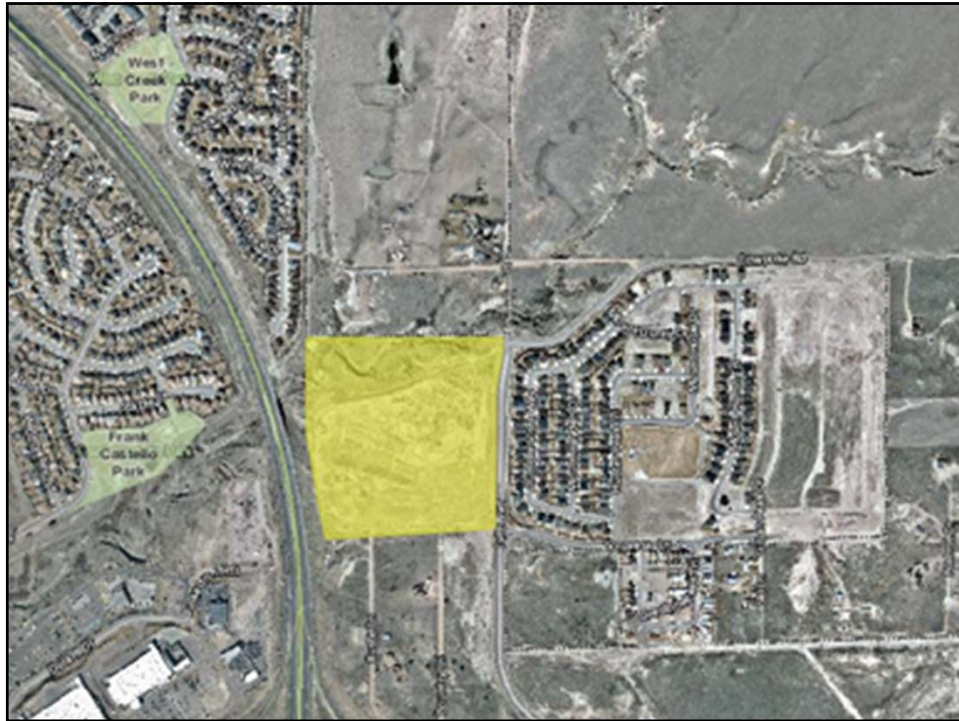


## Powerwood No.2 North Master Plan Amendment, Zone Change & Concept Plan

### DESIGN AND DEVELOPMENT ISSUES:

- ✓ Vicinity apartment projects
- ✓ Traffic, traffic & traffic
- ✓ Building heights & view protection
- ✓ Voluntary clean-up plan: shooting range
- ✓ Open space, streamside, drainage





### Powerwood No.2 North Master Plan Amendment, Zone Change & Concept Plan

#### FINDINGS:

- ✓ Compliance with City Comprehensive Plan;
- ✓ Compliance with City Annexation Plan;
- ✓ Compliance with the Powerwood No.2 Master Plan, as proposed to be amended;
- ✓ Compliance with zone district change review criteria found in City Code Section 7.5.603.B.; and
- ✓ Compliance with the Concept Plan review criteria found in City Code Section 7.5.501.D.

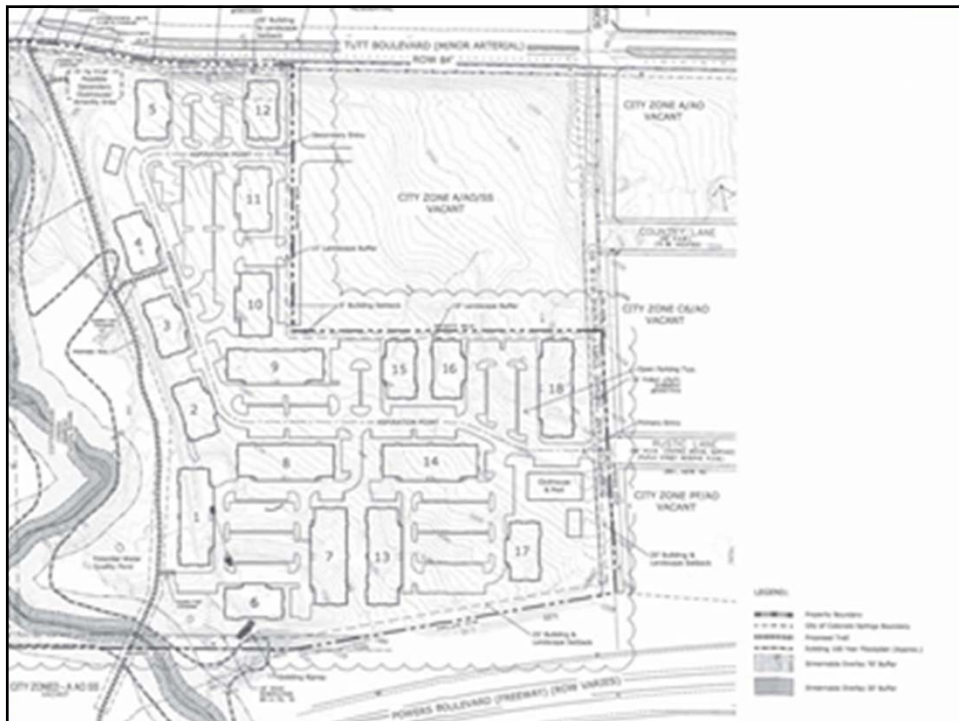
Powerwood No.2 North Master Plan Amendment,  
Zone Change & Concept Plan

SUMMARY / RECOMMENDATION:

- ✓ Approve the Powerwood No.2 Master Plan Amendment;
- ✓ Approve the zone district change to “R-5/AO/SS” Multi-Family Residential with Airport and Streamside Overlays; and
- ✓ Approve the Powerwood No.2 North Concept Plan.

Powerwood No.2 North Master Plan Amendment,  
Zone Change & Concept Plan

QUESTIONS?



# POWERWOOD 2 NORTH

City Planning Commission: November 20, 2014

## Context Map



## Applications

- **Zone Change** - from A-1 to R-5 for the 29.6 acres.
- **Master Plan Amendment** – to change approximately 10 acres of office/industrial designated land to multi-family with a density range of 12 – 24.99 units per acre.

## Existing Master Plan



## Proposed Master Plan



## Applications

- **Zone Change** - from A-1 to R-5 for the 29.6 acres.
- **Master Plan Amendment** – to change approximately 10 acres of office/industrial designated land to multi-family with a density range of 12 – 24.99 units per acre.
- **Concept Plan** - a 482 unit multi-family development, with a gross density of 16.3 dwellings per acre.

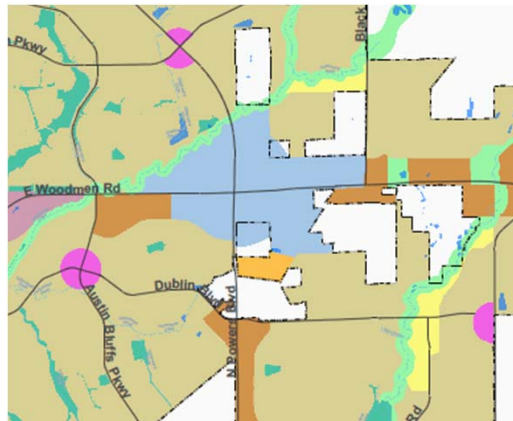
## Concept Plan



## Neighborhood Issues

- Density

## 2020 Land Use Plan



"Regional Centers are large areas of concentrated activity that combine a mix of uses, such as employment, shopping, and higher density housing."

## Neighborhood Issues

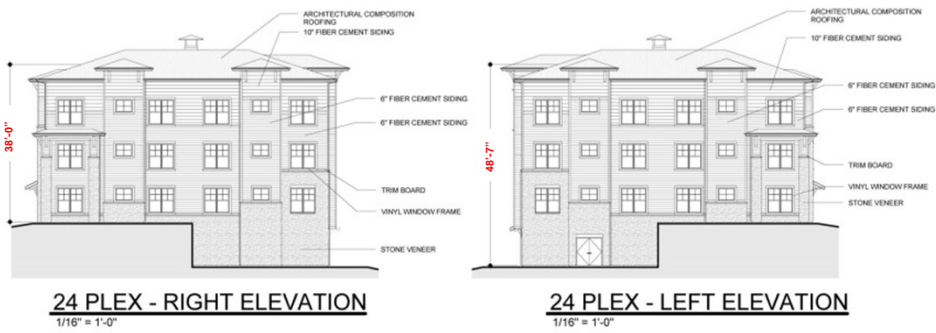
- Density
- Impact on Views



# Concept Plan



# Building Height



## Neighborhood Issues

- Density
- Impact on Views
- Parking

## Concept Plan



## Neighborhood Issues

- Density
- Impact on Views
- Parking
- Traffic

## Traffic Issues

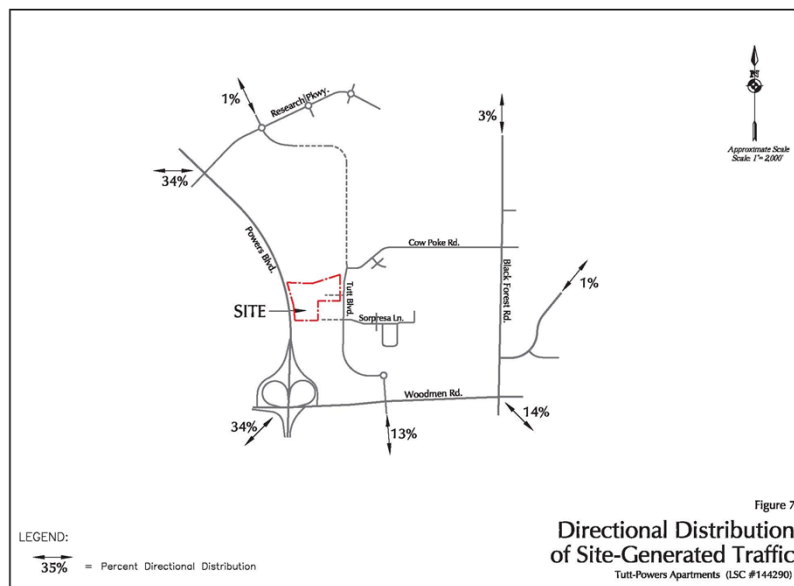
- Trip Generation



## Traffic Issues

- Trip Generation
- Project Traffic Distribution

## Project Traffic Distribution



## Traffic Issues

- Trip Generation
- Project Traffic Distribution
- Impact to Area Streets & Intersections
- Recommendations

## Neighborhood Issues

- Density
- Impact on Views
- Parking
- Traffic
- Drainage/Creek Erosion
- Metro District

# Questions?





PLANNING AND DEVELOPMENT  
Land Use Review

November 7, 2014

<b>Reviewing Planner:</b> Larry Larsen, AICP (719) 385-5090 llarsen@springsgov.com	<b>Plans can be reviewed at:</b> 30 S. Nevada, Suite 105 Colorado Springs, CO 719-385-5905	<b>Hours of Operation:</b> Mon - Fri 8am-5pm
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**PUBLIC NOTICE**

The City Planning Commission will hold a hearing on request by NES, Inc. on behalf of RMG-RS Holdings, LLC for consideration of the following development applications:

- FILE NO.: CPC MP 02-00254-A3MJ13** – An amendment to the Powerwood No. 2 Master Plan;
- FILE NO.: CPC ZC 14-00080** – Change of Zoning from A (Agricultural) to R-5 (Multi-Family Residential District); and
- FILE NO.: CPC CP 14-00081** – The Powerwood No. 2 North Concept Plan.

The applications would allow for the development of The Powerwood No.2 North project. This project includes: 482 multifamily residential apartment units, 18 residential buildings, with a maximum height of 45 feet, a clubhouse with pool, parking areas, private access drives, landscaping areas and the Cottonwood Creek open space with drainage facilities.

The property is located northwest of the Tutt Boulevard and Sorpresa Lane intersection and consists of approximately 29.61 acres.

You are welcome to attend this public hearing and express your viewpoint concerning this proposal.

**The City Planning Commission will hold a Public Hearing on this project. The Planning Commission meeting will be held November 20, 2014, in City Hall Council Chambers, located at 107 N. Nevada Avenue, Colorado Springs, CO. The meeting begins at 8:30 a.m., and continues until all items on the agenda have been heard.**

To view this application and related documents, please visit [www.springsgov.com](http://www.springsgov.com), please select "Land Use Review" from the Departments drop down list, and click on "LDRS-Plan Search." Type the entire file numbers: CPC MP 02-00254-A3MJ13, CPC ZC 14-00080 or CPC CP 14-00081 within the "Enter the File Number" field and click on the "Run Query" button. You can view PDF documents by clicking on the links that appear on the left-hand side of the resulting page. Please contact Larry Larsen at 719-385-5090 for assistance viewing this application or prior to the meeting, you may review the plans for this project by bringing this postcard to the address listed above.

Save Soil

←  
???

① 2007 Approval Drainage to Cottonwood Creek -

- A. To ARMED Banks of CWC ← Developed Flow ✓
- B. To build sidewalk on cowpoke Both Sides from Tutt to Black Forest ← didn't happen ✓
- C. Consent to CWC Trails System, didn't happen ✓





**EXPLANATION**  
 — VCUP Property Boundary



Powerwood #2 and #3 Developments  
 Colorado Springs, Colorado

**FIGURE 2**



**VICINITY MAP**  
N. T. S.

**DATA:**  
 Survey: 2011  
 Survey Date: 11/15/11  
 Surveyor: [Name]  
 Project: [Name]  
 City: [Name]

**LEGAL DESCRIPTION:**  
 [Detailed legal description of the property, including lot numbers and dimensions.]

**GENERAL NOTES:**  
 1. [Note 1]  
 2. [Note 2]  
 3. [Note 3]

**LEGEND:**  
 [Legend for symbols used in the plan, such as building footprints, parking lots, and setbacks.]

**SHEET INDEX:**  
 [Index of sheets for the project.]

Exhibit : C  
 Items: 6.A-6.C  
 CPC Meeting: November 20, 2014

ROBERT C. "BOB" BALINK El Paso County, CO  
12/04/2006 09:58:15 AM  
Doc \$0.00 Page  
Rec \$31.00 1 of 6 206175304

Robert Scott G.C.  
2760 BLOOMING BLUFF DR  
COLORADO SPRINGS, CO 80919

RESTRICTED DEED or DEED RESTRICTION

Property Definition

These Environmental Restrictions apply specifically to an approximate .763 acre land area within the Powerwood #2 Development located in Colorado Springs, Colorado. The land area, hereinafter referred to as "the Property", is more particularly described as follows:

Insert legal survey description.

SEE EXHIBIT "A"

Purpose

The purpose of the Environmental Restrictions is to ensure protection of human health and the environment by minimizing the potential for exposure to identified environmental hazards that remain on the Property. The Environmental Restrictions will accomplish this by restricting or minimizing those activities that result in disturbing the ground surface to a depth greater than 10 feet below ground surface (bgs), and by creating a review and approval process to ensure that any such intrusive activities are conducted with appropriate precautions to avoid or eliminate any environmental hazard.

Acknowledgement

Infinity hereby acknowledges that lead contaminated hazardous soils have been treated to non-hazardous condition and reused on the Property as backfill material. These amended soils, along with soils containing non-hazardous concentrations of polynuclear aromatic hydrocarbons (PAH), remain onsite at a depth of approximately 12 feet bgs and extend to a depth of approximately 25 feet bgs on the Property. Survey data indicating the burial depths are attached as Attachment A.

Applicability

The Property as described above shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth below, which shall run with the Property in perpetuity and be binding on Infinity and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land.

These Environmental Restrictions are subject to the Property in perpetuity and will only be relieved if the subject materials identified above are removed and properly disposed ofsite or if environmental regulations change that may affect the status of the subject material causing the restrictions to be removed.

P. I

Back side of page (6)

Page 6 of 6

This page P.I.b.

Rec. # (206175304)



Office of County Clerk and Recorder  
El Paso County, State of Colorado  
Certified to be a full, true and Correct  
Copy of record in my Office. —

Book..... Page.....  
Date..... 11-18-14

Wayne W. Williams  
County Clerk & Recorder

El Paso County, Colorado  
By Karen Anderson Deputy

Page 1 b.

### Land Use Restrictions

1. The Property shall be used for non-residential uses only;
2. No Stormwater detention ponds or man made lakes or ponds shall be located on the Property; and
3. Groundwater on the Property shall not be removed by well or other means for domestic, agricultural, commercial, or other use. For the purpose of this restriction, "groundwater" means subsurface waters in a zone of saturation that are or can be brought to the surface of the ground or to the surface waters through wells, springs, seeps or other discharged areas. This limitation shall not apply "monitoring wells" for use solely to obtain groundwater samples for analysis.

### Excavation Restrictions

In addition to the land use restrictions, any excavation on the Property exceeding 10 feet below the existing ground surface as established by survey (Attachment A) shall be bound by the following requirement:

- No Person shall undertake or conduct, or cause to undertake or conduct, excavation greater than 10 feet bgs without written approval by the **Powerwood #2 Property Management and/or Property Owner** having been first obtained.
- Any Person desiring to undertake or conduct, or cause to undertake or conduct, work that results in an excavation greater than 10 feet bgs, shall first submit an application to the **Powerwood Property Management and/or Property Owner**, which shall have authority to grant approvals for an Activity, that, at a minimum, shall contain the following information:
  1. The location and nature of the proposed Activity or Development, together with a site map indicating the areas to be disturbed.
  2. The depth of any proposed excavation and total volume of soil or material to be excavated or disturbed.
  3. The dimensions of all surface areas to be disturbed.
  4. The volume of soil or other material to be removed, backfilled, or disposed offsite
  5. The duration of the proposed Activity (exposure of soil or material excavated).
  6. A schedule for the completion of applicant's work.

P. 2

- Any disturbed soil or material that is to be stored above ground shall be securely contained on and covered with a durable non-permeable tarp or other protective barrier so as to prevent the leaching of contained material onto or into the surface soil.
- Materials excavated from depth greater than 10 feet bgs must be returned to that depth on completion of the work or be disposed offsite as a special waste (Subtitle D facility). Backfilling of such material will be conducted under the supervision of the **Powerwood Property Management, the Property Owner, or its designated representative.**
- A site health and safety officer having a minimum of 16 hours of OSHA-required lead awareness training, and whose responsibility is to ensure that all personnel participating in the work adhere to safety regulations and security precautions, and shall be present at all times during excavation activities.

**Binding Effect**

Infinity and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land agrees to incorporate either in full or by reference these Environmental Restrictions in any leases, licenses, or other instruments granting a right to use the Property.

\_\_\_\_\_  
INFINITY HOLDING COMPANY, LLC  
BY ROBERT E. ORMSTON, PRESIDENT

P. 3



**EXHIBIT "A"**

**COMMERCIAL SITE TREATED MATERIAL BOUNDARY**

Legal Description

A parcel of land located in the Northwest One-Quarter of Section 6 of Township 13 South, Range 65 West of the 6<sup>th</sup> P.M., City of Colorado Springs, County of El Paso, State of Colorado, being a portion of tract of land described in the Quit Claim Deed recorded January 4, 2005 at Reception No. 205001418 of the records in the Office of the Clerk and Recorder of said El Paso County, Colorado, said parcel of land being more particularly described as follows:

Commencing at the West One-Quarter Corner of said Section 6, from which the Northwest Corner thereof bears North 00°45'35" West, 2635.07 feet; thence North 58°16'11" East, 997.51 feet to the TRUE POINT OF BEGINNING:

- Thence North 40°34'28" East, 46.51 feet;
- Thence North 58°46'49" East, 70.68 feet;
- Thence South 52°28'18" East, 86.19 feet;
- Thence South 55°15'50" East, 86.22 feet;
- Thence South 54°31'18" East, 83.80 feet;
- Thence South 42°39'31" East, 69.30 feet;
- Thence South 55°08'09" West, 42.15 feet;
- Thence South 33°57'13" West, 36.23 feet;
- Thence North 58°50'30" West, 86.47 feet;



Legal Description Continued

November 30, 2006

Page 2 of 2

Thence North 59°53'49" West, 83.62 feet;

Thence North 52°44'03" West, 84.35 feet;

Thence North 59°16'14" West, 89.38 feet to the TRUE POINT OF BEGINNING.

**CONTAINING:** 0.763 Acres or 33,242 Square Feet, more or less.

**SUBJECT TO** all Covenants, Rights, Rights-of-Way and Easements of Record.

A graphical depiction, **EXHIBIT "B"**, of the above described property is attached hereto as an aid in the visual interpretation of the written document.

Ian Cortez, P.L.S. No. 32822  
Prepared for and on behalf of  
Matrix Design Group, Inc.



Matrix Design Group, Inc.

*S:\Garden of the Gods Office\05.185.005 (Tut Construction)\Survey\Legal\Comm Mail Site.doc*

P.S.

Exhibit : C

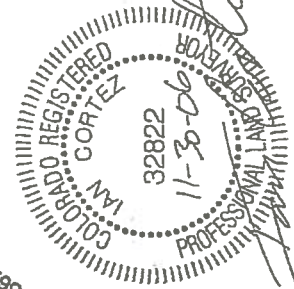
Items: 6.A-6.C

CPC Meeting: November 20, 2014

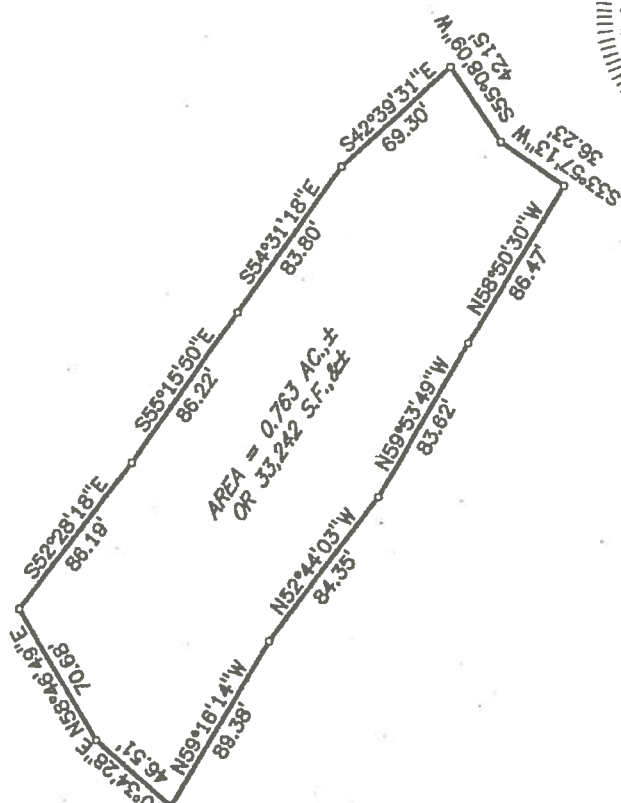




TUTT BOULEVARD  
FILING NO. 2  
(RECEPTION NO. 206712270)  
TUTT BOULEVARD



UNPLATTED  
(RECEPTION NO. 206001418)



NW COR. SEC. 6,  
T13S, R65W, 6TH P.M.,  
2-1/2" ALUMINUM CAP  
STAMPED "LS 17477"

TRUE POINT  
OF BEGINNING

POINT OF COMMENCEMENT  
W1/4 COR. SEC. 6,  
T13S, R65W, 6TH P.M.,  
2-1/2" ALUMINUM CAP  
STAMPED "LS 17477"

(BASIS OF BEARINGS)  
N00°43'35" W  
2635.07'

N59°16'11"E  
THE LINE CONT'D  
897.51'

CERTIFICATION ON back side →



Matrix Design Group, Inc.

Integrated Design Solutions  
Infrastructure Engineering  
Community Development  
Program Management

INFINITY DEVELOPEMENT

EXHIBIT "B"

S:\Garden of the God's Office\05.185.005\dwg\Tutt(Matrix)\Exhibits\Comm Matl Site.dwg

DRAWN BY: JAG DATE: 11-30-06 SHEET 1 of 1  
CHECKED BY: IC JUN: 05.185.005

P.6

Exhibit : C  
Items: 6.A-6.C  
CPC Meeting: November 20, 2014

RELEASE OF RESTRICTED DEED OR DEED RESTRICTION

This is a Release of Restricted Deed or Deed Restriction (the "Release"), and is being recorded to release and remove from the records that certain Restricted Deed or Deed Restriction granted by Infinity Holding Company, LLC and recorded on December 4, 2006, at Reception No. 206175304 of the real property for El Paso County Colorado (the "Deed Restriction").

Recitals

- A. The Deed Restriction was previously recorded against the real property described on **Exhibit A** attached hereto (the "Property") due to the presence of certain environmental conditions existing on the Property at the time of the recording of the Deed Restriction.
- B. Since the recording of the Deed Restriction, additional environmental work has been completed on the Property to address those concerns and the Colorado Department of Public Health and Environment has issued a letter dated June 3, 2008 indicating that no further action is required (the "No Further Action Letter").
- C. Since the recording of the Deed Restriction, the Property has been conveyed to RS Holding Company, LLC, a Colorado limited liability company, which holds title to all of the Property.
- D. This Release is being recorded consistent with the No Further Action Letter.

WHEREFORE, the undersigned, being the original grantor of the Deed Restriction and the current owner of all of the Property, hereby release the Deed Restriction from the records, which shall no longer bind or burden the Property or any portion thereof.

INFINITY HOLDING COMPANY, LLC,  
a Colorado limited liability company now known as  
RS HOLDING COMPANY, LLC a Colorado limited liability company

By: *Robert B. Oate*

Its: *Member*



Office of County Clerk and Recorder  
El Paso County, State of Colorado  
Certified to be a full, true and Correct  
Copy of record in my Office.

209111072 Book..... Page.....  
Date..... 11-18-14

Wayne W. Williams  
County Clerk & Recorder  
El Paso County, Colorado

By: *Karen Anderson* Deputy

*P.I*

209111072

RS HOLDING COMPANY, LLC  
A Colorado limited liability company

By: Scott B. Hente

Its: Member

STATE OF COLORADO )  
 ) ss.  
COUNTY OF EL PASO )

The foregoing Release of Restricted Deed or Deed Restriction was subscribed, sworn to and acknowledged before me this 21<sup>st</sup> day of September, 2009, by Scott B. Hente, as Member of Infinity Holding Company, LLC, a Colorado limited liability company. now known as RS Holding Company, LLC, a Colorado limited liability company.  
WITNESS my hand and official seal.


My commission expires: 10/29/09  
  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF EL PASO )

The foregoing Release of Restricted Deed or Deed Restriction was subscribed, sworn to and acknowledged before me this 21<sup>st</sup> day of September, 2009, by Scott B. Hente, as Member of RS Holding Company, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires: 10/29/09

  
Notary Public



[SEAL]



2435 Research Parkway, Suite 300  
Colorado Springs, CO 80920  
(p) 719.575.0100  
(f) 719.575.0208  
www.matrixdesigngroup.com

October 30, 2006  
J.N. 05.185.005  
Page 1 of 2

**EXHIBIT "A"**

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- Thence South 52°28'18" East, 86.19 feet;
- Thence South 55°15'50" East, 86.22 feet;
- Thence South 54°31'18" East, 83.80 feet;
- Thence South 42°39'31" East, 69.30 feet;
- Thence South 55°08'09" West, 42.15 feet;
- Thence South 33°57'13" West, 36.23 feet;
- Thence North 58°50'30" West, 86.47 feet;

*Colorado Springs*

*Denver*

*Phoenix*

*Atlanta*

*Sacramento*

*P.3*

Exhibit : C  
Items: 6.A-6.C  
CPC Meeting: November 20, 2014



Legal Description Continued  
 November 30, 2006  
 Page 2 of 2

Thence North 59°53'49" West, 83.62 feet;

Thence North 52°44'03" West, 84.35 feet;

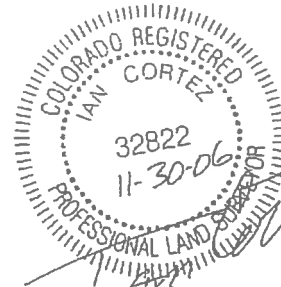
Thence North 59°16'14" West, 89.38 feet to the TRUE POINT OF BEGINNING.

**CONTAINING:** 0.763 Acres or 33,242 Square Feet, more or less.

**SUBJECT TO** all Covenants, Rights, Rights-of-Way and Easements of Record.

A graphical depiction, **EXHIBIT "B"**, of the above described property is attached hereto as an aid in the visual interpretation of the written document.

Ian Cortez, P.L.S. No. 32822  
 Prepared for and on behalf of  
 Matrix Design Group, Inc.



*[Handwritten signature]*

P. 4

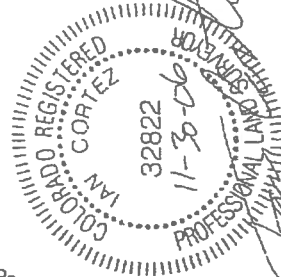


NORTH



SCALE IN FEET

TUTT BOULEVARD  
 FILING NO. 2  
 (RECEPTION NO. 206712270)

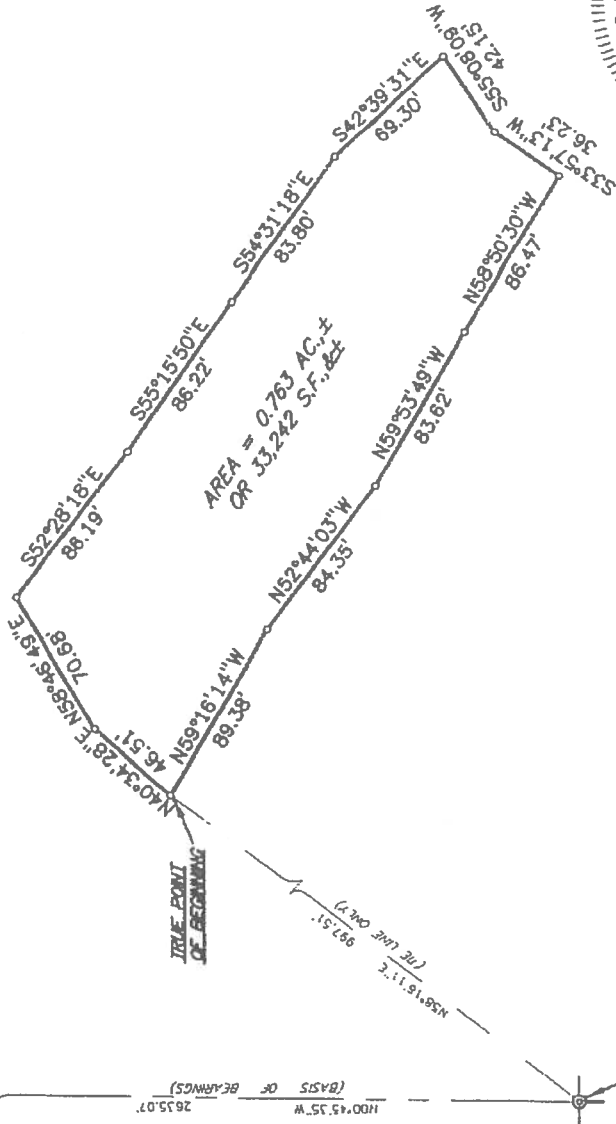


UNPLATTED  
 (RECEPTION NO. 206001418)

NW COR. SEC. 6,  
 T13S, R6SW, 8TH P.M.  
 2-1/2" ALUMINUM CAP  
 STAMPED "LS 17477"

TRUE POINT  
 OF BEGINNING

POINT OF COMMENCEMENT  
 W1/4 COR. SEC. 6,  
 T13S, R6SW, 8TH P.M.  
 2-1/2" ALUMINUM CAP  
 STAMPED "LS 17477"



(BASIS OF BEARINGS)  
 100°45'35"W 2635.07'  
 N58°16'11"E 997.51'  
 (THE LINE ON IT)



**Matrix Design Group, Inc.**  
 Integrated Design Solutions Infrastructure Engineering  
 Community Development Program Management

INFINITY DEVELOPEMENT

EXHIBIT "B"

DRAWN BY: JAG	DATE: 11-30-06	SHEET
CHECKED BY: IC	JN: 05.185.005	1 of 1

S:\Garden of the God's Office\05 185 005\dwg\Tutt(Matrix)\Exhibits\Comm Moll Site.dwg

P.S

Exhibit : C  
 Items: 6.A-6.C  
 CPC Meeting: November 20, 2014

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S  
Denver, Colorado 80246-1530  
Phone (303) 692-2000  
TDD Line (303) 691-7700  
Located in Glendale, Colorado

Laboratory Services Division  
8100 Lowry Blvd  
Denver, Colorado 80230-6928  
(303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

June 3, 2008

RECEIVED

JUL 30 2009

COLORADO SPRINGS  
CITY PLANNING

Mr. Robert Scott  
RS Holding Company  
2760 Brogans Bluff Drive  
Colorado Springs, CO 80919

Re: No Action Determination Approval, Powerwood #2, Colorado Springs, CO

Dear Mr. Scott:

On May 1, 2008, a No Action Petition (the Petition) was submitted on behalf of RS Holding Company, I.I.C. (the Applicant) to the Colorado Department of Public Health and Environment (the Department) pursuant to C.R.S. 25-16-307(2) of the Colorado Voluntary Cleanup and Redevelopment Act. The Petition was submitted for the applicant's property identified in the Petition and listed here generally as, Powerwood #2, in Colorado Springs, Colorado ("the property").

The Department conducted a review of the environmental data collected on the above-referenced property. Based on this review and pursuant to C.R.S. 25-16-307(2), the Department approves the applicant's Petition and makes the following determinations:

- 1) The environmental assessment submitted by the applicant and performed by qualified environmental professionals indicates that there is no evidence of contamination released into the environment present from the applicant's operations on the property, which exceeds applicable promulgated state standards or which poses an unacceptable risk to human health and the environment.

Based on the information provided by the applicant concerning property identified in the Petition and listed here generally as, Powerwood #2, located in Colorado Springs, Colorado, it is the opinion of the Colorado Department of Public Health and Environment that no further action is required to assure that this property, when used for the purposes identified in the No Action Petition (Residential), is protective of existing and proposed uses and does not pose an unacceptable risk to human health or the environment at the site.

P.I

Exhibit : C  
Items: 6.A-6.C  
CPC Meeting: November 20, 2014

Mr. Scott  
June 2, 2008  
Page 2

The approval of the applicant's Petition by the Department applies only to conditions on the property and state standards that exist as of the time of submission of the Petition. In addition, this approval applies only for the land use specified in the application, which is residential. This approval shall be considered void if it is determined that materially misleading information has been submitted by the applicant. Nothing in this letter shall be construed to limit the Department's authority to take actions under existing statutes as necessary, should new information come to the attention of the Department.

If you have any questions, please contact me at (303) 692-3411.

Sincerely,

  
Fonda Apostolopoulos  
Voluntary Cleanup Program

File: RV080501-1

P. 2

Exhibit : C  
Items: 6.A-6.C  
CPC Meeting: November 20, 2014