

## Gray, William E

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**From:** Kelly Hiller <kelly.colorado@yahoo.com>  
**Sent:** Saturday, July 22, 2023 9:45 PM  
**To:** Gray, William E; Tracey Bradford  
**Subject:** APPL-23-0002 - Warnings did not stop development in Colorado Springs' landslide zone

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Hi William,

Please include the following article and text of article from The Denver Post by Ryan Maye Handy dated April 22, 2016 and titled "Warnings did not stop development in Colorado Springs' landslide zone" in the public record in regards to APPL-23-0002. I have included a link to the article as well as provided the text of the article below. Please confirm receipt. Thank you

Kelly Hiller

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link to article - <https://www.denverpost.com/2016/04/22/warnings-did-not-stop-development-in-colorado-springs-landslide-zone/>

### Warnings did not stop development in Colorado Springs' landslide zone

By Ryan Maye Handy, Special to The Denver Post  
April 22, 2016

COLORADO SPRINGS — A geologist knocked on Sherry Cripps' door more than a decade ago and warned her that her home on Cheyenne Mountain was sitting atop a slow-moving, destructive landslide. He told her to abandon the home. Cripps dismissed the aging geologist as crazy until 2015, when his predictions came true. She and her husband Denny are close to abandoning their nearly unlivable home, as it is cracking in half and sliding off a hill. The Cripps and their neighbors are confronting a behemoth that lay dormant for years: a landslide zone one and a half times the size of Manhattan. Thousands of homes in the southwest corner of the city were built in the slide zone, despite repeated warnings from geologists who said the area was risky for development and recommended caution in approving construction. City officials have known about the problem since at least the mid-1990s, when they passed an ordinance designed to restrict development, but the measure has not been enforced and new homes have gone up almost unabated. In other parts of the state where similar problems have occurred — including [Boulder](#) and [Jefferson](#) counties — landuse code prohibits building on known landslide areas.

Insurance will not cover the losses. At least 70 homeowners in southwest Colorado Springs are seeking federal grants to help buy out their destroyed or imperiled houses — the third round of such funding for the city. Nineteen of those properties are located in neighborhoods surrounding a Broadmoor Hotel golf course where a landslide has been an issue for years.

"In my mind, the process threw caution to the wind," said Jon White, a geologist with the Colorado Geological Survey. "Many knew the risks. Everybody should have been more cautious and the risks should have been disclosed to the potential homebuyers."

The Cripps and other homeowners near Cheyenne Mountain say they were the last to learn of the danger their homes sit on. Knowledge of the risk would have changed everything, Sherry Cripps said. "We would have been going to the developer and saying, 'Hey, buy this back.'" In a [letter to Colorado Springs officials](#) last week, state geologists urged the city to take more aggressive action than they have to monitor and assess the risk the Broadmoor golf course slide poses to homes, infrastructure and residents of the area. Typically, the state's geologists serve in an advisory role, conducting studies of areas at risk of landslides and making nonbinding recommendations. But it is up to local governments that choose to work with them to decide whether and how development will occur.

A city spokeswoman acknowledged in an email that the city has known about the landslide risk near Cheyenne Mountain since 1996, but she added that city officials think the land is safe for development. "We live in a mountainous community and therefore landslides are unfortunately an unavoidable risk," wrote Jamie Fabos. "However, these landslides have caused very little movement over many years and development can successfully take place on landslide susceptible areas if the appropriate mitigation measures are identified and followed." The Denver Post obtained thousands of pages of documents related to the slide zone — including engineering studies, correspondence between city officials and the state and court testimony — from geologists who have studied the area for decades and through public-records requests to Colorado Springs.

Those documents and interviews show that a more cautious approach to development in the area could have prevented much of the property loss occurring now. Geologists warn that Colorado Springs' landslide issues, and losses for homeowners, could get worse. Three homes on the federal buyout list have already been condemned, and of the 53 properties that have been assessed, 15 have dropped 50 or more percent in value, according to the county assessor. [Eighty-four homeowners across Colorado Springs have applied](#) to the hazard mitigation grant program, the vast majority in the southwest part of the city. The federal government is expected to make available at least \$14 million to cover 75 percent of the cost required to purchase qualified homes at their pre-damage value. The city of Colorado Springs has not committed to helping fund the remainder. Owners of homes with no damage fear that values in city's most sought-after enclave, where houses range in price from half a million dollars to \$2 million, will plummet. Many continue to spend hundreds of thousands of dollars fixing their properties, even while they wait to receive grant money.

Lt. Colonel James Branch, who lives a few blocks from the Cripps, is angered that the burden of bailing homeowners out will fall on the taxpayers. Although his home is not damaged, he applied for the buyout program as a precaution. Because of this, he wants to know who is responsible for approving development in a landslide zone. In early April, Branch sent an email to the company that built his home asking for accountability.

To the untrained eye, the landslides are all but invisible. “There are three that we know about, those are slower-moving rotational landslides, as opposed to this huge fast-moving rock avalanche,” said Karen Berry, director of the Colorado Geological Survey.

The unstable zone covers 34 square miles. Some homeowners have measured localized landslides, and have found that they move about an inch a week, and sometimes an inch a day.

The area sits on a steeply tilted bedrock that extends in a narrow band along the mountain front. In places, it is covered with ancient landslide deposits, composed of earth and gravel, that can be many feet thick. The earth is stable as long as it does not have excessive moisture, or is not disturbed. But once water lubricates the earth above the bedrock — or development removes some land — the landslide can be activated.

After development and heavy spring rains in 1996, parts of the landslide began to move off Cheyenne Mountain, when it started buckling houses one at a time as it worked its way down to Fort Carson. In the mid-1990s, it broke a home in two in one day; in 1999, it destroyed 27 homes. Now, after a record-breaking rainfall in May 2015, the slide is moving again.

The current federal buyout program is the third since the slides began moving. In 1999, the federal government gave 75 percent of \$6.6 million to help buy out 27 homes in southwestern Colorado Springs.

The landslide doesn’t move as one mass — instead, sections will be triggered while others lay dormant. City planners have approved, without extensive study, construction of homes on dormant landslide areas that are next to active areas — a practice that geologists caution against.

In letters to city planners, state geologists have repeatedly urged builders to carefully study the area’s geology, suggesting the safest places for homes or else suggesting that no homes be built at all. “The fact that it is an ancient landslide does not mean that it can’t be built on,” said Jonathan Lovekin, a senior engineering geologist with the state. “While we advise avoidance of landslide deposits, where this isn’t possible detailed analysis and investigation of the slide is recommended along with careful design, construction and ... full disclosure of the risks.”

A [city ordinance passed in 1996](#) requires that builders have a geological study of each subdivision before city planners approve the plans. In cases with extreme risk, the studies were sent to the state geologists for review, who sent back recommendations for building.

City officials say they view the recommendations as requirements, as laid out in the guidelines of their ordinance. But when it comes to making sure those recommendations are followed, the city relies on the builder to follow through, the city’s spokeswoman said.

“The developer is responsible for following the recommendations of the engineers hired to evaluate the development,” Fabos said. The city acts as an intermediary and passes comments between builders and the Colorado Geological Survey.

The lack of checks and balances in the city’s ordinance has allowed homes to be built where they should not have been, and for the landslide risk to be overlooked, even as slides were damaging homes. For instance, at least one home on the current buyout list is next to one for-sale lot and another home under construction. The Cripps’ home was built on a landslide, although White specifically warned the city against building homes in certain areas on Broadmoor Bluffs Drive.

In years of working with engineers, White said, he has found that many geological hazards studies overlook the landslide risk, either by not mentioning it at all or declaring the ground stable simply because it hasn’t moved in recent history.

Since it was first passed, the city’s ordinance has been contested by many of the region’s biggest developers, who lobbied to cut out the state’s role in approving development. In 1998 a group of builders, including the Broadmoor’s development arm, [sent the city a letter](#) arguing that state geological studies delayed progress and raised costs.

Tensions between geologists and developers aren’t unusual in Colorado, White said, but Colorado Springs has been particularly divisive. In meetings earlier this year, city employees and geologists discussed the possibility of updating the ordinance again.

“We are undergoing a validation process to better understand the landslide or landslides affecting our area, which may include further study,” Fabos said. “We will use any new information to help evolve our development review process and examine if additional processes could be added to mitigation this issue.”

The slide on the southwest side of the Broadmoor’s South Golf Course is considered the most serious slide currently active in the area.

Two adjacent homeowners have applied for federal aid and state geologists have stepped in to evaluate the slide. That number might not represent all of the damaged homes, as some homeowners are paying to fix their homes. The hotel has been battling the slide for two decades. During that time, it has built homes on nearby lots, and sections of the subdivision are too close to the slide, according to state geologists. “They did pull some lots out, but they also continued to develop right on the edge of the head scarp,” said Lovekin, referring to the landslide. “They still built too close to the edge of the landslide.”

Following heavy rains in 1999, [engineers warned](#) the Broadmoor’s development arm not to build homes on certain lots at that time due to landslide risk, but records show the homes were built a couple of years later.

State geologists warned the city and developers that building on some of these lots was extremely risky, and should not be done without extensive study of the landslide. “The site lies entirely within a historic landslide complex,” White wrote in [letter to the city in 1996](#). “Though no earth movements have been seen within the site, there has been substantial recent slide activity downslope, at the golf course.”

He suggested that the neighborhood have limited irrigation, to prevent triggering another landslide, something that city planners said they couldn’t enforce, according to [email correspondence](#) saved in the city’s archives. In 1997, an engineering firm [studied geological hazards](#) for the hotel’s land development company. The study blamed irrigation for landslide issues, and said that watering led to reactivation of the historic landslide.

But last November the Broadmoor [filed a notice of intent to sue](#) Colorado Springs Utilities, blaming the latest slide on a ruptured pipe. The hotel’s engineering firm claimed that the slide made nearly \$14 million worth of nearby residential lots unbuildable.

Of the three neighborhoods now imperiled by an active landslide in southwest Colorado Springs, none have more complicated histories than that of the Broadmoor Bluffs Drive in the Broadmoor Glen South subdivision.

In 1996, a private engineering firm did a geological study for Gates Land Co., which owned the Broadmoor Bluffs properties at the time. The firm warned that building in the subdivision would place homes on unstable land. The state geologists who oversaw some of the city’s development plans agreed.

[White recommended](#) the city only approve homes built as close as possible to the drive, a narrow ridge with landslides on either side. But the Cripps’ home and possibly others were built as far away from the road as possible to take advantage of views.

There are cases in which homes were not built where geologists recommended against it. The Cripps said the city initially rejected their plan setting the house from the road. Later the city relented, but officials never informed them about the landslide on their and their neighbors’ properties, the Cripps said.

A couple of years after moving in, they noticed cracking around their home and a ruptured pipe, and the couple spent hundreds of thousands of dollars fixing the problems. The Cripps hired a geologist, who recommended they plant devices around their property to measure movement. The Cripps said they assumed a ruptured pipe had been the cause of the problems.

Now, a landslide on the north side of the drive is carrying their home with it as it moves downhill. Door frames have snapped in half, floors undulate and dip, and the entire house is tipping down. “If you drop something you chase it over to the north end,” said Sherry Cripps.

The risks of building on Broadmoor Bluffs Drive were underplayed, geologists say. Years after White shared his concerns with building the area, he found that the engineering firm had changed its assessment of the subdivision. "Much of the strong wording, recommendations and considerations given to landslide susceptibility and warnings for development had been stricken" from the report, White said. White no longer agreed with the firm's conclusions. But the development later was approved and construction began in 1998. Many of White's concerns, such as the setback of homes and studying the landslides, were overlooked.

John Himmelreich, the geologist who knocked on the Cripps' door, also was disturbed by the lack of disclosure to homeowners. In 2002, he [testified that he quit his job](#) with an engineering firm when he learned that some of the recommendations and warnings about landslide risks he made in the late 1990s were removed from geological studies before they were submitted to the city.

The case involved the Cripps' home, yet the couple say they were never informed about Himmelreich's testimony. The Cripps had sued their builder over structural issues with the home, but they did not know those issues were connected to landslides. Their lawsuit was settled out of court.

Himmelreich testified that he had revealed the landslide risks in the area to at least one development company that decided not to pursue the project.

But a couple of years later, Ron Delay, a well-known Colorado Springs developer, purchased the land. The state's geologists warned Delay and the city that certain lots would require special construction while others should not be built on at all.

The Cripps' home was one of the first to be completed in the subdivision, and it was two doors down from a home that Delay built for himself. As their neighbor, the Cripps knew the developer for years, but they said Delay never mentioned anything about a landslide risk.

Delay died in 2012, but his former home on Broadmoor Bluffs Drive was the first to be condemned when the landslide problems started last year.

## Gray, William E

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**From:** kevan@nfbc.org  
**Sent:** Tuesday, July 25, 2023 9:57 AM  
**To:** 'Cullom Radvillas'; Gray, William E; All Council - DL; Talarico, Michelle  
**Cc:** 'Z. B.'; pattismi@hotmail.com; NPMattison@gmail.com; amypaschal@icloud.com; 'Carla Norris'; mcdaniel.sav@gmail.com; austenmbickford@icloud.com  
**Subject:** RE: Please support the Launchpad

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**From:** Cullom Radvillas <cullyr@gmail.com>  
**Sent:** Monday, July 24, 2023 11:23 PM  
**To:** William.Gray@coloradosprings.gov; allcouncil@coloradosprings.gov; michelle.talarico@coloradosprings.gov  
**Cc:** Z. B. <zuribella@gmail.com>; pattismi@hotmail.com; NPMattison@gmail.com; amypaschal@icloud.com; kevan@nfbc.org; Carla Norris <88Carlita@gmail.com>; mcdaniel.sav@gmail.com; austenmbickford@icloud.com  
**Subject:** Please support the Launchpad

Dear City Council,

I am writing to you today as a resident of the westside of Colorado Springs in support of the Launchpad supportive youth housing project and against the appeal - APPL-23-0002 . I believe that this project is essential to providing much-needed services to our community's homeless youth, and I urge you to uphold the original, unanimous decision of the Planning Commission, to reject this appeal and approve the project.

The appeal of the Launchpad project is based on concerns about the project's location, height, and density. However, I believe that these concerns are unfounded. The project is located in an area that is already zoned for high-density (R5) development, and the building height and density are consistent with the surrounding area.

I have seen firsthand the challenges that homeless youth face. I have met young people who are struggling to find a safe place to sleep, who are going hungry, and who are not getting the education or mental health care they need. The Launchpad project would provide these young people with a stable place to live, access to food and other resources, and support services to help them get back on their feet.

I am also concerned that the appeal is motivated by prejudice against homeless youth. The appellants have raised concerns about "homeless adults next to a nursery school" and "increased drug use and dealing." However, these concerns are not based on any evidence, and to the contrary Ruth Washburn, the "nursery school" being referenced, is supportive of this project. The Launchpad project will provide supportive services to homeless youth, including mental health care and substance abuse treatment. These services will help to reduce the risk of crime and drug use in the area.

I urge you to uphold the original decision to deny this appeal and allow the Launchpad project to progress. This project is essential to providing much-needed services to our community's homeless

youth, would make a real difference in the lives of many young people, and would add vitality to a long vacant block of the Westside.

Thank you for your time and consideration.

Sincerely,

Cully Radvillas

Cell - (630) 336-6562

[Cullyr@gmail.com](mailto:Cullyr@gmail.com)

**516 W Pikes Peak Ave 80905** Cosigners included below

Zuri Horowitz

I'm located very close to the proposed site and think it would be wonderful to have in the neighborhood. The best way to end homelessness is to house people especially with supportive housing. The location is perfect, with jobs and necessities across the street, along with a bike lane, and bus stop on the street. I am also happy that Launchpad asked for a reduction in required parking spots which will decrease congestion.

**1920 West Bijou St 80904**

[zuribella@gmail.com](mailto:zuribella@gmail.com)

Patricia Smith

Dear City Council

As a teacher (now retired), my heart was broken so many times to see teenagers without homes, without food, without parents, and without hope. I urge you to provide compassionate services for kids through the Launchpad supportive youth housing project. Colorado Springs is beautiful not only because of our landscapes, but because of the caring in our hearts.

**1713 W. Platte Ave. 80904**

[pattismi@hotmail.com](mailto:pattismi@hotmail.com)

719-685-0956

Nicole Riggio

Being a caregiver of a 20yo autistic adult who also lives with bipolar, dual type ADHD, and auditory and visual hallucinations, I completely support the project and understand why it is necessary and needed.

**115 N. 27th St. 80904**

[NPMattison@gmail.com](mailto:NPMattison@gmail.com)

Amy Paschal

**3372 Sky Watch Hts, 80904**

[amypaschal@icloud.com](mailto:amypaschal@icloud.com)

Kevin Worley

**I am a regular donor to this valuable community service. I have been a resident of the west side for 30 years. I recently moved downtown. There is no reason for this "not in my back yard, nimey" approach. This organization has a track record of great accomplishment. This is an outstanding location for the facility.**

[kevan@nfbc.org](mailto:kevan@nfbc.org)

**115 N Tejon St 80903**

Carla Norris  
[88Carlita@gmail.com](mailto:88Carlita@gmail.com)  
Colorado Springs

Savanah McDaniel  
[mcdaniel.sav@gmail.com](mailto:mcdaniel.sav@gmail.com)  
Colorado Springs

Austen Bickford  
[austenmbickford@icloud.com](mailto:austenmbickford@icloud.com)  
Manitou Springs, CO

## Gray, William E

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**From:** Kindra Dale <kdale37@yahoo.com>  
**Sent:** Tuesday, July 11, 2023 2:22 PM  
**To:** Gray, William E  
**Subject:** Another apartment building?!???!!!!

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To whom it may concern and our city Council: last year, when you were all working on tearing up Fillmore, hill, and all of its beautiful surrounding hills, I wrote you all a seven page letter, which no one bothered to reply to me about, and in my letter I was complaining about whoever is selling off and greasing their own pockets and ruining all of our beautiful natural landscape on the west side that is now forever ruined... thanks to you all and you're still working on other projects to ruin the scenery. People come here because of the scenery and you greedy planner/developers are ruining it!!!! You don't care about anything but money, money, money, money I'm willing to bet most of you on the board are not natives that's the real second part of the whole thing AND you're also letting people tear up the mountains so they can have their homes up there. Roads going up there looking horrible on our scenery. I am just so disgusted. You are ruining all of our natural beauty and you don't even care and now another apartment building that we don't need. I don't know what's going on with the city, ITS NOT GROWTH, ITS GREED but no one cares anymore. It's all about like I said the money. Shameful. You know there's lots of land heading east, why don't you ruin the flatlands instead! I just can't believe that nobody on the board cares about the beauty of this place. It brings me to tears, really...truly.

Sent from my iPhone

## Gray, William E

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**From:** abaker1400@aol.com  
**Sent:** Thursday, July 13, 2023 6:54 PM  
**To:** Gray, William E  
**Subject:** Launch pad on 19th not the right location

**CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!**

I live less than a half mile from where they would like to build this Launch Pad. I am very concerned for this community. For one, I recognize that all these big developers have built up the downtown area and intentionally pushed the homeless to the north and the west because they do not want them near the expensive new downtown living and event centers. They are part of the cause that pushed the homeless outward along with the broadmoor that paid to have areas of Nevada developed for new retail. Funny how this works for them. And increases more crime and drugs in our neighborhoods. The other concerns is this this does not fit in the westside historical area with a 4 story that can house up to 100 people and the cost of 17million 9% loan between the state and the non profit(which will profit) THE PLACE which is being used with our taxpayers dollars. This will also bring down the values in the area and this Lil survey they say was done would increase our value is a lie, these people think we are stupid! Why do they not build by the care and share on powers? Will they not allow this in their neighbor hood either? We already have issues with drugs and homeless sleeping in the Kroger park lot and set up camp on uintah and leave trash. I had a homeless dig in my trash at my house! This is not just for youth as they can not discriminate for age. They will also be allowed to come and go all hours of the night, so you can have an addict leave to get their fix and possibly commit a crime and then go back to the pad. I understand the homeless issue, we talk to some and give food and sometimes money so we do our part to help with what we can. We used to have hospital for the mentally ill and poof they shut it down and no they are roaming, at least they had a medical facility help them. They can tell us they have cameras and security, who cares people still rob and steal in the stores and homes because they dont care about getting caught as the laws will not allow any punishments. Also this place takes people with criminal history but will not say what criminal history is or is not allowed. Maybe the broadmoor will build this nice new modern building near them off Lake. People that work for the city as well as some at city council do not live over here, they do not know what is best for this community. We have drag shows being shown at city owned community centers for Gods Sake have these people lost all their Morals to bow to an agenda. This my community and totally against this center/shelter over here. I also see how the city pushed out the downtown bicycle guy that built, repaired and donated bikes to the homeless just so they could sell the land to big developers, shame shame on them.

Regards

Angie S.

## Gray, William E

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**From:** Kelly Hiller <kelly.colorado@yahoo.com>  
**Sent:** Thursday, July 13, 2023 9:57 AM  
**To:** Gray, William E  
**Subject:** Fwd: APPL-23-0002 Steve Suhre

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Letter from Steve Suhre

Sent from my iPhone

Begin forwarded message:

**From:** Steve Suhre <steve@nano.net>  
**Date:** July 13, 2023 at 9:48:56 AM MDT  
**To:** Kelly Hiller <kelly.colorado@yahoo.com>  
**Subject:** Re: APPL-23-0002

You have my permission to forward. I sent it to Riley Carroll at KRDO, she was at the free meal today on the news this morning.

At 09:30 AM 7/13/2023, you wrote:

What a great letter. Did you also send it William Gray (William.gray@coloradosprings.gov)? He's the one maintaining the public record and is the planner in charge of this project. I would also suggest sending it to Breeanna Jent at the Gazette (breeanna.jent@gazette.com)

Sent from my iPhone

> On Jul 13, 2023, at 9:09 AM, Steve Suhre <steve@nano.net> wrote:

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> I just tried to message the mayor from the city website, I'm not sure it worked... But I keep copies of everything.

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> Regarding: DEPN-23-0001, SUBD-23-0005

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> This is a bad location for homeless people. I have 10 years experience volunteering in soup kitchens so I know who they are and I enjoy all kinds of people and diversity. But this site is a bad place for them. There are 3 liquor stores, a dive bar, a gambling arcade, and a marijuana store within a block of the site. King Soopers sells beer and wine and they have a non-interference policy about shoplifters, and BYOB (bag) now, so you can just walk out of the store with free booze under your arm. And they're open late! People scream obscenities in the middle of the night when the dive bar closes then they drunk drive home. I'm all for helping the homeless, but this isn't going to help anyone and it's doomed to failure. Please have a look at it and ask them to reconsider the location. It's not in the best interests of the city's homeless population to park them in a place with so many issues and temptations. The developers are sticking it here because it's a cheap lot and a bad neighborhood but that makes it bad for the homeless too so it serves no purpose and won't improve the city at all. Thanks for your time!

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## Gray, William E

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**From:** Winona Entwisle <winona.farmgroup@gmail.com>  
**Sent:** Friday, July 14, 2023 9:04 AM  
**To:** Gray, William E  
**Cc:** Winona Entwisle; Winona Entwisle  
**Subject:** Support for Launchpad Apartments

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Hello Mr. Gray,

I am writing to express my support for The Launchpad development by The Place.

I am a westside resident of over 30 years and an employee of Ruth Washburn Cooperative Nursery School for 10 years. In fact, I am a member of the admin team as the Front Office Manager. I am the person at the front desk who admits people onto the building. I am also the parent of a teen.

The Place is a wonderful organization doing important and necessary work to help keep youth from permanently joining the ranks of the chronically homeless community. I personally think the Launchpad will be a wonderful neighbor to our RWCNS community and will provide a crucial and life saving service to a population very much in need of the support and services the Launchpad will provide.

I am seeing a lot of discussion about this development on Nextdoor and the negative comments largely reflect a real ignorance of the actual program, along with a good sprinkling of disinformation and, of course, NIMBYism.

I am pleased to see there is unanimous approval from the Planning Commission for this development and I heartily support this development moving forward.

Sincerely,  
Winona Entwisle

## Gray, William E

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**From:** Sarah Hettenbach <hettenbach.s@gmail.com>  
**Sent:** Wednesday, July 19, 2023 8:33 AM  
**To:** Talarico, Michelle; Gray, William E  
**Subject:** Launchpad meeting

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Hi Michelle and William,

Writing to express my concern with having the meeting about the launchpad apartments during the work day. For those of us that live in the area and would like to learn more about a development in our neighborhood that was pushed through pretty quietly and without public input, but work a normal 9-5 schedule, this is an unacceptable time to have a public meeting. Please consider moving it to evening hours, or having a second meeting in the evening to allow all voices to be heard equally. Thank you.

Sarah Hettenbach  
Old Colorado City resident

## Gray, William E

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**From:** Ruth Washburn <director@rwcns.org>  
**Sent:** Thursday, July 20, 2023 1:49 PM  
**To:** Michael Wemple  
**Cc:** Gray, William E; Talarico, Michelle; Breeanna.Jent@gazette.com; chelsea.brentzel@krdo.com; Scott Hiller; tracey bradford; Dana Duggan; Yemi Mobolade; Easton, Travis W.; Thomas Strand; mtnbrownskaren@gmail.com; kelly.colorado@yahoo.com; news@kktv.com; News@koa.com; jcole@fox21news.com; westsidewatchcos@gmail.com; tbishop@fox21news.com; Denise Ferrari; Shawna Kemppainen  
**Subject:** Re: Launchpad Apartments Development Plan Appeal

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As an organization (Board, Staff, Parents), Ruth Washburn is in FULL support of the Launchpad project going in next door. We will make a more formal statement in the coming weeks, but we have been in support of this project since the beginning and are very excited to partner with this amazing organization.

Sincerely,  
Angela Conway  
Executive Director  
Jen Filonowich  
Mentor Director  
Ruth Washburn Cooperative Nursery School  
719-636-3084

On Thu, Jul 20, 2023 at 1:34 PM Michael Wemple <[jmwemple@mac.com](mailto:jmwemple@mac.com)> wrote:

Hello Mr. Gray,

Thank you for the Public hearing notification to hear the concerns regarding the Launchpad Apartment Development Plan, AAPL-23-0002.

I unfortunately was not available to go to the initial planning meeting, but I am disappointed that city planning department is giving this the go ahead.

I am very much interested in this project and how it will impact myself and this Westside neighborhood.

I own my home on Columbine Ave. that I have lived in for the past 28 years. I will be directly affected by building this very large building on a very small 1.37 acre. I believe it will negatively affect my property value. I also believe it will undermine my lot and could cause it slide down into the Launchpad Apartments. I would hate to see what happened in mid to late 1990's happen again. <https://www.denverpost.com/2016/04/22/warnings-did-not-stop-development-in-colorado-springs-landslide-zone/> I have attached a Geological Survey map of this area of the Westside that shows this lot is in Landslide Susceptible area. What independent geological studies have been done?

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While I believe there is a need for services to get the homeless youth some help and off the streets, I think there are better locations in this city to place this very large 4 story facility then on the westside in the middle of a residential neighborhood. It does not conform to City Code for historic neighborhoods and the Westside Plan as outlined in the Appeal westside neighbors presented to the Planning Commission.

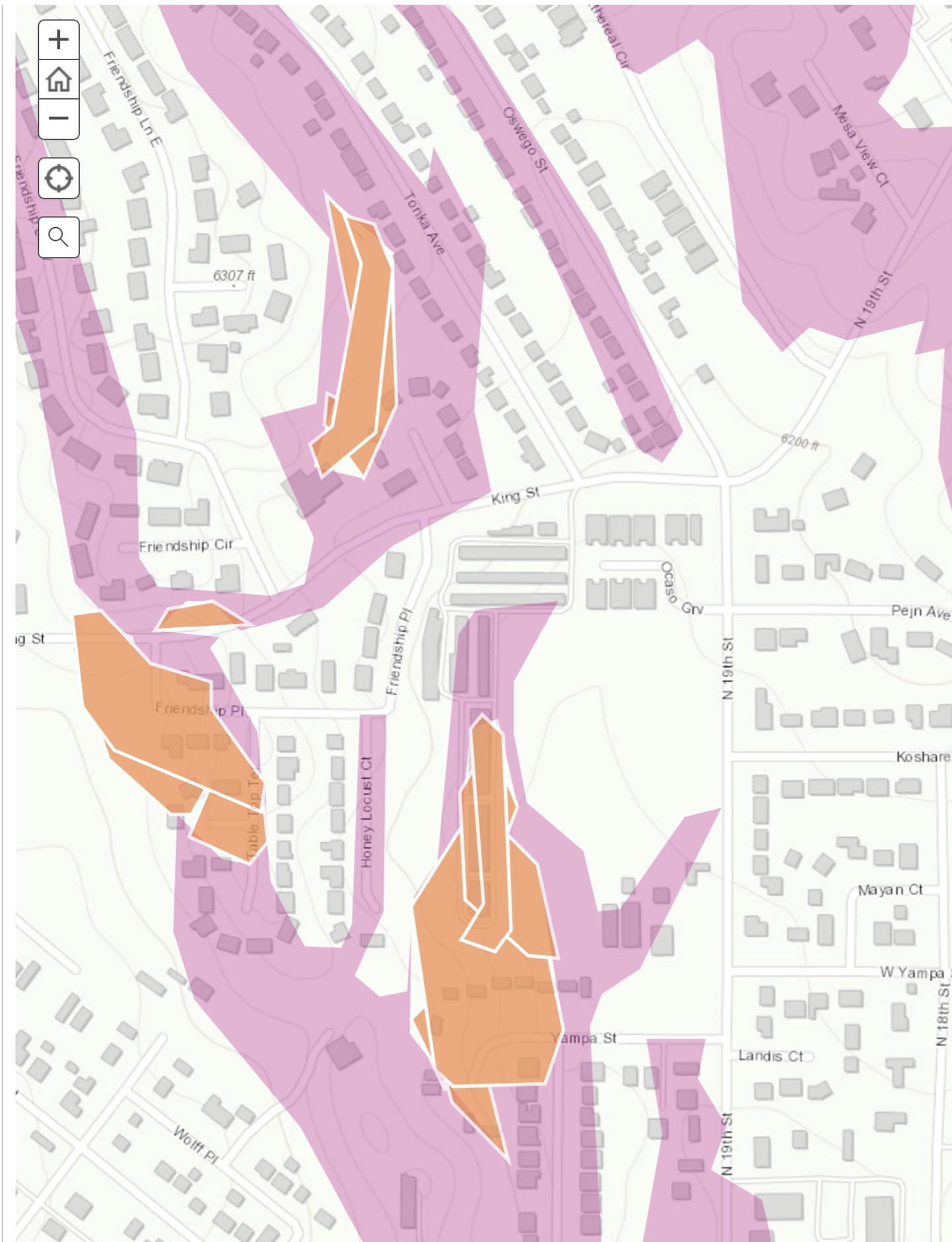
If this plan goes thru, myself and no doubt others, will be considering moving out of Colorado Springs soon.

Please keep me up to date on this issue.

Regards

--

Mike Wemple



## Gray, William E

---

**From:** Dana Duggan <danaandduggan@gmail.com>  
**Sent:** Thursday, July 20, 2023 4:58 PM  
**To:** Ruth Washburn  
**Cc:** Michael Wemple; Gray, William E; Talarico, Michelle; Breeanna.Jent@gazette.com; chelsea.brentzel@krdo.com; Scott Hiller; tracey bradford; Yemi Mobolade; Easton, Travis W.; Thomas Strand; mtnbrownskaren@gmail.com; kelly.colorado@yahoo.com; news@kktv.com; News@koaa.com; jcole@fox21news.com; westsidewatchcos@gmail.com; tbishop@fox21news.com; Denise Ferrari; Shawna Kemppainen  
**Subject:** Re: Launchpad Apartments Development Plan Appeal

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Dear Ms. Conway,

I attended the meeting at Ruth Washburn with your predecessor. I recall her offering similar enthusiasm and noting that there would be opportunities for Ruth Washburn staff to work at The Launchpad. **Could you explain this partnership and how Ruth Washburn staff intend to work with The Launchpad?** If my memory serves me, there are opportunities for resume building in the area of counseling and outreach? As a long time volunteer doing everything from faith-based counseling inmates at the Tennessee State Women's prison to many homeless outreach efforts, a CASA caseworker, working with battered women at Genesis Shelter to a volunteer and public speaker for Bryan's House, the first shelter for families impacted by HIV, helping the marginalized is an issue about which I have both experience and care very much. What I found so odd was how strident your facility is in their support. Are there any financial incentives between the organizations?

Because of my experience, I do think the location is a dubious one, but, that is really secondary to the public safety and property and public safety rights of the residents in the community. Their property taxes fund the local economy in the area. I believe Ruth Washburn was granted property tax exemption. I have never seen an organization be so strident, and it's perplexing. One would hope that your board recognizes the good fortune they have had by being a part of the community and respecting the property and public safety rights of the citizens.

We all want to see the homeless thrive as we all gain from them doing so. We also want to see the local residents who have invested their lives and hard-earned dollars in that community have at least equal (I would argue more) consideration. It's their home.

Warmest regards,

Dana Duggan  
Founder, Westside Watch  
Founder, Integrity Matters

Vanderbilt, B.A.  
SMU, M.B.A.

On Thu, Jul 20, 2023 at 1:48 PM Ruth Washburn <[director@rwcns.org](mailto:director@rwcns.org)> wrote:

As an organization (Board, Staff, Parents), Ruth Washburn is in FULL support of the Launchpad project going in next door. We will make a more formal statement in the coming weeks, but we have been in support of this project since the beginning and are very excited to partner with this amazing organization.

Sincerely,  
Angela Conway  
Executive Director  
Jen Filonowich  
Mentor Director  
Ruth Washburn Cooperative Nursery School  
719-636-3084

On Thu, Jul 20, 2023 at 1:34 PM Michael Wemple <[jmwemple@mac.com](mailto:jmwemple@mac.com)> wrote:

Hello Mr. Gray,

Thank you for the Public hearing notification to hear the concerns regarding the Launchpad Apartment Development Plan, AAPL-23-0002.

I unfortunately was not available to go to the initial planning meeting, but I am disappointed that city planning department is giving this the go ahead.

I am very much interested in this project and how it will impact myself and this Westside neighborhood.

I own my home on Columbine Ave. that I have lived in for the past 28 years. I will be directly affected by building this very large building on a very small 1.37 acre. I believe it will negatively affect my property value. I also believe it will undermine my lot and could cause it slide down into the Launchpad Apartments. I would hate to see what happened in mid to late 1990's happen again. <https://www.denverpost.com/2016/04/22/warnings-did-not-stop-development-in-colorado-springs-landslide-zone/> I have attached a Geological Survey map of this area of the Westside that shows this lot is in Landslide Susceptible area. What independent geological studies have been done?

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I am also shocked that the Planning Commission is considering this proposal to build right next to Ruth Washburn Cooperative Nursery School, that has been there since 1971, I believe. I hear the children playing from my backyard almost every day. It brings me great joy that we have such a wonderful facility in this city for our children. I do not believe that a place for troubled, homeless Teens should be so close to the children (2 ½ - 5 yrs. Old) that are trying to learn in their early developmental years.

While I believe there is a need for services to get the homeless youth some help and off the streets, I think there are better locations in this city to place this very large 4 story facility then on the westside in the middle of a residential neighborhood. It does not conform to City Code for historic neighborhoods and the Westside Plan as outlined in the Appeal westside neighbors presented to the Planning Commission.

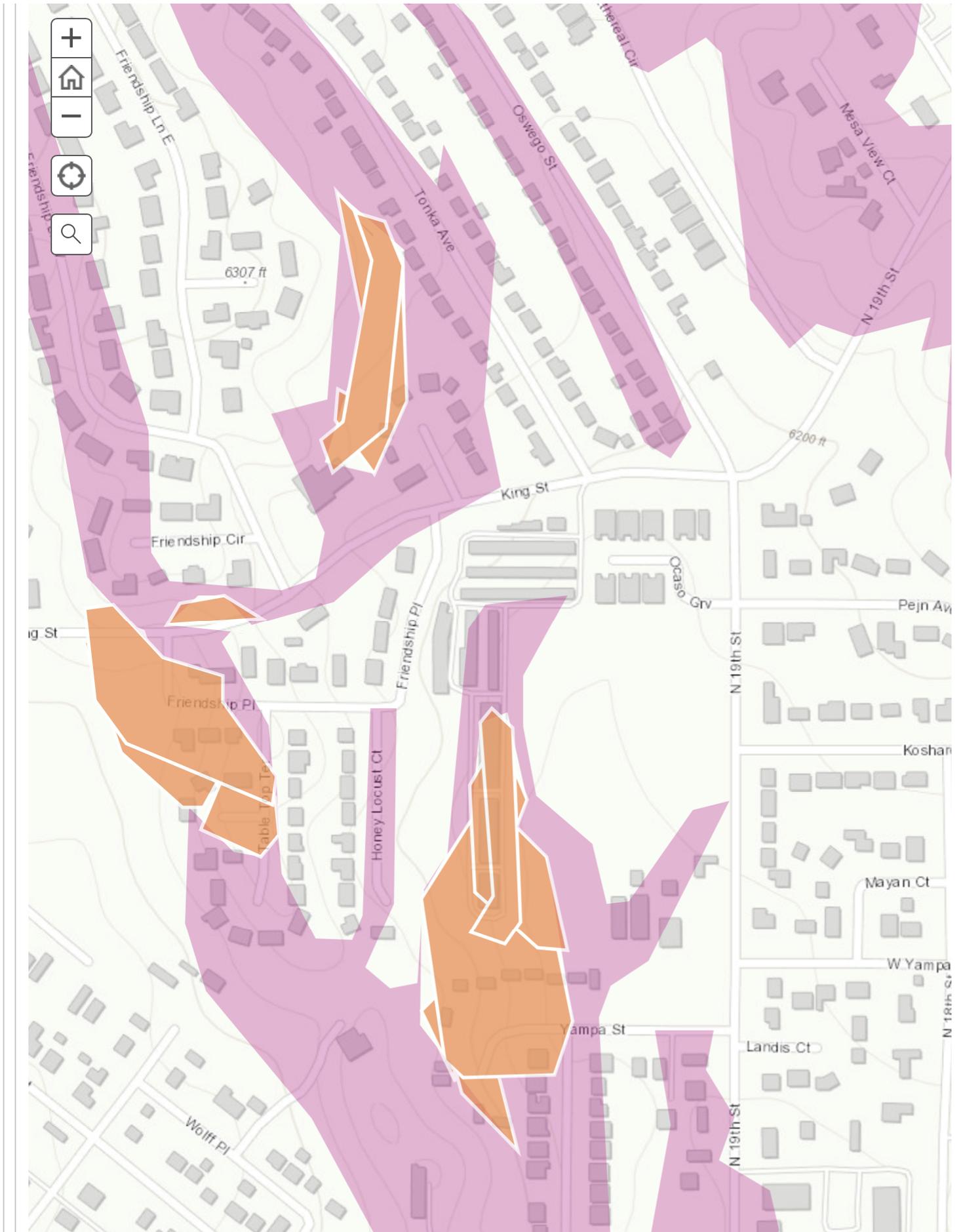
If this plan goes thru, myself and no doubt others, will be considering moving out of Colorado Springs soon.

Please keep me up to date on this issue.

Regards

--

Mike Wemple



--

Vanderbilt, B.A.

SMU, M.B.A.

719-964-7421

## Gray, William E

---

**From:** Michael Wemple <jmwemple@mac.com>  
**Sent:** Thursday, July 20, 2023 1:34 PM  
**To:** Gray, William E  
**Cc:** Talarico, Michelle; Breeanna.Jent@gazette.com; chelsea.brentzel@krdo.com; Scott Hiller; tracey bradford; Dana Duggan; Yemi Mobolade; Easton, Travis W.; Thomas Strand; director@rwcns.org; mtnbrownskaren@gmail.com; kelly.colorado@yahoo.com; news@kktv.com; News@koaa.com; jcole@fox21news.com; westsidewatchcos@gmail.com; tbishop@fox21news.com; Denise Ferrari  
**Subject:** Launchpad Apartments Development Plan Appeal

**CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!**

Hello Mr. Gray,

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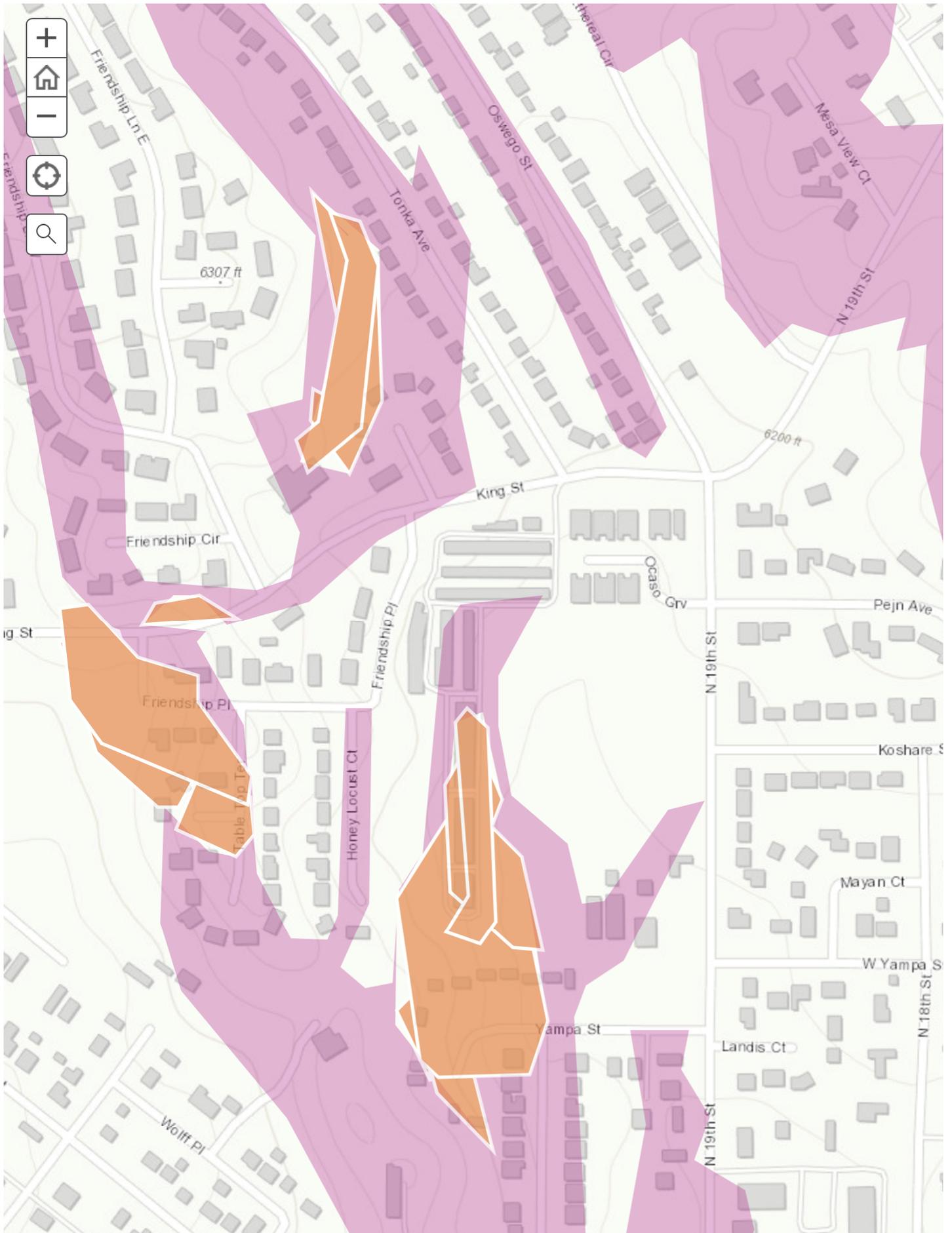
If this plan goes thru, myself and no doubt others, will be considering moving out of Colorado Springs soon.

Please keep me up to date on this issue.

Regards

--

Mike Wemple



## Gray, William E

---

**From:** Gail Welle <gmwelle@yahoo.com>  
**Sent:** Wednesday, July 26, 2023 5:31 PM  
**To:** Gray, William E  
**Cc:** gailwelle@firstaffirmative.com; Gail Welle  
**Subject:** Launchpad project

**CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!**

Dear Mr. Gray,

I have been a long time resident of the West Side, and have owned and lived the last 10 years at 1975 Ocaso Grove, at the corner of King and 19th Streets. I am writing today to voice my opinion AGAINST the Launchpad housing project for the following reasons;

1. The West side in the area around Uintah Gardens Shopping Center, as well as King and 19th streets, is population dense due to several apartment complexes, notably one group of apartments right across the street from the proposed site where there was a homicide by gunshot some months ago. There was also a shooting at the nearby apartment complex on Uintah and 17th street. There is already ample vehicle traffic, as well as foot traffic, in these areas. There is also a day care center just north on 19th which could pose various treats to young children and their parents as they come and go with the increased vehicle and foot traffic..
2. We have a heavy population of homeless hanging out on the street corners and more private areas where they tend to camp. I don't believe this would be a good influence on the kids coming into the Launchpad. With this homeless population there is more petty crime and property damage along with graffiti on the walls of the King Street Public Storage and other homes where walls are handy to paint or write obscenities on. As I stated already, I don't believe this environment would be a good influence for these kids. And I have seen the crime rise in this area in recent years.
3. In the past few years, the O'Brien Printing property came up for approval of new multi-unit housing in the 5-7 acres on the north side of the property at 1009 N. 19th Street. My understanding is the proposal was wisely denied due to the already dense population of the community.

Thank you for your consideration of my concerns, and the concerns of the other neighbors near me, who I hope will take the time and make the effort to voice their opinions against the Launchpad project, as I have done.

Best regards,

Gail Welle  
Accounting Specialist  
719.233.3326

## Gray, William E

---

**From:** abaker1400@aol.com  
**Sent:** Tuesday, July 18, 2023 7:04 PM  
**To:** Gray, William E  
**Subject:** Launch pad 19th street, Westside  
**Attachments:** Screenshot\_20230718-185203.png; Screenshot\_20230718-185315.png

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William,

Hello,

I just wanted to reach out to you regarding the launch pad on 19th street on the Westside.

I have received 10k views on this post on the next door app. Over 150 comments. This shows their is a community interest whether people are for/ against or have more question or concerns with this new structure.

The sign that was put out to the public was deceiving by stating it is an apartment. Many think it is apartments rented to the public! This is not being transparent with the citizens of Colorado Springs. This sign should list the use of the building weather publicly rented or housed for youth and homeless. This is upsetting that we the people were deceived by the sign. Will someone be updating the signage with the correct facility being planned? This would only be transparent.

I pray and hope whichever way this goes that the peoples voices are heard.

Regards

Angie S.

# HARRIS, KARSTAEDT, JAMISON & POWERS, P.C.

ATTORNEYS AT LAW

David L. Geislinger  
(719) 635-4588

111 SOUTH TEJON STREET, SUITE 703  
COLORADO SPRINGS, CO 80903-5130  
TELEPHONE (719) 635-4588  
FACSIMILE (719) 635-7605

Englewood Office:  
383 INVERNESS DRIVE SOUTH, SUITE 400  
ENGLEWOOD, COLORADO 80112-5816  
TELEPHONE (720) 875-9140  
FACSIMILE (720) 875-9141

August 27, 2002

Mr. John Himmelrich  
John Himmelrich & Associates  
1010 South Sierra Madre Street  
Colorado Springs, CO 80903

**Re: Cripps vs. Bridges**  
**Our File No.: 8164.2866**  
**Date of Loss: September 20, 2000**  
**Claim No.: 151-136604**

Dear Mr. Himmelrich:

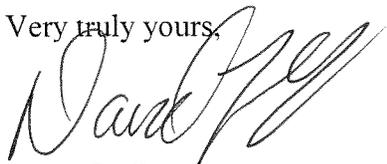
Please find enclosed a copy of your deposition that was taken in the above-referenced matter. Also enclosed is an Affidavit for you to sign and a correction page for the deposition. Please review the deposition to make sure that the Court Reporter took down everything that you said accurately. The correction sheet is not for the purpose of changing your answers. If you were to change your answers at this time, the Plaintiff's attorney can use this changed answer to impeach your credibility at the time of trial. Therefore, only review the document to determine if the statements are accurate.

Once you have reviewed your deposition and determined that it is accurate, please sign the Affidavit indicating that there are no changes. If you determine that some of your answers were taken down inaccurately, please note those changes on the correction sheet that has been enclosed. Then sign the Affidavit indicating the number of changes you have made.

Please be advised that you have Thirty (30) days from the receipt of the Court Reporter's letter to provide us with any changes. If you do not provide any changes within that 30-day period, your deposition will be sealed and filed with the Court as being accurate. Thus, in order to ensure that we comply with this deadline, please review the deposition and return the Affidavit and/or the correction sheet within two weeks of the receipt of this letter or by **Tuesday, September 10, 2001**.

If you should have any questions, please feel free to contact me at any time. In advance, thank you for your prompt attention and cooperation on this request.

Very truly yours,



David L. Geislinger  
Harris, Karstaedt, Jamison & Powers P.C.  
DLG:nec  
Enclosure

**BRUNO  
REPORTING  
COMPANY**

DISTRICT COURT, EL PASO COUNTY,  
STATE OF COLORADO

Court Address:  
District Court of El Paso County  
20 E. Vermijo Avenue  
Colorado Springs, Colorado 80903

**Plaintiffs:**

DENNIS L. CRIPPS and MARGARET D.  
CRIPPS

**Defendants:**

THE CANAAN COMPANY, a Colorado  
corporation, JOHN BRIDGES, and  
COLORADO ENGINEERING &  
GEOTECHNICAL GROUP, INC., and  
PAUL R. BRYANT, P.E.

Attorneys for Defendants  
The Canaan Company & John Bridges  
STEVEN JON PAUL, ESQ.  
Harris, Karstaedt, Jamison &  
Powers, P.C.  
111 South Tejon Street  
Suite 703  
Colorado Springs, Colorado 80903  
Phone Number: 719-635-4588  
Attorney Reg. No. 15008

^ COURT USE ONLY ^

Case No. 01-CV-1688  
Div. 7 Ctrm:

DEPOSITION OF JOHN HIMMELREICH

JULY 23, 2002

ALSO PRESENT: Margaret D. Cripps

**COPY**

899 Logan St.  
Suite 208  
Denver, CO  
80203  
303 / 831-1667  
Fax / 831-4432

CYNTHIA A. HUDAK, CSR  
BRUNO REPORTING COMPANY, INC.  
(303) 831-1667

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\_\_\_\_\_  
JOHN HIMMELREICH

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

My commission expires \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

1 APPEARANCES:  
 2 FOR THE PLAINTIFFS: MURRAY I. WEINER, ESQ.  
 Mulliken, Gleason, Weiner,  
 3 Whitney & Jolivet, P.C.  
 102 South Tejon  
 4 Suite 900  
 Colorado Springs, CO 80903  
 5  
 6 FOR THE DEFENDANT: ROBERT R. CARLSON, ESQ.  
 Colorado Engineering White & Steele, P.C.  
 & Geotechnical Group, 950 17th Street  
 7 Inc., and Paul E. 21st Floor  
 8 Bryant, P.E. Denver, CO 80202  
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1 (Deposition Exhibit Number 1 was marked  
 2 for identification)  
 3 \*\*\*\*\*  
 4 JOHN HIMMELREICH,  
 5 called as a witness for examination under the Rules  
 6 by the Defendants, having been first duly sworn  
 7 according to law, was examined and testified on his  
 8 oath as follows:  
 9 EXAMINATION  
 10 BY MR. PAUL:  
 11 Q Good morning, Mr. Himmelreich. My name  
 12 is Steve Paul and I'm sitting in for Dave Geislinger,  
 13 who is an attorney in my office, and we represent the  
 14 Canaan Company and John Bridges in a lawsuit that was  
 15 brought against them by Dennis and Margaret Cripps.  
 16 We're here to take your deposition today  
 17 pursuant to a stipulated protective order. And I'm  
 18 going to hand you what has been marked for  
 19 identification purposes in this deposition as Exhibit  
 20 Number 1, and ask that you review that. Let me know  
 21 when you've finished, and then I'll ask you a few  
 22 questions.  
 23 A I've read it.  
 24 Q Before I ask you some questions on  
 25 Exhibit 1, why don't you go ahead and state your full

1 PURSUANT TO WRITTEN NOTICE, the  
 2 deposition of JOHN HIMMELREICH, called for examination  
 3 by the Defendants, The Canaan Company and John  
 4 Bridges, was taken in the conference room at the  
 5 offices of Harris, Karstaedt, Jamison & Powers, P.C.,  
 6 Attorneys at Law, 111 South Tejon Street, Colorado  
 7 Springs, Colorado, commencing at 9:58 a.m., on the  
 8 23rd day of July, 2002, before Cynthia A. Hudak, a  
 9 Notary Public and Certified Shorthand Reporter in and  
 10 for the State of Colorado.  
 11

12 INDEX OF EXAMINATION PAGE  
 13 Examination by Mr. Paul. . . . . 4  
 14 Examination by Mr. Carlson. . . . . 61, 86  
 15 Examination by Mr. Weiner. . . . . 67

16 INDEX OF EXHIBITS PAGE  
 17 Exhibit 1 Stipulated Motion for Protective 4  
 Order  
 18 Exhibit 2 Topographical Map *Photo-geologic Map* 30  
 19 Exhibit 3 Preliminary Geological Hazards 33  
 Mapping, Broadmoor Glen Subdivision  
 April 22, 1996 *(Report)*  
 20 Exhibit 4 Preliminary Geologic Hazards Map *Map for Exhibit 3* 36  
 21 Exhibit 5 December 9, 1997 CTL/Thompson 44  
 Soils and Foundation Investigation  
 22  
 23  
 24  
 25

1 name for the record and spell your last name, sir.  
 2 A John W. Himmelreich, Jr.,  
 3 H-i-m-m-e-l-r-e-i-c-h.  
 4 Q Okay. With regard to Exhibit 1, the  
 5 stipulated protective record, in Paragraph 2, it  
 6 indicates that, "John Himmelreich is a professional  
 7 who earns his living based upon his time. As such,  
 8 you are a fact witness, who, much like a treating  
 9 physician, should be compensated for his time. While  
 10 not being retaining Mr. Himmelreich as an expert,  
 11 Defendants for the Canaan Company and John Bridges  
 12 agree to pay Mr. Himmelreich \$125 per hour spent  
 13 during his deposition." Do you see that, sir?  
 14 A Yes.  
 15 Q And you have not been specifically  
 16 retained as an expert witness on behalf of Canaan  
 17 Company and John Bridges, correct?  
 18 A No party.  
 19 Q It is my understanding with this  
 20 protective order that you're being deposed here today  
 21 -- that we're not to ask you any opinions as to the  
 22 reasons for distress of the home that the Crippses own  
 23 at 4860 Broadmoor Bluffs Drive; is that your  
 24 understanding, sir?  
 25 A Yes.

1 MR. WEINER: Steve, what's the basis of  
2 that stipulation?

3 MR. PAUL: It's a stipulation that Dave  
4 and Mr. Himmelreich agreed to.

5 MR. WEINER: Requested or --

6 THE WITNESS: I requested it.

7 MR. PAUL: And I don't know that he's  
8 been out to the property.

9 MR. WEINER: I'm just -- I was surprised  
10 to see that. I'm not objecting to it or anything, I'm  
11 just trying to figure out how it came to be.

12 MR. PAUL: Oh, no.

13 Q (By Mr. Paul) The subpoena duces tecum  
14 was served on you and was revised to specifically  
15 relate to your employment at CTL/Thompson, work done  
16 for the designated non-party, work relating to  
17 plaintiffs' lot and surrounding areas, and subsequent  
18 reports made by CTL/Thompson regarding plaintiffs' lot  
19 and surrounding areas. And you did receive that  
20 subpoena, sir?

21 A Correct. That was the revised subpoena.

22 Q Right. And pursuant to the protective  
23 order, we're taking your deposition here today?

24 A Okay.

25 Q Have you had your deposition taken

1 that helps out the court reporter.

2 A I understand.

3 Q I promise to let you finish your answer  
4 if you promise to let me finish my question. Again,  
5 that's to help the court reporter out, so she's not  
6 racing to get every word we say.

7 A I'll try.

8 Q That's all we can do. If you speak up,  
9 again, it will help the court reporter.

10 Objections may or may not be made during  
11 the deposition. When an objection is made, the  
12 attorney will state his reason for that, but today  
13 you'll still have to answer the question. If at a  
14 later date the attorney who raised the objection would  
15 like to go to the court to have that part of the  
16 deposition excluded, he can do so, but because this is  
17 a deposition --

18 A I understand.

19 Q Are you currently on any medications  
20 that would prevent you from comprehending or  
21 understanding the proceeding here today?

22 A No.

23 Q This may seem like a silly question.

24 Have you ever been convicted or charged with a felony  
25 at any time?

1 before?

2 A No.

3 Q Okay. Let me go over a few ground  
4 rules, Mr. Himmelreich. If you don't understand one  
5 of my questions, please feel free to let me know.  
6 It's very important you understand all my questions  
7 before you give an answer. There's a presumption that  
8 when you give an answer that you understood the  
9 question so you gave the correct answer.

10 If, at a later date subsequent to  
11 deposition in this matter or a hearing or a trial, the  
12 same or similar question was asked of you and you gave  
13 a different answer, then your answers here today could  
14 be shown to the judge or the jury to show the  
15 inconsistency and to impeach your credibility.  
16 Understand that?

17 A Yes.

18 Q And I won't be offended at all if you  
19 say, I'm sorry, I don't understand your question,  
20 would you repeat it. Because it is important that you  
21 do understand my questions before you answer.

22 A I understand.

23 Q If you can, it will be good to answer  
24 with a yes or no, try to keep your voice up. Instead  
25 of an uh-huh or huh-uh and nod or shake of the head,

1 A No.

2 Q What is your address?

3 A 1010 South Sierra Madre Street, Colorado  
4 Springs, Colorado 80903.

5 Q And your date of birth?

6 A October 29th, 1951.

7 Q Social Security number?

8 A 556-84-8845.

9 Q And your current employment?

10 A I am a sole proprietor. I'm a  
11 consulting engineering geologist.

12 Q Do you have a company name for this  
13 proprietorship?

14 A John Himmelreich and Associates.

15 Q When did you create this proprietorship?

16 A November of 1997.

17 Q And why did you create that  
18 proprietorship?

19 A When I left CTL/Thompson -- submitted my  
20 resignation in October of '97 -- I formed the sole  
21 proprietorship shortly after the ending date of my  
22 employment.

23 Q I'm sorry?

24 A Shortly after the ending date of my  
25 employment, I formed the sole proprietorship.

1 Q Prior to November of 1997, how long did  
 2 you work for CTL/Thompson?  
 3 A Almost six years.  
 4 Q What was your job title or capacity in  
 5 which you worked for CTL/Thompson during those six  
 6 years?  
 7 A My job title was associate engineer and  
 8 I was hired as a geotechnical engineer.  
 9 Q You indicated that you were hired as a  
 10 geotechnical engineer and then wound up as an  
 11 associate engineer. Is that like a promotion or a  
 12 step up within the company or was it the same  
 13 position?  
 14 A My title was associate engineer. As I  
 15 recall, the job description was to perform duties of a  
 16 geotechnical engineer.  
 17 Q Okay. So you basically function as an  
 18 associate engineer, but your focus was as a  
 19 geotechnical engineer in that capacity?  
 20 A The title was -- if I can clarify? The  
 21 title of my position was associate engineer, that was  
 22 the level. The next level above that is, I believe,  
 23 principal engineer, and the next level below that is  
 24 project manager, so that's the level I was hired in  
 25 at, the same level as Marty Essigmann. And, as I

1 A The company was struggling in some  
 2 respects, and we had recently been involved in  
 3 litigation that maxed out our errors and omissions  
 4 insurance, and we were at a crossroads as to whether  
 5 to obtain additional insurance or hire additional  
 6 personnel, and we chose to sell our firm.  
 7 Q This litigation that brought about the  
 8 sale to CTL/Thompson, what was the allegation with  
 9 regard to GCI, Inc.?  
 10 A It was a project called the McCulla  
 11 Water Treatment Facility in the Air Force Academy, and  
 12 it was a dispute from the contractor -- by the  
 13 contractor, Park Construction, relative to density  
 14 testing that had occurred on the project.  
 15 Q What was wrong with the density testing  
 16 or alleged that was wrong?  
 17 A I don't recall the specific details,  
 18 however, Park Construction alleged that there were  
 19 misuse of proctor values, moisture density  
 20 relationships on the project, and that the density  
 21 testing was not carried out properly.  
 22 Q Was GCI hired to do the density testing?  
 23 A Yes.  
 24 Q And did you oversee the density testing?  
 25 A No, I did not.

*W. Line*

1 recall, Bill Hoffmann was also an associate at the  
 2 time in 1992 when I was hired. The duties that were  
 3 assigned were geotechnical engineering and soils  
 4 engineering.  
 5 Q Prior to being hired in 1992 with  
 6 CTL/Thompson, who did you work for?  
 7 A I was a principal in a firm called  
 8 Geotechnical Consultants, Incorporated.  
 9 Q Who else was a principal with  
 10 Geotechnical Consultants?  
 11 A Marty Essigmann and Elaine Hobden,  
 12 H-o-b-d-e-n.  
 13 Q How long was Geotechnical Consultants in  
 14 existence for?  
 15 A It was either July or August 1984 until  
 16 the working assets of Geotechnical Consultants, GCI,  
 17 were purchased by CTL/Thompson in late '91 -- I  
 18 believe our first day of employment at CTL/Thompson  
 19 was January 1st, 1992.  
 20 Q And why did CTL/Thompson purchase GCI?  
 21 A GCI was for sale.  
 22 Q And was there a reason why it was for  
 23 sale?  
 24 A Yes.  
 25 Q What was that, sir?

1 Q Who was in charge of the density --  
 2 excuse me, too much caffeine.  
 3 Who was in charge of overseeing the  
 4 density testing that was performed on this project?  
 5 A There were two or three technicians that  
 6 performed the density testing, and Marty Essigmann was  
 7 the engineer in charge.  
 8 Q What was your involvement on this  
 9 project?  
 10 A Minimal.  
 11 Q So Marty was supervising the project,  
 12 and he had a couple of technicians underneath him who  
 13 were performing and overseeing the density testing?  
 14 A Correct.  
 15 Q And your involvement was minimal, and  
 16 can you clarify that for me?  
 17 A My expertise is in engineering geology  
 18 and geotechnical engineering, although I'm not a  
 19 registered professional engineer. The geologic  
 20 studies had been performed by, I believe, Black and  
 21 Veech (phonetic) on that project, and all that GCI was  
 22 hired to do was density testing, soils engineer. I  
 23 was in charge of geologic studies at GCI, and the  
 24 chief geologist, Marty Essigmann, was in charge of the  
 25 soils engineering and geotechnical engineering.

*W. Line*

1 Q You said he was chief geologist?  
 2 A I was.  
 3 Q You were the chief geologist?  
 4 A Yes.  
 5 Q Okay. And you mentioned that you're not  
 6 a registered professional engineer?  
 7 A Correct.  
 8 Q So then you're not licensed by the State  
 9 of Colorado?  
 10 A That's correct.  
 11 Q As a result of that litigation, do you  
 12 know if a settlement was reached or did it go to  
 13 trial?  
 14 A I believe it was settled prior to trial.  
 15 Q Did you retain an attorney to represent  
 16 GCI in that matter or was one provided by your  
 17 insurance carrier for your errors and omission policy?  
 18 A I believe one was provided.  
 19 Q Do you recall the name of the attorney?  
 20 A Gene Commander, Eugene Commander.  
 21 Q Do you know if he was with a law firm  
 22 or --  
 23 A Hall and Evans rings a bell, but he was  
 24 with a law firm in Denver.  
 25 Q And you indicated that you believe it

1 A As I recall, the soils engineering  
 2 subsurface investigation report that we wrote at GCI,  
 3 I did the initial research, air photo research, and  
 4 some of the historical research regarding pre-existing  
 5 fills on that site.  
 6 Q Other than doing initial research for  
 7 subsurface report, did you have any other involvement  
 8 in the Pace Membership Warehouse?  
 9 A I may have watched some of the piles,  
 10 driven piles for the foundation, observed the  
 11 installation of some of those piles.  
 12 Q And what was wrong with the floor slab  
 13 that brought about the litigation, as you recall?  
 14 A It had cracked and been displaced.  
 15 Q And a lawsuit was filed as a result of  
 16 that?  
 17 A Correct.  
 18 Q Was an attorney provided for you by your  
 19 insurance carrier or did you retain an attorney?  
 20 A I believe we retained an attorney, and I  
 21 don't recall his name.  
 22 Q What year was this litigation with the  
 23 Pace Membership Warehouse?  
 24 A I'm guessing mid-'80s, mid-to-late '80s.  
 25 Q As a result of this litigation, was the

1 settled. Do you know what the amount of the  
 2 settlement was?  
 3 A GCI's part of the settlement?  
 4 Q Yes.  
 5 A I believe it was a hundred thousand  
 6 dollars.  
 7 Q What was the time frame that this  
 8 project -- did you call it the Calla Water --  
 9 McCulla Water Treatment Facility.  
 10 Q What was time frame that this project  
 11 was built?  
 12 A I would guess, and this is only a guess,  
 13 late '80s, possibly the early '90s.  
 14 Q Was there any other litigation that GCI  
 15 was involved with before it was purchased by  
 16 CTL/Thompson?  
 17 A Yes.  
 18 Q What other litigation was GCI involved  
 19 with?  
 20 A It was an alleged floor slab problem at  
 21 the Pace Membership Warehouse on South Academy.  
 22 Q Who was primarily responsible for that  
 23 project at the Pace Warehouse?  
 24 A That was also Marty Essigmann.  
 25 Q What was your involvement?

1 case settled or did it go to trial, do you know?  
 2 A I believe it was settled.  
 3 Q Do you know approximately how much it  
 4 settled for?  
 5 A GCI's part of the settlement?  
 6 Q GCI's part of the settlement.  
 7 A As I recall, about 20 or 22,000,  
 8 somewhere in that range.  
 9 Q Any other litigation besides the Pace  
 10 Membership and the McCulla Water Facility?  
 11 A Not that I recall.  
 12 Q And how did it come about that  
 13 CTL/Thompson purchased GCI? Did you approach  
 14 CTL/Thompson or did somebody from CTL/Thompson  
 15 approach you?  
 16 A I think we approached a couple of firms.  
 17 One was GSI, Geotechnical Services, Incorporated, met  
 18 with some principles of that firm, and I think we  
 19 contacted CTL/Thompson. I don't recall specifically.  
 20 Q Do you recall who you spoke with at  
 21 CTL/Thompson with regard to the purchase of GCI?  
 22 A I believe some of the initial  
 23 conversations were probably with Bill Hoffmann.  
 24 Q Was there anybody else involved in the  
 25 purchase of GCI by CTL/Thompson?

Bill

1 A Bob Thompson was.  
 2 Q And did you know Bill Hoffmann prior to  
 3 the purchase of GCI?  
 4 A I don't think -- I may have met him  
 5 prior, but didn't know him well, certainly.  
 6 Q What about Bob Thompson, did you know  
 7 him?  
 8 A No. *B.V.*  
 9 Q Do you know if Marty Essigmann knew ~~Bob~~  
 10 (sic) Hoffmann prior to the purchase of GCI?  
 11 A I believe he did. *Bob*  
 12 Q Do you know if Marty knew ~~Bill~~ Thompson  
 13 before the purchase of GCI?  
 14 A Bob Thompson?  
 15 Q Yes.  
 16 A I believe he did.  
 17 Q Where did you grow up?  
 18 A Born in Denver, raised in Texas,  
 19 educated in California.  
 20 Q Okay. Where did you go to college?  
 21 A California State University at  
 22 Northridge.  
 23 Q What year did you graduate from Cal  
 24 State?  
 25 A 1976.

1 Q Have you ever been licensed as a  
 2 professional engineer in this state?  
 3 A No.  
 4 Q When did you come to Colorado Springs?  
 5 A December of 1978.  
 6 Q What brought you to Colorado Springs in  
 7 1978?  
 8 A My wife and I wanted to get out of Los  
 9 Angeles, and we had family in Colorado.  
 10 Q When you came back in December of 1978,  
 11 who did you go to work for?  
 12 A Company called Lincoln Devoir. *Spelling*  
 13 Q And what was your position with Lincoln  
 14 Devoir?  
 15 A My last position was the director of  
 16 geological services for the company.  
 17 Q How long were you with Lincoln Devoir?  
 18 A From December '78 through July or August  
 19 1984.  
 20 Q So you worked with Lincoln Devoir, and  
 21 then formed your own company, and then eventually went  
 22 to the CTL/Thompson and now you have a sole  
 23 proprietorship?  
 24 A Correct.  
 25 Q I don't know if you brought with you

1 Q What was your course of studies at Cal  
 2 State?  
 3 A I have a bachelor's degree in geology.  
 4 Q After you graduated, did you go on to  
 5 any postgraduate studies?  
 6 A I did take a course, graduate level  
 7 course, in geomorphology and photogeology.  
 8 Q What was the first one you took classes  
 9 in?  
 10 A It was geomorphology.  
 11 Q And what is geomorphology?  
 12 A Geo means of the earth, morphology means  
 13 shape, so shapes of the earth; essentially, a geologic  
 14 process.  
 15 Q As a result of these additional studies,  
 16 did you obtain a master's degree?  
 17 A No.  
 18 Q Do you have a master's degree?  
 19 A No.  
 20 Q Do you have a Ph.D. in any field?  
 21 A No. Just from the School of Hard  
 22 Knocks.  
 23 Q Have you ever sat for professional  
 24 engineer, tested in this state?  
 25 A No.

1 here today a resume, did you do that, sir --  
 2 A No, I did not.  
 3 Q Would it be possible if we could get a  
 4 hold of a resume from you? *Submit Resume*  
 5 A Sure.  
 6 Q If you could provide it to Dave, that  
 7 would be great, and we'll provide it to the other  
 8 counsel.  
 9 As I mentioned early in this deposition,  
 10 this case involves a house located on Broadmoor Bluffs  
 11 Drive at 4860, which is also within the Broadmoor  
 12 South or Broadmoor Glen South area. What is your  
 13 familiarity with the Broadmoor Glen South Development?  
 14 A If we could clarify that, I would  
 15 appreciate it. There are numerous names for that  
 16 overall development area. Broadmoor Glen is the name  
 17 for the overall subdivision. There's the Reserve at  
 18 Broadmoor Glen South, there's Broadmoor Glen South,  
 19 there's Broadmoor Glen, so if we can, are you talking  
 20 about a specific subdivision or the general area?  
 21 Q Let's talk about the general area that's  
 22 located where 4860 Broadmoor Bluff Drive residence,  
 23 the Cripps house is, on that section of Broadmoor  
 24 Bluff Drive. Does that help you?  
 25 A Filing 7? *check filing #*

1 Q Filing 7. Okay. When did you become  
2 involved with that area?

3 A I guess officially in early 1996, say,  
4 late '95 or early '96.

5 Q And who were you working for when you  
6 became involved with the Broadmoor Glen South  
7 Development in Filing 7?

8 A I was working at CTL/Thompson.

9 Q And what was your official capacity with  
10 CTL/Thompson at that time?

11 A I was an associate engineer.

12 Q What were you asked to do with regard to  
13 the Broadmoor Glen South Development, Filing 7?

14 A In late '95 or early '96, I was asked to  
15 do photogeologic hazard mapping for the Broadmoor Glen  
16 area, which included, I believe, this portion for  
17 Filing 7 as a study for US Home. US Home was looking  
18 to purchase property in Broadmoor Glen area and asked  
19 for a photogeologic hazard study, which I performed  
20 while at CTL, the client was US Home.

21 Q As a result of that photo study, did you  
22 produce a report for US Homes (sic)?

23 A I don't believe we did. I believe that  
24 we produced a map is all, and as I recall, Marty  
25 Essigmann then met with representatives of US Home to

1 the client contact went through either Bill Hoffmann  
2 or Marty Essigmann, so I provided the information and  
3 Marty Essigmann and Bill Hoffmann passed it on to the  
4 -- I don't know what the conversations were relative  
5 to the findings.

6 Q Based upon the photo study that you did  
7 for US Homes, did you have any conversations with  
8 Marty Essigmann or Bill Hoffmann with regard to the  
9 landslide and whether or not this area, Filing 7 in  
10 the Broadmoor Glen South area, should be developed?

11 A As I recall, I expressed concern over  
12 the landslide areas, which were considerable. They  
13 were very significant, and as I recall, after Marty  
14 Essigmann's meeting with US Home, US Home decided not  
15 to buy any lots within Broadmoor Glen because of both  
16 the expansion potential and the potential landslide  
17 deposits. You have a copy of that in there.

18 Q Of the map that you did?

19 A US Home, correct.

20 Q Okay. Let me do this, if there's no  
21 objection by counsel, this is a copy of CTL/Thompson's  
22 file that we received pursuant to a subpoena, and I  
23 understand Mr. Himmelreich has looked through these  
24 records, and it might be easier for you to find it  
25 than me, if that is okay with you, sir?

1 discuss our findings.

2 Q Based upon your photo study of the area,  
3 did you determine whether or not there were any  
4 geological hazards in Filing 7 of the Broadmoor Glen  
5 South area?

6 A I mapped a majority of the Broadmoor  
7 Glen subdivision, or a very significant portion, as  
8 landslide deposits.

9 Q What significance, if any, does that  
10 have for a developer of land if it's -- if a geologic  
11 engineer such as yourself determines that there's  
12 landslide areas within the development, or the  
13 property to be developed?

14 A Depends on -- depends on the severity,  
15 the size of the landslide, its proximity to the  
16 development, its age, its characteristics, so there's  
17 lots of factors that go into assessing risk relative  
18 to building or developing on landslide deposits.

19 Q As a result of your photo study that you  
20 performed for US Homes, did you recommend that the  
21 development not be had in Filing 7 Broadmoor Glen  
22 South Development?

23 A I didn't, as I recall, I didn't provide  
24 any recommendations to US Home. I had very little  
25 client contact while I was at CTL/Thompson. Most of

1 A Sure, I briefly looked at them.

2 Q Now, the record, this is CTL/Thompson's  
3 Job Number CS-5776, and in this file there is a map.  
4 Is this the map that you're referring to?

5 A Yes.

6 Q Okay. And this was done for US Homes,  
7 and this was either late 1995 or 1996?

8 A I don't recall. There's no date on the  
9 project set-up sheet.

10 Q The work description does indicate  
11 aerial photo hazard study is to be performed?

12 A And the job number. Next job number in  
13 sequence is 5777, is associated with a report. This  
14 is dated 8/17 of '95, so again, I'm guessing this is  
15 late '95.

16 Q And that's based upon the next job file?

17 A Correct.

18 Q 5777?

19 A Correct.

20 Q If I got the right amount of 7s.

21 So when we go back and look at Job  
22 Number CS-5776, and there is in that folder a map, is  
23 this the map that you produced as a result of your  
24 aerial photo study?

25 A Yes.

1 Q On this map you have Possible, and it  
 2 says -- is that a Q slash S?  
 3 A That's a Q, small L, small S.  
 4 Q What does that stand for, sir?  
 5 A The "Q" is quaternary,  
 6 q-u-a-t-e-r-n-a-r-y, which is a young geologic age. The  
 7 "ls" stands for landslide. So it's the geologic  
 8 symbol for landslide.  
 9 Q Okay. There's also "Kp" that's  
 10 indicated on this?  
 11 A That stands for Pierre Shale,  
 12 P-i-e-r-r-e.  
 13 Q What is the significance of Pierre Shale  
 14 to a geologist such as yourself?  
 15 A Pierre Shale is probably the top bad  
 16 actor in terms of geologic hazards in the Colorado  
 17 Springs area.  
 18 Q And why is that, sir?  
 19 A Because it is known for its high  
 20 expansive -- expanse potential, swell potential, and  
 21 it's known for its instability in slopes, landslides.  
 22 Q -- There's also "Qalo."  
 23 A That is older alluvium.  
 24 Q And what's the significance of that?  
 25 A Alluvium is water deposited material in

1 Q And what significance is that to you as  
 2 a geologist or with regard to landslides?  
 3 A The verdos alluvium consists of a  
 4 significant amount of sand and gravel deposits. Those  
 5 sand and gravel deposits act like a sponge and absorb  
 6 water. That water then percolates downward until it  
 7 hits a lower permeability layer such as the Pierre  
 8 Shale, and then that water moves laterally.  
 9 The verdos alluvium also tends to form a  
 10 resistant cap and protects the shale from erosion, and  
 11 there are -- the combination of verdos alluvium and  
 12 Pierre Shale is one in which geologists find a lot of  
 13 landslides associated with those two deposits when  
 14 they occur together. Also, the offsetting of verdos  
 15 alluvium may -- landslide is one of the main things  
 16 that geologists use to demonstrate that there are  
 17 landslides as opposed to in-place deposits of the  
 18 verdos alluvium.  
 19 Q Is this another symbol that you have  
 20 here?  
 21 A That is "pus," potentially unstable  
 22 slopes.  
 23 Q What significance does that have to you  
 24 as a geologist or with regard to a landslide  
 25 possibility?

1 streams and along drainage ways. Older alluvium would  
 2 be alluvium that was deposited in terraces in times  
 3 past by streams when they float at higher levels.  
 4 Q Does it have any significance to the  
 5 possibilities of landslides?  
 6 A No, but sometimes when you drill test  
 7 borings, you find alluvium underneath the landslide,  
 8 which helps to date the landslide in terms of when it  
 9 moved relative to when the alluvium was deposited.  
 10 Q Okay. You also have "Qefa." What does  
 11 that stand for, sir?  
 12 A That is an earth flow deposit. The "a"  
 13 would probably be ancient.  
 14 Q What significance is that to you as a  
 15 geologist?  
 16 A Ancient flow is a type of landslide.  
 17 This particular earth flow originated on Cheyenne  
 18 Mountain near NORAD and is part of a very large  
 19 landslide complex.  
 20 Q You have "Qv" or is that "Qc"?  
 21 A That's Qv.  
 22 Q What does that stand for, sir?  
 23 A That is a verdos alluvium. That's a  
 24 glacial deposit that caps some of the mesas in the  
 25 area.

1 A Many of the potentially unstable slopes  
 2 in this area are formed and are part of the evaluation  
 3 zone of the landslide. When a landslide occurs, the  
 4 land drops and leaves, in many cases, a very steep  
 5 wave from the hillside, and those steep slopes  
 6 resulting from landsliding are potentially unstable.  
 7 They could slide also.  
 8 Q I think you also have this "Qac"?  
 9 A That's the alluvium and colluvium.  
 10 Q What significance does that have to you  
 11 as a geologist or with regard to a possible landslide?  
 12 A That is a deposit found at the,  
 13 typically, at the base of slopes and in drainage ways.  
 14 It's another geologic mapping unit, different from, in  
 15 many cases, the processes that form landslides.  
 16 Q There's also an indication of debris  
 17 flow, what does that mean to you as a geologist, sir?  
 18 A Debris flows are typically  
 19 thunderstorm-produced, like wet concrete in  
 20 consistency, okay? It's a type of landslide that  
 21 forms from basically floods, 50/50 percent mixture,  
 22 roughly, of solids and liquid. They act not like a  
 23 flood and not like a solid, somewhere in between.  
 24 Q Now, you have up over here "sw, as."  
 25 That's two or --

1 A Yeah, sw, as. That's seasonal wet,  
2 active seepage.

3 Q And what significance, to you as a  
4 geologist with possible landslide, does that condition  
5 indicate?

6 A That condition indicates active seepage  
7 and/or springs. Seepage and springs are commonly  
8 associated with landslides.

9 MR. PAUL: If you don't mind, if we can  
10 go off the record, so you'll all have this and we'll  
11 make it as an exhibit.

12 WEINER: Sure.

13 (There was a recess taken from 10:43  
14 a.m. until 10:45 a.m.)

15 (Deposition Exhibit Number 2 was marked  
16 for identification)

17 MR. PAUL: Lets go back on the record  
18 in the deposition of John Himmelreich.

19 Q (By Mr. Paul) Mr. Himmelreich, I'm  
20 going to hand you what's been marked in this  
21 deposition for identification purposes as Exhibit 2,  
22 and this is a reduced copy of the map that we've been  
23 referring to out of the Job File CS-5776. If you can  
24 compare Exhibit 2 with the map that we have just been  
25 referring to, and let me know if that accurately

1 topographic map from aerial photographs, okay, and I  
2 plotted the geology, geologic units on that base map.  
3 So the location of Broadmoor Bluffs Drive at the time,  
4 as of 1990 -- and, as I recall, I just performed a  
5 photogeologic analysis. I used aerial photographs and  
6 this topographic base map to produce this geologic  
7 map. I don't recall doing a field ~~recognizance~~  
8 all.

9 Q And when you say field ~~recognizance~~,  
10 that means going actually out into the land and  
11 looking at the development itself?

12 A Correct.

13 Q The symbols that we have discussed that  
14 are located on Exhibit 2, is that your handwriting?

15 A Yes.

16 Q And did you draw all the lines that are  
17 in dark or black ink that's on this Exhibit 2?

18 A Yes. I may have looked at some of the  
19 development in the extreme east part of this at the  
20 time. I simply don't recall.

21 Q Okay. And this was your first  
22 involvement with the Broadmoor Glen South, Filing 7 in  
23 this area?

24 A Correct.

25 Q That was done for US Homes?

1 depicts the map from that job file?

2 A It does, with the exception of the  
3 scale, it's been reduced.

4 Q Okay. On Exhibit 2, I'm going to hand  
5 you a pen, and if you could, show me where Filing 7,  
6 approximately where Filing 7 is located or where  
7 Broadmoor Bluffs Drive is.

8 A Mark it on the exhibit? I guess the  
9 Cripps residence is somewhere in that vicinity.

10 Q Okay. You just drew --

11 A That's an estimate.

12 Q You just drew a blue circle estimating  
13 that's the area where the Cripps house is, or Filing  
14 7, in Broadmoor Glen South?

15 A Yeah, Filing 7 extends down to the east  
16 several hundred feet and to the west, also.

17 Q Okay. At the time that you did this  
18 map, Broadmoor Bluffs Drive looked like it --

19 A Terminated at Farthing Drive.

20 Q Okay. So it did not exist at the time  
21 of this map, going up the mountain?

22 A As I recall, that's correct, but -- but  
23 the base map that this geologic -- these geologic  
24 units are drawn on, I believe is from 1989 or 1990,  
25 somewhere in that era. This is a city-produced

1 A US Home.

2 Q Home. I'm sorry, I keep throwing it in  
3 as plural.

4 A Correct.

5 Q What was the next project that you were  
6 involved with with regard to Filing 7 in the Broadmoor  
7 Glen South Development?

8 A That would have been the geologic study  
9 performed for Gates Land Company, Job Number CS-6319,  
10 CTL/Thompson report dated April 22, 1996.

11 (Deposition Exhibit Number 3 was marked  
12 for identification)

13 Q (By Mr. Paul) I'm going to hand you  
14 what's been marked for identification purposes as  
15 Exhibit Number 3, and this is, I believe, your report  
16 dated April 22, 1996, Job Number CS-6319, which I  
17 believe you just described as being prepared for Gates  
18 Land Company?

19 A Yes, it is, except it does not have the  
20 map attached.

21 Q Okay. And is that what Figure 2 is a  
22 map of in your report?

23 A Yes.

24 Q In your report it refers to Figure 2?

25 A Yes.

1 Q When we pulled the job file that was  
 2 produced to us by CTL/Thompson, we couldn't locate a  
 3 Figure 2. Do you know if this is --  
 4 A No, that is the Job Number CS-5777. The  
 5 figure for this is located in another file here.  
 6 Q Okay. Could you pull out the other file  
 7 that contains Figure 2 so --  
 8 A We can match the map and the report.  
 9 This is Figure 2, Job Number CS-6319.  
 10 MR. WEINER: Can we take a break and you  
 11 copy that for us?  
 12 MR. CARLSON: Well, actually, we would  
 13 like a copy...  
 14 MR. WEINER: Why don't you mark it and  
 15 then you can get copies.  
 16 MR. PAUL: We'll have to have that sent  
 17 out, so let's just...  
 18 Q (By Mr. Paul) Is Figure 2, is that what  
 19 you're referring to?  
 20 A Yes.  
 21 Q Now, according to the preliminary  
 22 geological hazards map, this indicates this is Figure  
 23 2 of 2, so is there a first page to this?  
 24 A I think Figure 1 is in the text. It's  
 25 an 8-1/2 by 11.

1 made of this.  
 2 MR. PAUL: If that's okay with, Counsel?  
 3 MR. CARLSON: Actually, why don't we  
 4 mark this one, withdraw it, make copies and return the  
 5 original to Mr. Himmelreich, if that's okay?  
 6 A This is from CTL/Thompson.  
 7 MR. CARLSON: Okay. We can mark it now.  
 8 (Deposition Exhibit Number 4 was marked  
 9 for identification)  
 10 MR. PAUL: What I'll do is withdraw  
 11 this, have copies made, and submit it.  
 12 MR. WEINER: Fine.  
 13 MR. PAUL: If that's okay with Counsel?  
 14 MR. CARLSON: Okay.  
 15 Q (By Mr. Paul) So we've established that  
 16 with regard to your report dated April 22 of 1996 the  
 17 two figures, one is attached to the report and then  
 18 the other one is Exhibit 4?  
 19 A Correct.  
 20 Q On Exhibit 4, are you able to -- well,  
 21 let me go through some of the stuff with you here. LS  
 22 and a question mark, what does that mean to you, sir?  
 23 A In the case of the prior map exhibit,  
 24 there was not a legend --  
 25 Q That's right.

1 Q Right, but this says Figure 2 of 2. Is  
 2 that referring to another page or is that just  
 3 referring to another -- you have 1 attached and this  
 4 is 2?  
 5 A Figure 1 is the study area map and  
 6 Figure 2 is the preliminary geologic hazards map in  
 7 the pocket, so it doesn't appear that there's another.  
 8 MR. WEINER: Is that the same?  
 9 A Looks like the same thing. As I recall,  
 10 I've got a copy, here's part of that also.  
 11 MR. CARLSON: This is not the whole  
 12 thing.  
 13 MR. PAUL: What's that?  
 14 MR. CARLSON: This is half of it.  
 15 MR. PAUL: And here's the other half.  
 16 A This is my personal copy of that same  
 17 report.  
 18 Q (By Mr. Paul) Okay. That indicates  
 19 Figure 2 of 2?  
 20 A If it's the same map. It's the same  
 21 map. There wouldn't be another map. Figure 1 would  
 22 be the site location study area map --  
 23 Q Okay.  
 24 A -- in the report, so it's the same map.  
 25 Q After your deposition, we'll have copies

1 A -- associated with that. This one has a  
 2 legend, so it's -- we can -- I can read it off if you  
 3 want.  
 4 Q No, that's fine, the legend's there.  
 5 Can you proximate for us the location of 4860  
 6 Broadmoor Bluffs Drive on Exhibit 4?  
 7 A Somewhere over in here.  
 8 Q Okay.  
 9 A Now, this -- as I understand, this  
 10 particular topographic base map is from aerial  
 11 photographs shown in the late '60s, I believe. At the  
 12 time that I was doing this particular mapping, I was  
 13 doing fields recognizance and construction was under  
 14 way along the east side of Farthing Drive on the east  
 15 part of the parcel, and Broadmoor Bluffs Drive was  
 16 being graded at the time that I was performing this  
 17 study. They were developing the ground at the time.  
 18 And rather than use a topographic map  
 19 that depicted man-made or produced conditions, I chose  
 20 to use essentially the natural topography to depict  
 21 the geologic hazards. This one also has more detail  
 22 than the city-produced topographic map, including  
 23 vegetation.  
 24 Q I'm going to hand you a black pen, if  
 25 you would just make a small X in the approximate area

1 where you believe Filing 7 of Broadmoor Glen South is  
2 located, specifically, if you can, and again, 4860?

3 MR. CARLSON: Filing 7 or 4860?

4 MR. PAUL: 4860, my understanding from  
5 his testimony, is that 4860 Broadmoor Bluffs Drive is  
6 located in Filing 7.

7 MR. WEINER: But we don't have the exact  
8 dimensions of Filing 7?

9 MR. PAUL: No, this is just an  
10 approximation.

11 MR. WEINER: Right.

12 A (The deponent complies) That's an  
13 approximation, folks.

14 Q (By Mr. Paul) Okay.

15 A And I relied on a Kumar and Associates  
16 map.

17 Q To assist you in determining where to  
18 place the X on Exhibit 4?

19 A Correct.

20 Q And this is a Kumar Associates report  
21 dated April 17, 1996, also prepared for Gates Land  
22 Company.

23 Is that a report that you brought along  
24 with you, sir?

25 A Yes.

1 A Yes, I personally hand-delivered copies.

2 Q Do you know who at the Gates Land  
3 Company you handed the reports to?

4 A No, I don't. As I recall, when I went  
5 to -- when I delivered the reports at Gates Land  
6 Company, Bob Svenjkousky -- and that is spelled  
7 S-v-e-n-j-k-o-u-s-k-y -- Bob Svenjkousky was not in  
8 his office, and I was directed to put it on his desk  
9 or with a -- in the corner with a bunch of other maps  
10 that he had.

11 And, as I recall, Bill Hoffmann got a  
12 telephone call about a month later from  
13 Mr. Svenjkousky, and the phone call was directed to me  
14 that he couldn't -- he was wondering where his report  
15 was, he hadn't seen it. And I directed him to the  
16 part of his office where I had put the report. His  
17 office was, say, not in the best of order.

18 Q Okay. And your report dated April 22nd,  
19 1996, included investigation or the area also known as  
20 Broadmoor Glen South, Filing 7?

21 A Yes.

22 Q And in this report, I believe you  
23 indicate there's some landslide hazards, slope  
24 stability issues, ground subsidence issues, expansive  
25 soils and bedrock, seismicity, radioactivity, erosion,

1 Q What was the purpose that you prepared  
2 -- refer you back to Exhibit 3, which is your report  
3 dated April 22, 1996 for the Gates Land Company.

4 A Do you have the project file? Purpose  
5 is outlined on the project set-up sheet.

6 Q And it indicates, "Wants interpretation  
7 of hazards on map." Is that, "No mitigation or formal  
8 report"?

9 A As I read it, work description, "Wants  
10 our interpretation of hazards on map. No mitigation  
11 or formal report, just map with short letter." And  
12 this order was taken by WCH, which is Bill Hoffmann.

13 Q And as a result of that work  
14 description, you produced the report dated April 22nd,  
15 1996?

16 A Yes, I produced a report, even though it  
17 was not requested.

18 Q If you look on or look at Exhibit 3 on  
19 Page 7, there's a signature line for yourself, and  
20 then there's also a signature line for Mr. Hoffmann.  
21 Do you know if either you or he signed the original of  
22 this report?

23 A As I recall, we did.

24 Q Do you know if this report was ever  
25 given to the Gates Land Company?

1 flooding and then groundwater and seepage; is that  
2 correct?

3 A Correct.

4 Q Okay. And then on Page 5, in  
5 Development Considerations, you indicated, "It should  
6 be emphasized that some risk is associated with  
7 development and subsequent construction on landslide  
8 features and potentially unstable slopes."

9 A What page are you on?

10 Q Page 5.

11 A Yes.

12 Q And why was that a concern of yours,  
13 sir?

14 A Because landslides consist of ground  
15 that has failed in the past, and potentially unstable  
16 slopes consists of basically landslides waiting to  
17 happen. There's a risk associated with development  
18 and building in these areas. The risk can range from  
19 low, depends on several factors, to very high.

20 Q And where would you place this between  
21 low to very high with regard to landslide?

22 MR. WEINER: I'm going to object to the  
23 form of the question.

24 A I haven't analyzed it in that much  
25 detail.

1 Q (By Mr. Paul) What did you do to  
2 produce this report? Did you go out to the  
3 development and inspect the land that was out there?

4 A I did some amount of research of  
5 previous geologic studies in the area. As I recall,  
6 we requested air photos and test borings from Gates  
7 Land Company and did not receive -- or we didn't  
8 obtain any information from Gates regarding previous  
9 test borings.

10 I did a photogeologic analysis on the  
11 project. As I recall, I called Gary Allen with US  
12 Home in Denver to get his permission to utilize  
13 Exhibit Number 2, because it covers much of the same  
14 area, so I got permission from a previous client to  
15 utilize that information for the Gates Land Company  
16 study. So I utilized this previous mapping that I had  
17 done the year before and did a field recognizance and  
18 mapping in the field, site visit.

19 Q So the same concerns that you had when  
20 you prepared the Exhibit 2 for US Home you had the  
21 same concerns when you produced your April 22nd, 1996  
22 report for Gates Land Company with regard to the  
23 possibility of landslides in this area?

24 A Yes.

25 Q On Page 6 of your report dated April 22,

1 engineers working for CTL/Thompson can access with  
2 regards to their work in a similar area such as  
3 Broadmoor Glen South?

4 A Correct, if they do their homework.  
5 (Deposition Exhibit Number 5 was marked  
6 for identification)

7 Q (By Mr. Paul) Mr. Himmelreich, I'm  
8 going to hand you what's been marked for  
9 identification purposes as Exhibit Number 5. This is  
10 a report prepared December 9th, 1997 by Marty  
11 Essigmann, with regards to the address, 4860 Broadmoor  
12 Bluffs Drive, Lot 7, Broadmoor Glen South, Filing 7,  
13 which we've been talking about. Why don't you take a  
14 minute or two and review this report, and I'm going to  
15 ask you a few questions.

16 A Okay.

17 Q With regard to Exhibit 5, the December  
18 9th, 1997 report, from your review, is there any  
19 reference to your report that you prepared on April  
20 22nd, 1996?

21 MR. WEINER: Before you answer that, let  
22 me ask Steve a question. Is that in reference to his  
23 opinions about the house at 4860 Broadmoor Bluffs  
24 Drive?

25 MR. PAUL: About the distress of the

1 1996, the first sentence indicates, "A detailed  
2 subsurface investigation and stability analysis should  
3 be performed to define subsurface conditions,  
4 geometry, the mass movement features and potential  
5 mitigation which might be feasible."

6 Do you know if CTL/Thompson ever  
7 performed any of those subsurface investigations  
8 either before your report of April 22nd of 1996 or  
9 after?

10 A CTL/Thompson did perform some subsurface  
11 investigations in the east portion of the Broadmoor  
12 Glen Development in about, I'm guessing, late '95,  
13 very close to the time that Exhibit 2 was produced. I  
14 would not call them detailed. I'd call them standard  
15 subsurface soil investigation. I'm not aware of any  
16 detailed subsurface investigation or stability  
17 analysis that was performed in the Broadmoor Glen  
18 Development by CTL/Thompson at the time I worked  
19 there.

20 Q Now, this report that you prepared,  
21 which is Exhibit 3, I believe, dated April 22, 1996,  
22 this is a report that's prepared and kept by  
23 CTL/Thompson in their files?

24 A Yes.

25 Q This would be information that other

1 house. I'm not asking about the house.

2 MR. WEINER: Okay. So just trying to  
3 talk about eliciting the distinction between the  
4 distress on the house and the fact that CTI report  
5 does or doesn't reference his previous report.

6 MR. PAUL: Well, that gets into the  
7 whole issue of disclosure. It doesn't have anything  
8 to do with the distress of the house and its current  
9 state.

10 MR. WEINER: Okay.

11 MR. PAUL: I'm not asking any questions  
12 about that, as to whether or not he's formed an  
13 opinion as to what's causing...

14 MR. WEINER: Okay.

15 A Can you repeat the question, please.

16 Q (By Mr. Paul) Sure. With regard to  
17 Exhibit 5, which is Marty Essigmann's reported dated  
18 December 9, 1997, from your review, does his report  
19 contain any reference to your report which was dated  
20 April 22nd, 1996, which is Exhibit Number 3?

21 MR. WEINER: I guess I'll just object to  
22 the form of the question.

23 A No, it does not.

24 Q (By Mr. Paul) Is there any mention in  
25 Marty Essigmann's report, in Exhibit 5, dated December

1 9, 1997 with regard to the Chen, C-h-e-n, and  
 2 Associates report, which is dated February 19, 1997?  
 3 A No.  
 4 Q Again, in Exhibit 5, the December 9th,  
 5 1997 letter...  
 6 A Can I add a footnote to that last  
 7 answer?  
 8 Q Yes.  
 9 A The only reference to previous reports  
 10 contained in this Exhibit 5, other than  
 11 governmental-produced reports, US Geological Survey,  
 12 for example, is the Kumar report, which does have  
 13 additional references in them.  
 14 Q And do you know if those additional  
 15 references in the Kumar report contain any references  
 16 to your report which was dated April 22nd, 1996?  
 17 A It does not.  
 18 Q And what additional references does the  
 19 Kumar report have that you're referring to?  
 20 A On Page 27 of the April 17th, 1996 Kumar  
 21 report, it has a preliminary geotechnical engineering  
 22 study for Broadmoor Bluffs Drive by Huntington  
 23 Engineering, an environmental -- May 12, 1994, an  
 24 inclinometer survey and supplemental recommendations.  
 25 Geological hazard survey by Huntington, October 24,

1 1994, refers to what are commonly called in the area  
 2 of the Robinson maps produced in 1977 as part of House  
 3 Bill 1041 mapping for El Paso County. It refers to a  
 4 report by Huntington Geologic Hazard Study, Broadmoor  
 5 Glen Development 1994, August 22nd. USGS, Scott Wobis  
 6 (phonetic) 1973 and USGS triple map sheet 1979.  
 7 Q And what significance, if any, are those  
 8 reports that you just referred to?  
 9 A Those are previously produced, some  
 10 published, some consulted-produced reports that  
 11 provide surface, subsurface data and geologic mapping  
 12 for the Broadmoor Glen area.  
 13 Q Do you know if any of those reports,  
 14 based upon your review of them, indicates that this  
 15 area we've been talking about, Broadmoor Glen South,  
 16 Filing Number 7 is a landslide area?  
 17 A October 24th, 1994 letter by Huntington  
 18 is an inclinometer survey and supplemental  
 19 recommendations geologic hazard study. So  
 20 inclinometer survey was apparently conducted to  
 21 monitor the movement of what's called the Cheyenne  
 22 Mountain landslide that lies to the north of Broadmoor  
 23 Bluffs Drive.  
 24 The 1977 Robinson maps show geologic  
 25 conditions and potentially unstable slopes in the

1 Broadmoor Glen area, specifically in along Broadmoor  
 2 Bluffs Drive. The 1994 study by Huntington, August  
 3 22nd, is a geologic hazard study, does show landslides  
 4 in the Broadmoor Glen Subdivision.  
 5 Q Do you -- go ahead?  
 6 A And the Scott Wobis 1973 and triple map  
 7 sheet are regional geologic maps that show landslides  
 8 in the area.  
 9 Q Do you currently know if there's any  
 10 monitoring or measurement going on with regard to  
 11 landslide or movement in this area we've been  
 12 referring to as Broadmoor Glen South, Filing Number 7?  
 13 A Not in Filing 7. Yes, pardon me, I'm  
 14 going to correct myself. There's monitoring currently  
 15 going on, I believe, in Broadmoor Bluffs Drive. The  
 16 City of Colorado Springs is contracting for those  
 17 services.  
 18 Q The area of Broadmoor Bluffs Drive where  
 19 the City is monitoring, do you know if that strip of  
 20 the road has been acquired by the City or is that  
 21 still property of the Gates Land Company?  
 22 A As I understand, the City has never  
 23 accepted Broadmoor Bluffs Drive for maintenance,  
 24 because of problems related to damage of the roadway.  
 25 Q And when you say they've never accepted

1 it, are you talking about all of Broadmoor Bluffs  
 2 Drive or from the stop sign at the corner of Farthing  
 3 and Broadmoor Bluffs just up to where it hits Neal  
 4 Ranch?  
 5 A Well, not quite to Neal Ranch Road, but  
 6 where it terminated at the top of the hill just beyond  
 7 Filing 7 or at the edge of Filing 7 area to Farthing  
 8 Drive. I'm not sure they've accepted any of that  
 9 stretch. It may be only the stretch that they've had  
 10 problems with that they haven't accepted, that's a  
 11 question, however, for the City.  
 12 Q Now, it's my understanding that you had  
 13 an opportunity to review -- and we have it with us  
 14 here in a box -- the CTL/Thompson file that was  
 15 produced to us pursuant to a subpoena duces tecum, and  
 16 that after your review you determined that there was  
 17 some documents that may have been missing, or is that  
 18 incorrect?  
 19 A There were some files that I had some  
 20 questions on.  
 21 Q All right. You presented me with job  
 22 file for CTL/Thompson CS-9673, and this is a soils and  
 23 foundation investigation for 920 Broadmoor Bluffs  
 24 Drive?  
 25 A There's a phone message attached to this

1 particular project set-up sheet that covers up some  
2 writing, and I think this would be constructive to  
3 have a clean full copy of that project set-up sheet.  
4 I have seen a project set-up sheet for Broadmoor  
5 Bluffs Drive where the remarks were, "Used the Kumar  
6 report for hazards."

7 MR. WEINER: You're just saying that  
8 that's -- the Xerox is covering up some writing?

9 A Yeah, the word "hazards" appears and  
10 there's additional writing that's been covered up.

11 Q (By Mr. Paul) Is there anything else  
12 with regard to this project file or is that the only  
13 thing?

14 A No, that was the only thing that I  
15 noticed.

16 Q Was there anything that you noticed in  
17 your review of the CTL/Thompson file?

18 For the record, you've pulled out  
19 CTL/Thompson Job File Number CS-10051, and this is  
20 with regard to a house located at 445 Cardiff Circle.  
21 What was your concern with regard to this file, sir?

22 A --As I recall, the report produced for  
23 this, it indicates on Page 2, "We are unaware of any  
24 geologic hazards investigations specifically for this  
25 subdivision file," which is Broadmoor Bluffs Estates,

1 which I think is very important. That is a project  
2 called Physicians' Network.

3 Q Why is that job file important?

4 A Physicians' Network is located at the  
5 intersection of Farthing and Broadmoor Bluffs Drive,  
6 and that project was completed by myself, reviewed by  
7 Mr. Hoffmann in June or July of 1997. In that report,  
8 draft geologic hazards investigation, it cites several  
9 references in the references section, and those  
10 references are key to discovering what CTL/Thompson  
11 had possession of at the time relative to studies.

12 Q Would that be information with regard to  
13 the possibility of landslide and slope instability  
14 within the Broadmoor Glen South Development,  
15 specifically Filing 7?

16 A Yes, because both Exhibit 3 and Exhibit  
17 2 are referenced in that report. It's CTL/Thompson  
18 Job Number CS-7792.

19 Q CS --

20 A 7792.

21 Q And you have a copy of that report, or  
22 it says it's a draft?

23 A It's a draft. As I recall, I never  
24 signed this report. The Physicians' Network decided  
25 not to buy the property, and the report was never

1 and the 1987 Chen report covers geologic hazards in  
2 Broadmoor Bluffs Estates, so -- and CTL/Thompson did  
3 have a copy of the Chen report in late '97, so I  
4 believe that statement is incorrect.

5 Q Anything else with regard to this job  
6 file?

7 A It says on Page 2, last paragraph, it  
8 says, "While a detailed slope stability analysis for  
9 that site was not performed. Preliminary suggests  
10 that the site should remain relatively stable provided  
11 the soils do not experience deep wetting and is a  
12 shallow groundwater table development." And included  
13 with this job file is apparently a whole bunch of  
14 stability slope calculations, so it appears that slope  
15 stability analysis was performed, and it indicates on  
16 the project set-up sheet to quote, "run slope  
17 stability analysis."

18 Q Anything else with regard to this job  
19 file, sir?

20 A Not that I recall. I didn't review it  
21 in any detail.

22 Q Was there any other files that you  
23 reviewed from CTL/Thompson that you had any concern or  
24 there was something that you noticed?

25 A There was a file that was not produced,

1 finalized, as far as I recall.

2 Q Can we make a copy of that and make that  
3 an exhibit to this deposition?

4 A Yes. And these are other documents  
5 associated with that same file.

6 Q So all of these are for Physicians'  
7 Network?

8 A Correct. And I can walk through them or  
9 not.

10 Q Why don't you go ahead and tell us what  
11 you have, and then we'll make copies of them and  
12 attach them as exhibits.

13 A June 20th, 1997 is a letter written by  
14 me to Bob Svejkosky requesting copies of landslide  
15 investigations and landslide monitoring results that I  
16 discovered existed, after I had written the April  
17 22nd, 1996 report.

18 Q What significance is that with regard to  
19 the development we have been talking about here today?

20 A As I recall, in 1996, we requested  
21 previous studies and were not provided with them,  
22 okay? Through research in or about June of '97, I  
23 discovered there were, in fact, previous reports that  
24 had been completed for Gates Land Company in the  
25 Broadmoor Glen area and in the Broadmoor Bluffs

1 Estates area, and I requested copies of those as part  
2 of this parcel.

3 Q So you didn't have copies of those  
4 reports, you just requested them from Gates?

5 A Correct.

6 Q Did you ever receive those reports from  
7 Gates?

8 A Yes.

9 Q And what significance did those reports  
10 have with regard to your April 22nd, 1996 report?

11 A Many of the landslides that had been  
12 mapped in 1987 in the Chen report, he also mapped the  
13 same area as landslides and including the area  
14 adjacent to Broadmoor Bluffs Drive. So our maps  
15 coincided in many cases relatively well, independent  
16 confirmation.

17 I'm a scientist. I build on previous  
18 information, if I'm provided with that information. I  
19 don't necessarily take it as gospel, and I like to  
20 have as much information as possible in order to make  
21 an independent evaluation. That confirmed my mapping  
22 that I had done in '95 and '96 of the landslide  
23 deposits.

24 Q What's the next document that you have?

25 A Next document is July 15th, 1997 summary

1 of preliminary findings for the Farthing and Broadmoor  
2 Bluffs site for Physicians' Network, including an  
3 environmental site assessments findings. The next one  
4 is a July 31st, 1999 geologic hazards investigation  
5 draft for the Physicians' Network site. Next one is  
6 October 20th review by the Colorado Geological Survey  
7 of the Physicians' Network site, their report, and the  
8 October 21st, 1997 letter by Bill Hoffmann regarding  
9 subsurface investigation for that same site.

10 Q And these reports that you just walked  
11 us through, did they confirm your concerns with regard  
12 to the landslide issues that you observed and you  
13 determined with regard to Broadmoor Glen South, Filing  
14 7?

15 MR. WEINER: Object to form.

16 A The Physicians' Network site reports and  
17 the information provided by Gates Land Company  
18 confirmed much of the mapping that I had done in that  
19 region.

20 Q (By Mr. Paul) Which indicated to you  
21 that there was the possibility of landslides within  
22 this area?

23 A No, it indicated independent  
24 confirmation there were landslides, not the  
25 possibility of landslides.

1 Q Okay.

2 A Some landslides that I've mapped or did  
3 map in 1996 were possible, they had some of the  
4 characteristics of landslides, yet didn't pose the  
5 shapes and forms that are classic, okay, so I mapped  
6 them either as questionable or possible, and there's a  
7 range, so, confirmed the definite landslides were  
8 definite landslides.

9 Q And that was based upon the information  
10 that you just walked us through?

11 A It was based on the information that was  
12 gathered during the Physicians' Network project and  
13 the previous studies that were provided previous to  
14 the Physicians' Network requests and research. I had  
15 never been provided with previous studies and had  
16 asked previously back to 1990, 1989, 1990, we were  
17 looking for previous studies and had never been  
18 provided them.

19 Q Is there any other documents that you  
20 brought with you here today?

21 A Geologic hazard review by the Colorado  
22 Geological Survey sent from John Maynard at NES  
23 Planning to Bill Hoffmann regarding the review of the  
24 Kumar, 1996 Kumar report by the geological survey.

25 Q And what significance is this document,

1 sir?

2 A This particular document, which was --  
3 the fax date is June 14th, 1996, is when I first  
4 discovered that, as I recall, that there were in fact  
5 other reports for the Broadmoor Glen area and that  
6 Kumar had produced one at about the same time I  
7 produced my April 22nd, 1996 report, and the Gates  
8 Land Company had submitted the Kumar report instead of  
9 the report that I produced.

10 Q Did the Kumar report indicate whether or  
11 not there was landslides or possibilities of  
12 landslides in the Broadmoor South area?

13 A Yes, the comparison of the Kumar mapping  
14 and the mapping that I produced in 1995 and '96, in  
15 many cases, again, were very similar. I mapped more  
16 areas as landslides than Kumar did, but they show  
17 quite a bit of the Broadmoor Glen area as landslide  
18 deposits.

19 Q And in this letter that you said was  
20 faxed in June of 1996, was it critical of development  
21 in this area?

22 A It was and it wasn't. The -- I disagree  
23 with the Colorado Geological Survey in their  
24 assessment of the Kumar accuracy and Kumar report. I  
25 have a very good relationship with the Colorado

1 Geological Survey, but we agree on some things. And  
2 they state in here that, quote, "They have done an  
3 admirable job in the correct identification of the  
4 geologic hazards of the site. Survey is in complete  
5 agreement with their Figure 11 development constraints  
6 map."

7 I disagree. I think that Kumar did a  
8 better job than had been done in the past in many  
9 cases, but I believe they missed a lot of landslides  
10 that are -- had been proven to be landslides in the  
11 Broadmoor Glen area. One of the critical aspects of  
12 this letter from the geological survey that, quote,  
13 "Our recommendations is that no home footprint be  
14 placed within a mapped landslide area. The developer  
15 needs to consider carefully whether to build within  
16 the mapped development constraints area."

17 And the other sentence that says, "The  
18 City of Colorado Springs should not allow any  
19 infrastructure such as roads, gutters and sidewalk in  
20 this development to be dedicated to the City for a  
21 suitably sufficient period of time to ensure that  
22 damage-by-heave, swelling soils or earth movement will  
23 not occur. The survey believes the 18 months stated  
24 in the general notes is not adequate time without  
25 guarantees from the developer." So they were critical

1 here today.

2 A Well, and this is the Cheyenne Mountain  
3 landslide investigation by Chen, dated July 31, 1987.  
4 Do you folks know, do you have a copy of that or not?

5 Q I don't know.

6 MR. WEINER: It's in the documents that  
7 you produced.

8 MR. PAUL: Is it?

9 MR. WEINER: I believe in the notebooks  
10 that Dave Geislinger has, probably in his office.

11 A This is the Kumar report, 1996.

12 MR. CARLSON: We have that. Anything  
13 that's public record that he gave Paul Bryant, you  
14 should have.

15 MR. PAUL: Right, I'm just trying to  
16 move it along.

17 MR. WEINER: Let's go off the record for  
18 a second.

19 (There was a discussion held off the  
20 record)

21 MR. PAUL: Let's go back on the record  
22 in the deposition of John Himmelreich.

23 We have just gone through the stack of  
24 documents that Mr. Himmelreich brought with him today  
25 and determined which ones we wanted to make copies of,

1 in some aspects, but provided some glowing remarks in  
2 other aspects.

3 Q The documents that you have with you  
4 here today, Mr. Himmelreich, have you produced those  
5 documents to anybody in this litigation?

6 A I may have, I don't recall. I met with  
7 Brian Hildebrandt and provided him with considerable  
8 information that I have that are available in the  
9 public record, okay? Nothing I provided to Brian  
10 Hildebrandt, I believe, came out of my proprietary  
11 files, okay, or is confidential. This is not  
12 contained in the public record, okay?

13 I've also provided Paul Bryant with the  
14 Colorado Engineering with a significant amount of  
15 information, again, out of the public file.

16 Q The documents that you have sitting on  
17 your lap, do you know if those have been produced to  
18 anybody in this case, Paul Bryant or --

19 A Some of them probably have. I can't  
20 remember what I've given him. I've given him quite a  
21 bit.

22 Q And I'm just trying to figure out if  
23 you've produced those records and they're already in  
24 possession of the parties, perhaps we can dispense of  
25 going through with everything that you have brought

1 and pursuant to agreement of counsel, I will take  
2 those document into my possession, make copies for  
3 each attorney, make copies and send them back to  
4 Mr. Himmelreich. And with that, I have no further  
5 questions.

6 MR. WEINER: I was -- I'd like copies of  
7 the CTL documents and just the opportunity to look at  
8 the box.

9 MR. PAUL: You can always come over.

10 MR. WEINER: Okay. That's fine.

11 MR. PAUL: Other than that, I have no  
12 further questions of you at this time. Thank you,  
13 Mr. Himmelreich.

#### 14 EXAMINATION

15 BY MR. CARLSON:

16 Q My name is Bob Carlson. I'll introduce  
17 myself for the record. I represent Paul Bryant in  
18 this matter.

19 Why did you leave CTL/Thompson when you  
20 did?

21 A There were several reasons. Number one,  
22 CTL/Thompson had a philosophy, policy, if you will, in  
23 regards to geologic hazard mitigation recommendations  
24 that were, I thought, somewhat lenient; and most all  
25 of the studies that I had done and submitted to the

1 City regarding landslides, especially ~~erectons~~  
 2 avoidance as the mitigation, and my experience was  
 3 that they're just best left alone. Rather than trying  
 4 to analyze them and engineer the mitigation, I believe  
 5 the best way was to avoid them. And so we had a  
 6 conflict in philosophy and their policy.

7 I ended up signing very, very few  
 8 reports in Colorado Springs after the geologic hazards  
 9 ordinance was enacted west of I-25. Those that I did  
 10 sign were preliminary. I signed maybe one final  
 11 geologic report west of I-25, as I recall. I refused  
 12 to sign reports.

13 Number two, CTL/Thompson, for example,  
 14 in Cedar Heights, I wrote a geologic hazard study for  
 15 what was called the Outback at Cedar Heights. I  
 16 provided some recommendations in that report, and the  
 17 report went to, as I recall, Marty Essigmann and Bill  
 18 Hoffmann for review. They took out some of the  
 19 critical recommendations that I had put in that  
 20 report. They took my name off it and submitted it to  
 21 the City.

22 I had discovered that some of the  
 23 information in the reports that were being produced by  
 24 CTL/Thompson, and that I had previously produced by  
 25 Lincoln Devoir and CGI were not disclosed to clients.

1 language states, "If the owner desires an evaluation  
 2 of relative risk involved with construction on this  
 3 site --" "If the owner desires an evaluation of  
 4 relative risks, he should conduct a detailed  
 5 evaluation." Do you see where I am?

6 A I see where you're at.

7 Q Do you see a difference in that  
 8 language?

9 A Yes, I do.

10 Q Do you think the language in the  
 11 December 9, 1997 report has been softened from the  
 12 language you used in your report?

13 A I'm not sure "softened" is the term I  
 14 would use.

15 Q What's the term you would use?

16 A Misleading.

17 Q And why do you believe -- do you believe  
 18 the language in the December 9 report is misleading?

19 A Yes.

20 Q Why do you say it's misleading?

21 A Because the map associated with the

22 April 22nd, 1996 report provides specific  
 23 recommendations, including on the map, quote,  
 24 "Extensive geologic and geotechnical investigations  
 25 and detailed slope stability and evaluations are

1 The hazards were not being disclosed adequately. And  
 2 I also discovered that hazards were not being  
 3 disclosed, or reports, disclosed by CTL/Thompson. And  
 4 I also discovered that our clients weren't disclosing  
 5 to me or CTL/Thompson for review, including the Chen  
 6 report and the Cheyenne Mountain landslide report done  
 7 in 1987. It was time for me to move on.

8 Q So you quit?

9 A I quit.

10 Q Okay.

11 A Provided notice.

12 Q Exhibit 3, I guess it is, is the  
 13 Preliminary Geologic Hazards Report. The language  
 14 contained within that report with regard to  
 15 investigating slope stability states that -- I'm on  
 16 Page 3, and I'll paraphrase. It's in the first full  
 17 paragraph under Slope Stability, at the bottom of that  
 18 paragraph, that if there's development planned on the  
 19 steeper slopes, that this development should be  
 20 preceded by a detailed subsurface investigation.  
 21 Agreed?

22 A And analysis.

23 Q And analysis. And in the subsequent  
 24 CTL/Thompson report, which is dated December 9, 1997,  
 25 the one for this lot in particular, on Page 2, that

1 recommended prior to development." It's a very clear  
 2 recommendation, not "should," okay. The map legend is  
 3 stronger than the text, okay.

4 The 1997 report by CTL/Thompson does not  
 5 follow the recommendations in the 1996 report, number  
 6 one, and number two, it doesn't disclose that there's  
 7 a mapped hazard in the area, period.

8 Q Now, could that mapped hazard have been  
 9 disclosed without the permission of the client?

10 A Sure. That's a professional's  
 11 responsibility, to disclose the hazard and the risk.

12 Q Even if the client wants to keep it  
 13 under wraps, if you will, you don't believe an  
 14 engineer can do that or a professional can do that?

15 A Not ethically. I think it's the  
 16 professional duty to disclose the hazard, period. And  
 17 I don't believe it puts a professional at risk to  
 18 disclose a hazard that was discovered through another  
 19 study.

20 Q Was the preliminary hazard report, the  
 21 Exhibit 3, the report dated April 22, 1996, ever  
 22 withdrawn by CTL/Thompson?

23 A What do you mean by withdrawn?

24 Q Was it ever requested to be withdrawn by  
 25 the client?

1 A Not that I'm aware of.

2 Q So it was given to the client?

3 A Correct.

4 Q Client had it, client chose to  
5 commission another report, the Kumar report, and use  
6 that one?

7 A The Kumar report, I believe, was  
8 commissioned prior to the CTL report, but they were  
9 both being -- both the studies on the same piece of  
10 ground were being conducted simultaneously, and they  
11 were produced within a week or two or three of each  
12 other.

13 And I discovered that somebody else had  
14 very recently been drilling holes out at the Broadmoor  
15 Glen subdivision. I asked for that information, but  
16 was refused. I was mapping and doing the field  
17 recognizance, and I see a bunch of test borings,  
18 recent test borings had been drilled. They chose to  
19 submit the Kumar report.

20 Q Were you ever criticized by anyone at  
21 CTL/Thompson for generating Exhibit 3 since it was not  
22 requested by the client?

23 A No, not that I recall.

24 Q Were you ever told by anyone at  
25 CTL/Thompson that the recommendations contained within

1 geologic hazard assessments for his firm. I've gotten  
2 work from Brian Hildebrandt. I have done work for  
3 other geotechnical engineering firms in town who do  
4 not have the geologic expertise; engineers,  
5 developers, builders, homeowners. I do have some  
6 attorney clients, and I have worked for -- under  
7 attorney/client privilege on some projects.

8 Q Let me ask you this question, you said  
9 -- Mr. Paul asked you at the very outset how many  
10 times you've been deposed. You said you hadn't been  
11 deposed before, today was the first time; is that  
12 right?

13 A That's correct.

14 Q Have you ever been designated as a  
15 testifying expert in any case in Colorado?

16 A Yes.

17 Q Okay. Are you presently -- have you  
18 ever testified in a courtroom or in an arbitration?

19 A Yes.

20 Q And are you presently engaged to work as  
21 a testifying expert in any case in Colorado?

22 A No.

23 Q Let me ask you what cases you've offered  
24 testifying -- let me make a distinction. There's a  
25 distinction in the law between consulting experts,

1 Exhibit 3 or the mapping you did was just wrong?

2 A No.

3 MR. CARLSON: I think that's all I have.  
4 Thanks.

#### 5 EXAMINATION

6 BY MR. WEINER:

7 Q Mr. Himmelreich, my name is Murray  
8 Weiner. I represent Dennis and Sherry Cripps, the  
9 homeowners here. Let me just ask you a few basic  
10 questions.

11 You're self-employed, but what kind of  
12 work were you doing -- what do you do for a living?

13 A I do geologic hazard assessments,  
14 engineering geology and environmental site  
15 assessments.

16 Q And --

17 A I also consult for neighborhood  
18 organizations and provide geologic input in consulting  
19 for them.

20 Q Who are your typical clients? I don't  
21 mean the names of them, but who is typically hiring  
22 you to do the kind of work that you just described?

23 A I've been doing geologic hazards and  
24 environmental studies for land trusts, for developers,  
25 for builders. I am often hired by Paul Bryant to do

1 somebody who consults and is not disclosed to testify  
2 in a court proceeding or an arbitration, and a  
3 testifying expert. Let me just limit my -- because  
4 you said before that you were hired by attorneys and  
5 these attorneys -- and we can get that, we don't need  
6 to do that now.

7 My main question is starting with this,  
8 what cases have you testified as an expert witness,  
9 offered testimony?

10 A The first case was, as I recall, 1993 --

11 Q Okay.

12 A -- thereabouts, Powers Boulevard  
13 Associates, Limited versus T-Gap Landfill, Inc.

14 Q Who engaged you and what role did you  
15 play in that case?

16 A I was engaged by Powers Boulevard  
17 Associates, Limited. The attorney for Powers  
18 Boulevard was Jim Merrill, who is now Merrill,  
19 Anderson, King and Harris.

20 Q Right.

21 A I testified as an expert in  
22 environmental geology, photogeology and hydrogeology  
23 in federal court.

24 Q Who were you working for?

25 A Powers, Thompson and --

1 Q No, no.  
 2 A Oh, who was I working for?  
 3 CTL/Thompson.  
 4 Q All right. What other instances have  
 5 there been where you ever hired to provide expert  
 6 testimony and either the case went to trial and you  
 7 testified at trial and arbitration or it didn't, but  
 8 either way you were the expert witness?  
 9 A The next one I provided an expert  
 10 opinion in the Garrison versus Gates Land Company for  
 11 Winston and Winston, Ken Garrison. That was in, I  
 12 believe, March of '98.  
 13 Q And did that case actually go to trial?  
 14 A No, that settled prior to trial.  
 15 Q Okay. All right. And this is a house  
 16 on Regency Drive, approximately?  
 17 A Correct. That's the infamous Regency  
 18 Drive Landslide.  
 19 Q And that was 1998?  
 20 A It was 1998. I did not testify.  
 21 Q Were you still at CTL at the time you  
 22 were engaged?  
 23 A No.  
 24 Q Okay. What other cases have you been  
 25 engaged in?

1 A Weisner versus McCoy.  
 2 Q Okay. What's that case?  
 3 A That is a case out in Black Forest on  
 4 the -- it was a well issue and a septic system  
 5 failure.  
 6 Q Did that case involve Paul Bryant?  
 7 A No.  
 8 Q Okay. What other cases have you  
 9 testified or have been hired as an expert to testify  
 10 in?  
 11 A None that I recall.  
 12 Q Are there any other matters -- I'm going  
 13 to use this term broadly, just looking at Cheyenne  
 14 Mountain, that general vicinity in Colorado Springs,  
 15 have you been engaged by any attorneys to offer expert  
 16 testimony or advice with respect to any structures  
 17 that have problems on Cheyenne Mountain that you  
 18 haven't disclosed in mentioning these?  
 19 A Not that I recall.  
 20 Q Okay. What is your relationship with  
 21 Marty Essigmann?  
 22 A Former partner, former colleague.  
 23 Q Okay. What's your opinion, if any, of  
 24 the quality of his work?  
 25 A Depends on the work. I have seen Marty

1 produce some very excellent engineering work. He's an  
 2 extremely capable engineer. But I'm not really clear  
 3 anymore of his ethics.  
 4 Q Of his what?  
 5 A Ethics.  
 6 Q Okay. And what causes you to say that,  
 7 what's the basis of that statement?  
 8 A Because in the last year or so that I  
 9 was at CTL/Thompson I discovered that there was  
 10 nondisclosure of known information, and I wasn't sure  
 11 at the time who was not disclosing it. I discovered  
 12 it was both Bill Hoffmann and Marty Essigmann, and the  
 13 clients in some cases.  
 14 Q Is your opinion of Mr. Hoffmann's work  
 15 the same as it is of Mr. Essigmann's work?  
 16 A I think that overall Marty's a better  
 17 engineer in terms of that, his experience is broader.  
 18 I don't agree with either of their ethics.  
 19 Q Have you written any papers, letters,  
 20 reports or anything relating to Cheyenne Mountain and  
 21 whether or not people should be building up there or  
 22 how they should be building up there or anything like  
 23 that that expresses your views relating to the  
 24 development of the land on Cheyenne Mountain, along  
 25 Cheyenne Mountain?

1 A Yes, I've written several.  
 2 Q What have you written, other than  
 3 reports for clients like we've talked about today  
 4 where you wrote a preliminary report for Gates Land  
 5 Company. They didn't ask for it, but you gave them a  
 6 report. Are there any articles or anything like that  
 7 that you've written?  
 8 A I've been quoted in the newspaper  
 9 dozens, two dozen times since -- for the last couple  
 10 years or so on my position relative to risks in the  
 11 Cheyenne Mountain area. I have written a letter and a  
 12 -- basically a position and opinion relative to  
 13 building in some of these areas in the hillside over  
 14 there.  
 15 Q This letter or opinion you just  
 16 mentioned, where would that be found?  
 17 A In the Mesa Springs, Filing Number 7  
 18 packet, I believe, that Mr. Geistlinger got from me a  
 19 few weeks ago regarding the hillside overlay area.  
 20 Q Who was that written to, that letter or  
 21 article?  
 22 A To Whom It May Concern.  
 23 Q Okay. Any other articles or papers or  
 24 anything else you delivered or presented or written  
 25 that relate to construction of residence or whether

*In the Mesa*

1 you should or you shouldn't build on the east face of  
2 Cheyenne Mountain?

3 A I've written numerous reports.

4 Q All right.

5 A I've mapped almost every subdivision  
6 plotted in Colorado Springs since 1980.

7 Q Okay.

8 A So hundreds of letters and reports.

9 Q But all those reports are for specific  
10 -- those are essentially site-specific reports; is  
11 that fair? In other words, as opposed to some sort of  
12 article laying out your philosophy or your general  
13 views; is that fair?

14 A Yes.

15 Q Okay.

16 A The latest report and its study is one  
17 that I co-authored, which is the Cheyenne Mountain  
18 Quadrangle. It is being published by the Colorado  
19 Geological Survey. That's one -- I was one of four  
20 authors on that study. Cheyenne Mountain Quadrangle  
21 is the quadrangle just adjacent, so that study  
22 includes a lot of the information that we had gathered  
23 from this whole area.

24 Q Now, have you ever been a party to a  
25 lawsuit?

1 A Personally, no. Geotechnical  
2 Consultants, Inc. was a party in one of those two  
3 lawsuits. We were a non-party in the other one.

4 Q Have you ever been sued by or threatened  
5 by CTL/Thompson?

6 A I've not been sued by CTL/Thompson.  
7 I've been threatened with a lawsuit.

8 Q And what was the nature of that threat?

9 A I provided some information to my -- to  
10 developers relative to actions CTL/Thompson took after  
11 I left.

12 Q And does this relate in any way to the  
13 land on the east face of Cheyenne Mountain?

14 A No.

15 Q Okay. Tell me about the relationship  
16 with Paul Bryant. When did you first meet Paul  
17 Bryant?

18 A I guess about a year, year and a half  
19 ago.

20 Q Okay. What were the circumstances  
21 whereby you ended up meeting Paul Bryant or getting to  
22 know each other?

23 A I believe he contacted me to do geologic  
24 hazard studies in support of his soils investigations  
25 that he was doing within the City of Colorado Springs.

1 Q Okay. How many times or projects have  
2 you worked with Paul Bryant on?

3 A Maybe couple dozen.

4 Q Okay.

5 A That's an estimate.

6 Q Have you -- earlier there was a  
7 reference made to you giving documents to Paul Bryant  
8 relating to some of the materials we've seen today?

9 A Yes.

10 Q The Chen study, Kumar, the preliminary  
11 hazard study, I think it's Exhibit 3.

12 MR. CARLSON: This was not given.

13 MR. WEINER: Okay.

14 THE WITNESS: Exhibit 3 was not given to  
15 him.

16 MR. CARLSON: He only gave him public  
17 information.

18 A That's right.

19 MR. WEINER: Let me back up then.

20 Q (By Mr. Weiner) How did it come about  
21 that you gave Mr. Bryant certain information? Tell me  
22 what happened.

23 A Well, I have been watching this  
24 particular stretch of Broadmoor Bluffs Drive for  
25 probably two years now. I first noticed problems in

1 this area in 1999 and have just -- if I'm in the  
2 neighborhood, I drive by and see what's going on. I  
3 pointed this out to the Colorado Geological Survey.  
4 Paul Bryant knows of my reputation and of having  
5 worked in the region a long time.

6 I was contacted by Brian Hildebrandt. I  
7 was contacted by Paul Bryant, both wanted me to be  
8 experts on their side, and I declined. I said I used  
9 to work for CTL/Thompson, they did the soils study.  
10 I've worked in the past as principal for GCI, for  
11 Gates Land Company. I may have a conflict, I said,  
12 but I've got a whole bunch of information for that  
13 area that I got out of the public record that's  
14 available in the public record, there you go.

15 Q So tell me specifically about your  
16 communications with Mr. Bryant. When did you meet  
17 with him?

18 A I don't know.

19 Q When did you talk to him?

20 A A year ago or so.

21 Q Where were you when you met?

22 A I think he was just on the phone, I  
23 believe.

24 Q Okay. Did you mail him documents or did  
25 -- how did he get -- how did you get to him the

1 documents you were giving to him?

2 A I don't recall whether I mailed them or  
3 hand-delivered them.

4 Q And just, if you could, just summarize  
5 generally what you gave him. I want to distinguish  
6 what you gave him and what you did not give him, and  
7 Mr. Carlson just helped by saying that Exhibit 3 was  
8 not given to Mr. Bryant. If you could tell me what  
9 you gave him, what you recall?

10 A I don't recall. I think that -- as I  
11 recall it, I gave him a copy of the 1987 Cheyenne  
12 Mountain landslide report by Chen and Associates or  
13 the map associated with that study, a copy of the  
14 Kleinfelder report that I did for the three  
15 homeowners, John Himmelreich and Associates. Possibly  
16 a copy of the Robinson maps. Probably a copy of the  
17 Colorado Springs Quadrangle that was published by the  
18 Colorado Geological Survey.

19 Q Did you discuss -- in meeting with or  
20 talking to Mr. Bryant, what did he tell you about 4860  
21 Broadmoor Bluffs Drive?

22 A He said that he had been sued, and he  
23 was involved in litigation and Paul wanted me to be  
24 his expert, as I said. So did Brian.

25 Q Okay. Did Mr. Bryant ask you what your

1 Mr. Bryant as to the reasons for the failure at the  
2 4860 Broadmoor Bluffs Drive property?

3 A I think I have.

4 Q What have you told Mr. Bryant regarding  
5 that property?

6 A I didn't think we were going to go  
7 there.

8 Q Well, I'm trying to find out what  
9 communications you've had with one of the defendants  
10 in this case. I guess I'm asking you indirectly, but  
11 I'm trying to find out what you talked about with one  
12 of the parties in this case. So if you just -- I  
13 think you can repeat what your communications were.

14 A That would be revealing what my opinion  
15 was.

16 Q Well, I didn't enter into the  
17 stipulation. I recognize that you have a stipulation  
18 with Mr. Paul, but I do want to know, since at some  
19 point I'll be taking Mr. Bryant's deposition, I'd like  
20 to know what you said to him and what he said to you.

21 A And I've told this to several people, I  
22 believe I told it to Paul Bryant, I mean, I may be  
23 mistaken, but I've told this to several people that I  
24 think the Broadmoor Bluffs Drive is sliding south and  
25 my original view of the Cripps residence was that it

1 view was about -- what did he tell you about the  
2 failure of the house?

3 A I don't recall what he told me about it.  
4 I've looked at the house --

5 Q Okay.

6 A -- briefly with Brian Hildebrandt.

7 Q Okay. Did you have any other subsequent  
8 meetings with Mr. Bryant, other than this phone call  
9 or meeting where you gave him these documents?

10 A I've had some conversations on and off  
11 with him for the past year, knowing that he's involved  
12 in the litigation, and I've provided him information.  
13 If I discover something that he might not have, it's  
14 out of public record, I've provided it to him.

15 Q When is the last time you had a  
16 communication with Mr. Bryant regarding 4860 Broadmoor  
17 Bluffs Drive?

18 A I don't recall. Any time that we've  
19 discussed the project, I don't believe we've discussed  
20 specifics, just he's involved in litigation.

21 Q Have you ever reviewed the foundation  
22 drawings for 4860 Broadmoor Bluffs Drive?

23 A I have copies of them. I have not  
24 reviewed them.

25 Q Okay. Have you given any opinions to

1 was sliding north. But I'm not sure, after looking at  
2 some of that area and after looking at some of the  
3 Kleinfelder information that they've developed on  
4 Broadmoor Bluffs Drive.

5 Q Let me go back now to -- I understand  
6 what you just said. Let me go back to what you and  
7 Mr. Bryant actually talked about. What do you recall  
8 him asking you and what do you recall him telling you,  
9 back and forth what was the conversation about the  
10 problem at 4860 Broadmoor Bluffs Drive? And I  
11 appreciate your statement right now about what your  
12 current thinking is. I'm trying to find out what it  
13 is that Mr. Bryant and you discussed.

14 A I think that the -- what I've just said  
15 is mainly what we've discussed or what I've offered.  
16 Paul doesn't ask many questions of me. I offer  
17 information.

18 Q What did he say about -- did he say  
19 anything about the builder, for example, when he  
20 discussed with you 4860 Broadmoor Bluffs Drive?

21 A No.

22 Q Did he say anything about the  
23 construction techniques that were followed or not  
24 followed, or practices?

25 A No, as I recall, we haven't discussed

1 much of the detail of this case, and most of the  
2 information that's been -- that's gone back and forth,  
3 I've offered. He hasn't offered much.

4 Q Okay. Was it you calling Mr. Bryant or  
5 Mr. Bryant calling you, offering this information and  
6 opinions?

7 A I think in some cases it was, "And, oh,  
8 by the way, we were involved in another project..."  
9 And I provided information in terms of dates. For  
10 example, Klein started drilling test borings and  
11 started reading inclinometers, that's important data,  
12 and I was just providing heads-up, more information  
13 about the area.

14 Q Okay. Did you give any response  
15 regarding any of our houses that have gone up in the  
16 recent past, the last year and a half, on Broadmoor  
17 Bluffs Drive, this section? There were some empty  
18 lots that have now been built upon.

19 A Yes.

20 Q Which homes were you consulted on?

21 A One of the last lots, I believe, to the  
22 west, in Filing 7 on Broadmoor Bluffs Drive, and I  
23 don't recall the address.

24 Q Would that be west of the Cripps home up  
25 the hill?

1 A Uphill from the Cripps home, uphill from  
2 DeLay's (phonetic) that's one the last houses I think  
3 in Filing 7.

4 Q And who hired you are to do any work on  
5 that?

6 A Nobody hired me. A friend, colleague  
7 asked me if I would come out, take a look at a test  
8 pit that they were digging and provide some  
9 information relative to the geologic hazards in the  
10 area. And as I recall, I recommended that they pull  
11 the house back as far away from the top of the slope  
12 as they could. And as you drive up Broadmoor Bluffs  
13 Drive, you'll see one house that's stuck -- not stuck,  
14 that is placed significantly closer to Broadmoor  
15 Bluffs Drive, that's because they pulled it away from  
16 the slope as far as they could.

17 Q Okay. Is that house on the north or the  
18 south side of Broadmoor Bluffs Drive?

19 A It's on the north side, same side of the  
20 street.

21 Q Okay. Have you looked at whether --  
22 you're not an engineer, right?

23 A Correct.

24 Q And you haven't looked -- you have the  
25 plans, you said, for this house, but you have never

1 done the calculations regarding the load or anything  
2 like that?

3 A No, I have not.

4 Q Have you looked at the foundation plans  
5 drawn by Mr. Bryant to determine whether or not they  
6 were appropriate for this structure and this location?

7 A No, I have not.

8 Q All right. What is the first time you  
9 were hired by Mr. Bryant to do a house or do any  
10 structure, give him opinions about anything?

11 MR. CARLSON: Object to the form of the  
12 question.

13 MR. WEINER: Okay. Let me rephrase the  
14 question.

15 Q (By Mr. Weiner) When were you first  
16 engaged by Mr. Bryant on a matter unrelated to 4860  
17 Broadmoor Bluffs Drive?

18 A As I recall, year and a half ago, maybe  
19 two years ago.

20 Q Okay.

21 A I'd have to look it up.

22 Q Have you been engaged by Mr. Bryant with  
23 respect to any address in 80906 other than 4860  
24 Broadmoor Bluffs Drive?

25 MR. CARLSON: Object to the form of the

1 question.

2 Q (By Mr. Weiner) I'm not trying to say  
3 you were hired on 4860.

4 MR. CARLSON: Well, you did.

5 Q (By Mr. Weiner) I'm just trying to keep  
6 4860 out of this. In other words, have you been  
7 engaged by Mr. Bryant with respect to any land or  
8 structure on Cheyenne Mountain excluding 4860  
9 Broadmoor Bluffs Drive?

10 A That covers a lot of territory.

11 Q It does, it covers a lot of acres. I'm  
12 just trying to find out whether or not you've been  
13 engaged on that side of Colorado Springs by him?

14 A I don't think so, but I would have to  
15 check my files.

16 Q Okay. Give me an example of a situation  
17 specifically where you've been engaged by Mr. Bryant.  
18 Would it be, for example, like a house in Cedar  
19 Heights or give me an example of one, just so I know  
20 what kind of work you're doing for him.

21 A City of Colorado Springs required  
22 geologic hazard studies on all new subdivisions and in  
23 some cases they've required studies on individual lots  
24 that were plotted prior to 1996, prior to the geologic  
25 hazard ordinance. So I provide the geologic hazard

1 study for those projects, which he is working on.  
 2 They're all over the city. But I don't recall any in  
 3 the Cheyenne Mountain area. There may be, but again,  
 4 I'd have to check.  
 5 MR. WEINER: Okay. Those are all my  
 6 questions. Thank you.  
 7 MR. CARLSON: I have just one follow-up.  
 8 EXAMINATION  
 9 BY MR. CARLSON:  
 10 Q Have you ever reviewed the Kleinfelder  
 11 inclinometer data?  
 12 A Yes, that's public record.  
 13 Q Does that indicate any downhill movement  
 14 of the slope that Broadmoor Bluffs Drive is on?  
 15 A Yes. Deep.  
 16 Q Deep movement?  
 17 A Deep movement.  
 18 Q How deep?  
 19 A Fifty, sixty deep.  
 20 Q So inclinometers go that deep?  
 21 A Correct.  
 22 Q Does the Kleinfelder report indicate  
 23 deep movement in the vicinity of 4860 Broadmoor Bluffs  
 24 Drive?  
 25 A Yes.

1 Q Has the land -- well, has the deep  
 2 movement on that slope been mapped at this point?  
 3 MR. WEINER: I'm going to object to the  
 4 form of the question.  
 5 A By who?  
 6 Q (By Mr. Carlson) By anyone?  
 7 A I believe it has.  
 8 Q Who do you think has mapped it?  
 9 A I believe that personnel of Kleinfelder  
 10 have mapped it. The one -- the cross-sections  
 11 contained in the 1996 Kumar report went right through  
 12 this portion of Broadmoor Bluffs Drive. So Kumar  
 13 mapped it in '96, both on the surface and subsurface.  
 14 And then I compared my 1996 mapping that I produced as  
 15 part of Exhibit 3, overlaid it on the Kleinfelder  
 16 mapping and almost an exact match. So there are  
 17 several that have mapped it, including myself.  
 18 Q So you think your Exhibit 3 mapping is a  
 19 -- along Broadmoor Bluffs Drive has been borne out by  
 20 the subsequent inclinometer data developed by  
 21 Kleinfelder?  
 22 A Inclinometer and surface map, and damage  
 23 to the roadway.  
 24 Q You're referring to Exhibit --  
 25 MR. PAUL: Exhibit 2?

1 A Exhibits 3 and 4. Exhibits 3 and 4 are  
 2 the '96 report and map.  
 3 MR. CARLSON: That's what I was  
 4 referring to, not to this report, but to the --  
 5 MR. PAUL: Oh, I'm sorry.  
 6 THE WITNESS: This.  
 7 MR. CARLSON: That's all I have, sir,  
 8 thanks.  
 9 MR. PAUL: No further questions.  
 10 Mr. Himmelreich, you have the right to  
 11 read and review the deposition to make sure that the  
 12 court reporter took down everything accurately.  
 13 That's completely your choice if you want to do that.  
 14 THE WITNESS: Yes.  
 15 MR. PAUL: Then we'll -- go ahead and  
 16 send it to us, and we'll send it to Mr. Himmelreich.  
 17 I'm withdrawing Exhibit 4 to reproduce,  
 18 and we'll send you a copy of it.  
 19 ...The deposition was concluded at 12:47  
 20 p.m...  
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 4 JOHN HIMMELREICH  
 5  
 6 Subscribed and sworn to before me  
 7 this day of \_\_\_\_\_, 2002.  
 8 My commission expires  
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NOTARY PUBLIC

BRUNO REPORTING COMPANY  
Certified Shorthand Reporters  
899 Logan Street, Suite 208  
Denver, Colorado 80203  
(303) 831-1667

August 23, 2002  
Harris, Karstaedt, Jamison & Powers, P.C.  
111 South Tejon Street  
Suite 703  
Colorado Springs, Colorado 80903

Attention: STEVEN JON PAUL, ESQ.

RE: Dennis L. Cripps and Margaret D. Cripps vs. The  
Canaan Company, a Colorado corporation, John Bridges,  
and Colorado Engineering & Geotechnical Group, Inc.,  
and Paul R. Bryant, P.E.

Dear Mr. Paul:

Enclosed please find your copy of the deposition of  
JOHN HIMMELREICH, along with the original signature  
page and correction sheets for his use. Would you  
please have JOHN HIMMELREICH read your copy of the  
deposition, and if he finds any changes necessary,  
have him make them on the correction sheets provided.  
Be sure that he signs each correction sheet that he  
may use. Then have him sign the original signature  
page before a notary public and return the signature  
page and correction sheets to me at the above address.

I would request that you comply with the above within  
the next 30 days. Thank you for your assistance and  
cooperation, and if you have any questions concerning  
the above, please feel free to contact me.  
Yours very truly,

Cynthia A. Hudak, CSR  
cc: Murray L. Weiner, Esq.  
cc: Robert R. Carlson, Esq.  
cc: Attached to original deposition  
Trial Date: November 19, 2002

CYNTHIA A. HUDAK, CSR  
BRUNO REPORTING COMPANY, INC.  
(303) 831-1667

1 CERTIFICATE  
2 STATE OF COLORADO )  
 ) ss.  
3 CITY AND COUNTY OF DENVER )

4 I, Cynthia A. Hudak, Notary Public in and  
for the State of Colorado, duly appointed to take the  
5 deposition of the above-named deponent, do hereby  
certify that previous to the commencement of the  
6 examination, said above-named deponent was by me first  
duly sworn to testify the truth, the whole truth and  
7 nothing but the truth touching and concerning the  
matters in controversy between the parties hereto, so  
8 far as said deponent should be interrogated concerning  
the same;

9 That said deposition was stenographically  
reported by me at the time and place heretofore set  
10 forth, and was reduced to typewritten form under my  
supervision, as per the foregoing;

11 That the foregoing is a true and correct  
transcript of my shorthand notes then and there taken,

12 That after the deposition was transcribed,  
the same was submitted by letter to the deponent for  
13 reading and signing, a copy of which is hereto  
annexed.

14 That I am not of kin or in anywise  
associated with any of the parties to said cause of  
15 action or their counsel, and that I am not interested  
in the event thereof.

16 IN WITNESS WHEREOF, I have hereunto set my  
hand and seal this day of , 2002.  
17 My Commission expires April 3, 2005.

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Cynthia A. Hudak, CSR  
Notary Public  
899 Logan Street, Suite 208  
Denver, Colorado 80203  
(303) 831-1667

BRUNO REPORTING COMPANY  
Certified Shorthand Reporters  
899 Logan Street, Suite 208  
Denver, Colorado 80203  
(303) 831-1667

Harris, Karstaedt, Jamison & Powers, P.C.  
Attorneys at Law  
111 South Tejon Street  
Suite 703  
Colorado Springs, Colorado 80903

Attention: STEVEN JON PAUL, ESQ.  
RE: Dennis L. Cripps and Margaret D. Cripps vs. The  
Canaan Company, a Colorado corporation, John Bridges,  
and Colorado Engineering & Geotechnical Group, Inc.,  
and Paul R. Bryant, P.E.

Dear Mr. Paul:

Attached is the original deposition of JOHN  
HIMMELREICH, taken on July 23, 2002, in the above  
cause.

Deposition not signed  
Deposition signed by the deponent  
Correction sheet(s) included herein,  
and copy(ies) of same forwarded  
to interested counsel

Signature waived

Please retain the original copy of this deposition  
UNOPENED in your possession until such time as it is  
required by any party in a hearing or trial of the  
above cause.

Yours very truly,

Cynthia A. Hudak, CSR  
cc: Murray L. Weiner, Esq.  
cc: Robert R. Carlson  
cc: Attached to original deposition  
Trial Date: November 19, 2002  
RECEIVED BY: DATE

CYNTHIA A. HUDAK, CSR  
BRUNO REPORTING COMPANY, INC.  
(303) 831-1667

**BRUNO  
REPORTING  
COMPANY**

DISTRICT COURT, EL PASO COUNTY,  
STATE OF COLORADO

Court Address:  
District Court of El Paso County  
20 E. Vermijo Avenue  
Colorado Springs, Colorado 80903

**Plaintiffs:**

DENNIS L. CRIPPS and MARGARET D.  
CRIPPS

**Defendants:**

THE CANAAN COMPANY, a Colorado  
corporation, JOHN BRIDGES, and  
COLORADO ENGINEERING &  
GEOTECHNICAL GROUP, INC., and  
PAUL R. BRYANT, P.E.

Attorneys for Defendants  
The Canaan Company & John Bridges  
STEVEN JON PAUL, ESQ.  
Harris, Karstaedt, Jamison &  
Powers, P.C.  
111 South Tejon Street  
Suite 703  
Colorado Springs, Colorado 80903  
Phone Number: 719-635-4588  
Attorney Reg. No. 15008

^ COURT USE ONLY ^

Case No. 01-CV-1688  
Div. 7 Ctrm:

DEPOSITION OF JOHN HIMMELREICH

JULY 23, 2002

ALSO PRESENT: Margaret D. Cripps

**COPY**

899 Logan St.  
Suite 208  
Denver, CO  
80203  
303 831-1667  
Fax 831-4432

CYNTHIA A. HUDAK, CSF  
BRUNO REPORTING COMPANY, INC.  
(303) 831-1667

CORRECTION SHEET

Upon reading the following deposition and before subscribing thereto, the deponent, JOHN HIMMELREICH indicates the following changes should be made:

Page: 3 Reads: Topographical Map  
Line: 19 Should read: PHOTOGEOLOGIC MAP  
Reason for change, is any: CLARIFICATION

Page: 12 Reads: McCulla  
Line: 10 Should read: McCullough  
Reason for change, if any: spelling correction

Page: 13 Reads: Veech  
Line: 21 Should read: Veatch  
Reason for change, if any: spelling correction

Page: ~~15~~ 15 Reads: McCulla  
Line: 9 Should read: McCullough  
Reason for change, if any: spelling correction

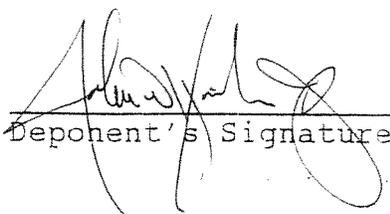
Page: 17 Reads: McCulla  
Line: 10 Should read: McCullough  
Reason for change, if any:

Page: 20 Reads: Devoir  
Line: 12 Should read: DeVore  
Reason for change, if any: spelling correction

Page: 20 Reads: Devoir  
Line: 14 Should read: DeVore  
Reason for change, if any: spelling correction

Page: 20 Reads: Devoir  
Line: 20 Should read: DeVore  
Reason for change, if any: spelling

Page: 26 Reads: expanse  
Line: 20 Should read: expansion  
Reason for change, if any: clarification

  
\_\_\_\_\_  
Deponent's Signature

CORRECTION SHEET

Upon reading the following deposition and before subscribing thereto, the deponent, JOHN HIMMELSTEIN indicates the following changes should be made:

Page: 27 Reads: float  
Line: 3 Should read: flowed  
Reason for change, is any:

Page: 27 Reads: on  
Line: 12 Should read: an  
Reason for change, if any:

Page: 27 Reads: Ancient flow  
Line: 16 Should read: Earth flow  
Reason for change, if any:

Page: 28 Reads: may -- landslide  
Line: 15 Should read: by a landslide  
Reason for change, if any: clarification of answer

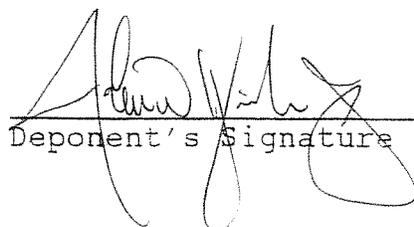
Page: 29 Reads: evaluation  
Line: 2 Should read: evacuation  
Reason for change, if any:

Page: 29 Reads: wave from the hillside  
Line: 5 Should read: slope dropping away from the hillside  
Reason for change, if any:

Page: 30 Reads: seasonal  
Line: 1 Should read: seasonally  
Reason for change, if any:

Page: 32 Reads: recognizance  
Line: 7 Should read: reconnaissance  
Reason for change, if any:

Page: 32 Reads: recognizance  
Line: 9 Should read: reconnaissance  
Reason for change, if any:

  
Deponent's Signature

CORRECTION SHEET

Upon reading the following deposition and before subscribing thereto, the deponent, JOHN HIMMELREICH indicates the following changes should be made:

Page: 37 Reads: *shown*  
Line: 11 Should read: *flown*  
Reason for change, is any:

Page: 37 Reads: *fields recognizance*  
Line: 13 Should read: *field reconnaissance*  
Reason for change, if any:

Page: 42 Reads: *Gary Allen*  
Line: 11 Should read: *Gary Aalen*  
Reason for change, if any:

Page: 42 Reads: *recognizance*  
Line: 17 Should read: *reconnaissance*  
Reason for change, if any:

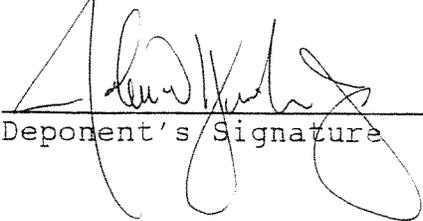
Page: 47 Reads: *Scott Wobis*  
Line: 5 Should read: *Scott and Wobus*  
Reason for change, if any:

Page: 47 Reads: *triple map sheet*  
Line: 6 Should read: *Trimble and Machette*  
Reason for change, if any:

Page: 48 Reads: *Scott Wobis 1973 and triple map sheet*  
Line: ~~6~~ 7 Should read: *Scott and Wobus 1973 and Trimble and Machette*  
Reason for change, if any:

Page: 48 Reads: *in along*  
Line: 1 Should read: *along*  
Reason for change, if any:

Page: 50 Reads: *Used*  
Line: 5 Should read: *Use*  
Reason for change, if any:

  
\_\_\_\_\_  
Deponent's Signature

CORRECTION SHEET

Upon reading the following deposition and before subscribing thereto, the deponent, JOHN HIMMELREICH indicates the following changes should be made:

Page: 51 Reads: performed. Preliminary suggests  
Line: 9#10 Should read: performed, preliminary data suggests  
Reason for change, is any:

Page: 51 Reads: wetting and is a shallow groundwater table development.  
Line: 11#12 Should read: wetting and a shallow ground water table develops.  
Reason for change, if any:

Page: 51 Reads: stability slope  
Line: 14 Should read: slope stability  
Reason for change, if any:

Page: 58 Reads: are -- had  
Line: 10 Should read: are -- have  
Reason for change, if any:

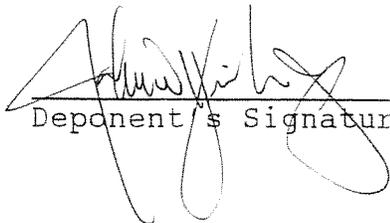
Page: 62 Reads: erections  
Line: 1 Should read: recommend  
Reason for change, if any:

Page: 62 Reads: Devair  
Line: 25 Should read: DeVore  
Reason for change, if any: spelling

Page: 66 Reads: ve cognizance  
Line: 17 Should read: reconnaissance  
Reason for change, if any:

Page: 73 Reads: hillside over there  
Line: 13#14 Should read: hillside overlay  
Reason for change, if any:

Page: 73 Reads: Mesa Springs, Filing Number 7  
Line: 17 Should read: Indian Mesa, Filing Number 3  
Reason for change, if any:

  
Deponent's Signature

CORRECTION SHEET

Upon reading the following deposition and before subscribing thereto, the deponent, JOHN HIMMELREICH indicates the following changes should be made:

Page: 74 Reads: plotted  
Line: 6 Should read: platted  
Reason for change, is any:

Page: 78 Reads: Kleinfelder  
Line: 14 Should read: Danczgen  
Reason for change, if any:

Page: 82 Reads: Klein  
Line: 10 Should read: Kleinfelder  
Reason for change, if any:

Page: 86 Reads: fifty, sixty deep  
Line: 19 Should read: fifty, sixty feet deep  
Reason for change, if any:

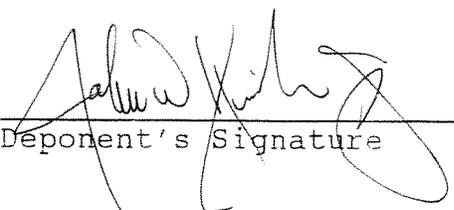
~~Page: \_\_\_\_\_ Reads:  
Line: \_\_\_\_\_ Should read:  
Reason for change, if any:~~

~~Page: \_\_\_\_\_ Reads:  
Line: \_\_\_\_\_ Should read:  
Reason for change, if any:~~

~~Page: \_\_\_\_\_ Reads:  
Line: \_\_\_\_\_ Should read:  
Reason for change, if any:~~

~~Page: \_\_\_\_\_ Reads:  
Line: \_\_\_\_\_ Should read:  
Reason for change, if any:~~

~~Page: \_\_\_\_\_ Reads:  
Line: \_\_\_\_\_ Should read:  
Reason for change, if any:~~

  
\_\_\_\_\_  
Deponent's Signature

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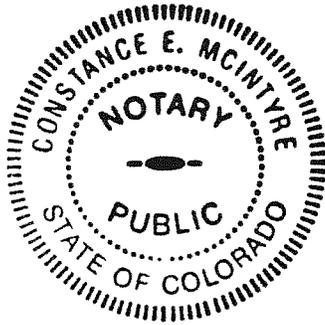
*John Himmelreich*

JOHN HIMMELREICH

5 PAGES OF CORRECTION SHEETS. *(M)*

Subscribed and sworn to before me  
this 10<sup>th</sup> day of September, 2002.

My commission expires 8-7-05



*Constance E. McIntyre*

NOTARY PUBLIC

## Gray, William E

---

**From:** MICHAEL WAGNER <mdjwagner@comcast.net>  
**Sent:** Thursday, July 20, 2023 5:18 PM  
**To:** Gray, William E  
**Subject:** Launchpad Apartments

**CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!**

William,

We are writing once again, to let you know that we are part of the appeal **against** the Launchpad Apartments. Our feelings about this project have not changed. The building size and number of apartments over exceeds the Westside Plan that was made an ordinance for a reason. For the planning commission to just ignore us does not set well with anyone. We live over here for a reason and want to preserve that.

Our infrastructure is old and everyone who lives here knows what the soil conditions are and the design is not conducive to those conditions and will undermine all of the existing houses behind it. We are already over ran with homeless parking on our streets and leaving trash everywhere they have been and now these developers want to bring in 50 plus more homeless from all over the county. We do not agree with their agenda on providing a service for these troubled youth. They said they will be unsupervised, no drug testing and if they kick them out, where are they going to go, but on our streets and in our parks.

Mike and Debbie Wagner  
2301 West Dale St.

## Gray, William E

---

**From:** Kelly Hiller <kelly.colorado@yahoo.com>  
**Sent:** Saturday, July 22, 2023 6:50 PM  
**To:** Gray, William E; Tracey Bradford  
**Subject:** APPL-23-0002 Parents are not in FULL support

**CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!**

Hi William,

Please include the following in the public record in regards to APPL-23-0002 and confirm receipt. Thank you. -Kelly Hiller

---

On Thu, Jul 20, 2023 at 1:48 PM Ruth Washburn <[director@rwcns.org](mailto:director@rwcns.org)> wrote:

As an organization (Board, Staff, Parents), Ruth Washburn is in FULL support of the Launchpad project going in next door. We will make a more formal statement in the coming weeks, but we have been in support of this project since the beginning and are very excited to partner with this amazing organization.

Sincerely,  
Angela Conway -Executive Director  
Jen Filonowich-Mentor Director  
Ruth Washburn Cooperative Nursery School

Please see below for parts of an exchange I had on July 12, 2023 with a parent of a child that goes to Ruth Washburn to illustrate that the parents are unaware and NOT in "FULL support":

*Oh my goodness... I wonder why she would like something like that so close to the school. I was wondering why I haven't heard from the school about this. Yes! I will pass your information along. Do you have any other information about this Launchpad? And what can I do to help?*

<https://www.youtube.com/watch?v=Ly6aA0WdMZs&t=895s>

*I watched that whole thing and it made me sick to my stomach. All Jen did was make me question if i even want my kids going there. Thank you for sending that! My email is REDACTED. Thanks again!*

*My husband and I are not happy that no one told us. Thank you!!*

## Gray, William E

---

**From:** Kelly Hiller <kelly.colorado@yahoo.com>  
**Sent:** Saturday, July 22, 2023 6:16 PM  
**To:** Gray, William E  
**Cc:** Tracey Bradford  
**Subject:** APPL-23-0002 "controversial" photograph

**CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!**

Please include the following in the public record in regards to APPL-23-0002 and confirm receipt. Thank you. -Kelly Hiller

---

The applicant said in the Planning Commission hearing:

"...and then there were some other comments about it being a controversial application that had little public comments or input. And without a public process. So we're going to come back and talk about Lisa and Shawna and Wayne are going to come back and talk about the extensive public process that they did go through on this project. And at the end, I think the mischaracterization of this project as being controversial because we had way more support than we've had opposition."

While the existence of the opposition to the project was and is self-evident, here is a illustrative photograph for the record:



NEXT UP



Man arrested for ha  
menacing and injur

# Residents plan to controversial Co Springs City Cour

Breeanna Jent breeanna.jent@



June 16, 2023

William Gray  
City of Colorado Springs Planning Department  
[William.Gray@coloradosprings.gov](mailto:William.Gray@coloradosprings.gov)

Dear Mr. Gray,

On behalf of arc Thrift Stores, one of Colorado largest social enterprises; we would like to formally offer our support for The Place and their efforts to assist with the housing crisis that Colorado Springs is facing.

The Place is determined to build a 50 unit apartment complex on 19<sup>th</sup> Street and Uintah. Arc Thrift Stores is directly across from this proposed location and as future neighbor, we would like to inform the council of our support for this project.

It is our understanding that the project should be completed by winter 2024 for occupancy and will directly impact youth ages 18-24 that are homeless or at risk of being unhoused. We also see this as an employment opportunity. Arc thrift Stores is a first and second chance employer and we pride ourselves at being 100% inclusive. We support the efforts of The Place in addressing an issue that is quickly becoming the most important topic for the Colorado Springs planning department.

Sincerely,

Lloyd M. Lewis  
President & CEO  
Arc Thrift Stores  
[Lewis@arcthrift.com](mailto:Lewis@arcthrift.com)

## Gray, William E

---

**From:** Kelly Hiller <kelly.colorado@yahoo.com>  
**Sent:** Saturday, July 22, 2023 6:35 PM  
**To:** Gray, William E; Tracey Bradford  
**Subject:** APPL-23-0002 - Plan for Colorado Springs apartment complex for homeless young adults gets greenlight

**CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!**

Hi William,

Please include the following article and text of article from The Gazette by Breeanna Jent dated June 19, 2023 and titled "Plan for Colorado Springs apartment complex for homeless young adults gets greenlight" in the public record in regards to APPL-23-0002. I have included a link to the article as well as provided the text of the article below. Please confirm receipt. Thank you

Kelly Hiller

link to article -[https://gazette.com/news/government/plan-for-colorado-springs-apartment-complex-for-homeless-young-adults-gets-greenlight/article\\_995485aa-0ede-11ee-adca-1fb2a18adb0a.html](https://gazette.com/news/government/plan-for-colorado-springs-apartment-complex-for-homeless-young-adults-gets-greenlight/article_995485aa-0ede-11ee-adca-1fb2a18adb0a.html)

---

### **Plan for Colorado Springs apartment complex for homeless young adults gets greenlight**

By Breeanna Jent Jun 19, 2023

The Colorado Springs Planning Commission last week upheld the administrative approval of a development plan for an apartment complex planned to be built on the city's west side and designed to support homeless young adults.

The board voted 6-0 on Wednesday, with Commissioners Jim Raughton, John Almy and Jack Briggs absent, to allow co-developers Cohen Esrey and The Place to move forward with plans to build the 50-unit Launchpad Apartments just north of the intersection of West Uintah and North 19th streets.

Area residents Tom Strand, also a former councilman, Scott Hiller and Kelly Hiller, as well as commercial real estate broker Tim Leigh, had appealed city staff's May 10 administrative approval of the development plan, saying it does not conform to various adopted city plans guiding development in the project area.

"We are not here to appeal the (project's) use or the applicants themselves. We love the applicants. We're not fighting with them. We want to support them, just not at this location," Strand said.

City staff and developers hailed the project last week, saying it will provide much-needed "permanent supportive housing" for the approximately 185 El Paso County youth who are living homeless every month, according to figures presented by Shawna Kempainen, executive director of The Place.

The Place operates the only shelter for homeless teens in Colorado Springs and will operate the programs at the Launchpad Apartments.

The Launchpad Apartments will serve homeless young adults between the ages of 18 and 24, Kemppainen said.

"These are young people who have dreams, who want to make things happen for themselves, and it is impossible, nearly, to do that if you are living on the street," Kemppainen said.

Forty-seven one-bedroom units and three two-bedroom units will be built in one four-story, approximately 45-foot-tall building on about 1.37 acres at the site, said Andrea Barlow with developer consultant N.E.S. Inc.

The density is approximately 36 units per acre.

Appellants largely took issue with the project's proposed building height and density.

Neither elements conform to various adopted city plans guiding development at this site, including Colorado Springs' comprehensive plan known as PlanCOS and the Westside Plan, the area master plan for development across 2,900 acres on Colorado Springs' west side, Scott Hiller said Wednesday.

The project does not fit in with current surrounding uses in the area and contradicts the intention of the city's zoning code designed to "protect" residents "from inappropriate design and other negative effects," Strand said.

The Westside Plan, Hiller said, recommends buildings within its area be no taller than 35 feet and have a residential density of between 5-16 units per acre.

The property's current zoning allows building heights up to 45 feet and a density of up to 58 units per acre, Barlow said.

But city code states that "the more stringent requirement, regulation, restriction or land use limitation shall apply" when there is conflict between zoning codes, the definition of zone districts, or other provisions of the city code, law or ordinance, Hiller said.

Large-scale commercial and a mix of single- and multifamily residential uses surround the site, but those buildings are not as tall as the proposed project, he said.

"It's absolutely inconsistent with the Westside Plan and doesn't fit into the neighborhood where it's situated," he said.

Hiller also said the project location is in an area identified by the comprehensive plan as an established historical neighborhood. It's defined as having "an especially high value for preserving the legacy of existing design and architecture," he said.

Barlow said the Westside Plan is an "outdated" advisory plan that guides development, but it is "not policy."

The property's current zoning determines the project's development standards like height and density, she said.

The Launchpad Apartments will be in an established historic neighborhood, but they will be "on the edge where PlanCOS says to expect change in the transition area," she said.

A June 14 staff report acknowledges the proposed building height and density "does exceed the recommended height and density standards," Hiller pointed out.

The staff report continues, "But this residential category was developed to support the policy of infilling and encourage higher density where feasible, and for it to not detract from the single-family character and ensure a compatible relationship to surrounding uses."

Hiller said staff "should give a little more deference, a little more due diligence in (their) decision-making" when looking at historic neighborhoods.

"That's why ... the administrative decision to approve this is incorrect," he said.

Hiller said he and other appellants were also concerned about the possibility for landslides on the steep west side of the property.

A required geological hazard report "did not identify any geological hazards that preclude the site's development for its intended use," Barlow said.

The report notes and makes recommendations to address "a potential unstable slope" on the property's west end, existing fill and expansive soils that could damage foundations and exterior improvements there.

Developers revised original plans to address those potential hazards, including pushing the building back into the northeast corner of the property "to avoid as much of that slope as possible," Barlow said.

They will also build a retaining wall and ensure landscaping and other control measures address potential erosion, she said.

A city staff report says the steep slope "appear(s) to have been created by previous excavation."

Hiller said there was no evidence in project documents to support the city's claim.

"I am criticizing the city's use of that report to approve this project," he said. "... For the city to assume the result of the (ground) destabilization is excavation is irresponsible."

The Planning Commission's decision could be appealed to the City Council. City code allows anyone who will be adversely affected by the decision to appeal it to the council by Monday.

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## Gray, William E

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**From:** Kelly Hiller <kelly.colorado@yahoo.com>  
**Sent:** Saturday, July 22, 2023 5:58 PM  
**To:** Gray, William E  
**Cc:** tabsprings@gmail.com  
**Subject:** APPL-23-0002 - Colorado Springs apartment market likely to be overbuilt. Pull the plug?

**CAUTION! - External Email. Malware is most commonly spread through unknown email attachments and links. DO NOT open attachments or click links from unknown senders or unexpected email!**

Hi William,

Please include the following article from the Colorado Springs Business Journal by

- By Amanda Miller Luciano dated
- May 15, 2023 and titled "Colorado Springs apartment market likely to be overbuilt - Pull the plug?" in the public record in regards to APPL-23-0002. I have included a link to the article as well as provided the text of the article below. Please confirm receipt. Thank you

Kelly Hiller

link to article - [https://www.csbj.com/news/colorado-springs-apartment-market-likely-to-be-overbuilt/article\\_2d377372-f346-11ed-924d-abb6039b19e8.html](https://www.csbj.com/news/colorado-springs-apartment-market-likely-to-be-overbuilt/article_2d377372-f346-11ed-924d-abb6039b19e8.html)

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Colorado Springs apartment market likely to be overbuilt Pull the plug?

- **By Amanda Miller Luciano**
- **May 15, 2023**

More than 1,600 new apartments became available in Colorado Springs during the first quarter of 2023. That's a record. Vacancy is up and likely to continue climbing as more and more new apartments buildings come out of the ground.

Experts say that will likely result in falling rents.

There are just fewer than 11,900 new apartment units under construction in the metro area, according to a comprehensive survey conducted by Apartment Insights and Apartment Appraisers & Consultants, which licenses its data to the Colorado Housing and Finance Association for a quarterly state report.

"That's almost 12,000 units that have broken ground," says Scott Rathbun, president of Apartment Appraisers & Consultants. "They will deliver. Those units will exist within the next two to three years."

For scale, that will add roughly 20 percent to existing inventory of an estimated total 55,000 apartments built over the last 120 years in Colorado Springs, Rathbun says.

"Colorado Springs is a relatively small market," he says. "When you're adding thousands of units at a time, it can be overbuilt rather quickly."

The new construction is already having a significant impact on vacancy. Apartment vacancy in stabilized properties, which does not include new construction in lease-up, rose more than 100 basis points from 6.5 percent in the fourth quarter of 2022 to 7.5 percent the first quarter of 2023 and from 5.5 percent in the first quarter of 2022.

At 7.5 percent, the stabilized vacancy rate is among the highest in the state.

A normal, healthy apartment vacancy rate is between 5 and 6 percent, Rathbun said.

“It’s not healthy for an apartment complex to be 100 percent occupied,” he says. “Vacancy rates of 5 to 6 percent allows for flexibility in the market so there are options for renters. But, at 5.5 percent, Landlords are probably going to be raising rents.”

Typically, once vacancy reaches 8 percent, rents begin declining, Rathbun says.

Colorado Springs isn’t quite there yet. Rents were still up 3.6 percent year over year. But, at an average of \$1,468, they have declined \$11 from the fourth quarter of 2022 and \$43 from the third quarter.

“If we continue to see vacancy go up, that annual rent growth is going to hit zero and eventually shrink and turn negative,” Rathbun says.

The statistics suggest that vacancy could rise dramatically over the next two to three years as new units come online.

Rathbun says absorption in the Colorado Springs market has been volatile. During the 12 months that ended the first quarter of 2021, Colorado Springs absorbed a record of more than 2,000 units, where the average had been 500 to 700 a year.

In the first quarter of this year, when Colorado Springs added 1,600 newly constructed apartments to the city’s inventory, the quarterly absorption rate was four. Essentially, demand grew by four units and supply grew by 1,600 in the quarter.

Absorption rates increase when there is population growth, Rathbun says. It’s usually illustrated as a trailing 12-month rate, which was 597 units in the first quarter.

Rathbun says the 2021 absorption rate was likely so high because people moved out of their previous living situations during the pandemic to create two or three households where there had been just one.

It’s unlikely Colorado Springs will be able to absorb all of the new inventory expected.

“When we talk about stabilized vacancy rates, we’re talking about apartments that were already full,” Rathbun says. “That doesn’t include new properties that are in lease-up.”

The overall Colorado Springs vacancy rate, which includes new construction, was 13 percent in the first quarter of 2023.

“That’s a very high number,” Rathbun says. “That’s up 342 basis points [from 9.6 percent] year over year, and it’s the highest it has ever been in the 16 years of our survey.”

Beyond the nearly 12,000 units currently under construction, there are another 8,100 apartment projects proposed that haven’t broken ground yet, Rathbun says.

Multi-family permitting activity at Pikes Peak Regional Building Department has not shown signs of slowing, according to Greg Dingrando, the public information officer for PPRBD.

“We’re still going pretty strong,” he says.

There were 1,385 new apartment units permitted between Jan. 1 and May 10 of this year. That pace of permitting could result in a record number of units permitted for 2023 if it continues.

If the 8,100 proposed projects were to go forward along with the 11,900 already under construction, that would add 20,000 units to an existing inventory of roughly 55,000 units. That would be a 40 percent increase in apartment inventory over the next two to four years.

For perspective, if the almost 12,000 units currently under construction were to be delivered evenly over the next three years, that would be 4,000 new units per year. The most the city has absorbed in a year is roughly 2,000. So, there will be at least double the number of new units the market is likely able to fill even without the additional 8,100 proposed units.

“You’re definitely overbuilding,” Rathbun says.

He suspects developers or their lenders will pull the plug on the proposed projects that aren’t already in progress.

Kevin McKenna, executive vice president with CBRE and Colorado Springs apartment broker, agrees.

“If you don’t already have a shovel in the ground,” he says, “there are very few of those proposed properties that will actually break ground.”

While he agrees that proposed projects probably won’t get green lights, he disagrees that the market will be overbuilt.

“This new supply is a bubble that will play itself through,” McKenna says. “Compared to Denver, I would say the Colorado Springs market was really undersupplied for new inventory. We frankly needed this new supply.”

Rathbun notes that the absorption rate doesn’t account for where people are moving. Historically, and likely today as well, renters move from older and less desirable properties to the new construction. That could mean that new apartment projects still make sense even if vacancy rates are on the rise.

The Colorado Springs market stabilized in 2013 and had seen very little new construction in the decade before that. The market became strong enough to entice developers to begin building in 2017. Most of the new construction occurred in 2021 and 2022.

“The new development is spread throughout the city,” McKenna says. “It’s pretty diversified.”

He says he disagrees that negative rent growth is on the horizon. If it is, he says he suspects it will be short lived.

The apartment market nationwide has slowed dramatically as interest rates have made new acquisitions hard to justify or finance. Where investors were purchasing apartment complexes based on a 5 percent (sometimes even lower) return as recently as a year ago, they need 7 percent or better to justify the cost of financing today.

“There’s a lot of interest in our market that has not waned,” McKenna says. “Getting sellers and buyers to align on pricing has been the challenge.”

He says some owners have attractive fixed-rate financing that is assumable, making those properties more marketable. But, even those properties usually have balloon payments or repricing expected five to seven years after their initial financing. That could push refinancing risk down the road to a time when the market is predicting rates will be lower. If investors expect lower rates in the future, buying now while prices have downward pressure could be a smart move.

Other apartment owners have floating-rate debt and they are feeling the squeeze, especially if they purchased the property recently without a lot of opportunity to raise rents.

But most property owners purchased ahead of two to three years that saw double-digit rent growth and substantial property appreciation. The average rent in the first quarter of 2023 was up 30 percent over the first quarter of 2020.

“I don’t anticipate a lot of distress,” McKenna says. “There will be select distress, but this is not a 2008 to 2010 situation.”

Since 2017, the Colorado Springs apartment market has gained prominence among more sophisticated and institutional investors, especially for the larger properties.

“We have buyers from coast to coast who are incredibly optimistic about our market,” McKenna says. “The buyer pool has definitely gotten a lot deeper.”

Time will tell how a massive influx of new apartment units will impact the Colorado Springs market.

“I think you’re overbuilding,” Rathbun says. “But I could be wrong about this. There’s nothing to say you couldn’t have some huge absorption like we’ve never seen before.”

**NEW APARTMENTS:**

Number of new apartment units permitted by the Pikes Peak Regional Building Department by year:

2019 — 1,359

2020 — 1,591

2021 — 3,943

2022 — 4,963

Through May 10, 2023 — 1,385

**MARKET AT A GLANCE:**

Record annual apartment absorption in 2021: 2,000 units

Units under construction: 11,900

Proposed additional new units not yet under construction: 8,100

Estimated total number of existing apartments in Colorado Springs: 55,000

Average rent in Q1 2023: \$1,468

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