

RESOLUTION NO. R-017- 025

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

A RESOLUTION REZONING A PARCEL OF LAND, 26.6 ACRES IN SIZE, LOCATED IN DOUGLAS COUNTY, COLORADO FROM AGRICULTURAL-ONE TO LARGE RURAL RESIDENTIAL

WHEREAS, Scott McHenry has requested rezoning of a certain parcel of land, Project File No. ZR2016-026, as more particularly described in **Exhibit A**, which is attached hereto and incorporated herein, from Agricultural-One to Large Rural Residential ("Rezoning"); and


WHEREAS, the Planning Commission reviewed and recommended approval of the Rezoning at a public hearing on December 19, 2016; and

WHEREAS, the Board of County Commissioners reviewed the Rezoning at a properly noticed public hearing held on February 28, 2017, which was noticed for January 24, 2017, and continued to February 28, 2017, and determined that the Rezoning is in substantial compliance with the approval criteria contained in Section 25 of the *Douglas County Zoning Resolution*; now therefore,

BE IT RESOLVED, by the Board of County Commissioners of the County of Douglas, State of Colorado that the parcel of land described in **Exhibit A** is rezoned from Agricultural-One to Large Rural Residential.

PASSED AND ADOPTED this 28th day of February 2017, in Castle Rock, Douglas County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

BY: 
Roger A. Partridge, Chair

ATTEST:

BY: 
Meghan McCann, Clerk to the Board

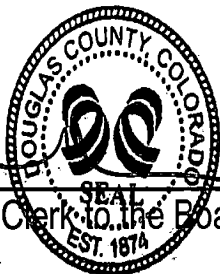


Exhibit A

A TRACT OF LAND PARTLY IN THE EAST ½ OF SECTION 24, TOWNSHIP 8 SOUTH, RANGE 67 WEST AND PARTLY IN THE WEST ½ OF SECTION 19, TOWNSHIP 8 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST ¼ OF THE NORTHEAST OF SAID SECTION 24 AND CONSIDERING THE NORTH LINE OF SAID SOUTHEAST ¼ OF THE NORTHEAST ¼ TO BEAR N 89°34'45" W WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;
THENCE N 89°34'45" W ALONG SAID NORTH LINE A DISTANCE OF 626.28 FEET TO THE TRUE POINT OF BEGINNING;
THENCE N 89°34'45" W ALONG SAID NORTH LINE A DISTANCE OF 285.00 FEET;
THENCE S 4°53'07" E A DISTANCE OF 114.57 FEET;
THENCE S 19°35'51" E A DISTANCE OF 113.87 FEET;
THENCE S 26°56'21" E A DISTANCE OF 922.26 FEET;
THENCE S 25°17'12" E A DISTANCE OF 152.60 FEET TO THE NORTH LINE OF A COUNTY ROAD RIGHT OF WAY;
THENCE N 66°08'58" E ALONG SAID RIGHT OF WAY A DISTANCE OF 45.00 FEET;
THENCE S 23°51'02" E ALONG SAID RIGHT OF WAY A DISTANCE OF 337.33 FEET;
THENCE N 8°18'32" E A DISTANCE OF 643.34 FEET TO THE WEST RIGHT OF WAY LINE OF N. LAKE GULCH ROAD;
THENCE N 4°22'19" W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 280.60 FEET;
THENCE N 4°37'32" W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 487.42 FEET;
THENCE N 9°26'49" W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 263.21 FEET;
THENCE N 14°15'28" W ALONG SIAD RIGHT OF WAY LINE A DISTANCE OF 124.52 FEET;
THENCE N 86°50'04" W A DISTANCE OF 392.32 FEET;
THENCE N 89°34'45" W A DISTANCE OF 440.54 FEET;
THENCE N 19°05'14" W A DISTANCE OF 273.16 FEET TO THE TRUE POINT OF BEGINNING.

DECLARATION OF RESTRICTIVE COVENANTS

The undersigned Declarants being the fee owner of the real property described on Exhibit A attached hereto and incorporated herein ("Property"), in part consideration for the approval of the 1433 Lake Gulch Road Rezoning request ("Rezoning"), does hereby declare that the Property shall be subject to the following restrictions:

All non-tributary and not non-tributary water rights in the Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying the Property, whether or not adjudicated (the "Ground Water"), and all pipelines, wells, well permits, pumps, storage tanks, rights-of-way, easements, and associated rights or privileges appurtenant to or used in connection with the Ground Water, are hereby reserved for, and dedicated to, the use and benefit of the Property, and no portion of the Ground Water shall be conveyed, sold, assigned, transferred, pledged or encumbered without the prior written consent of Douglas County ("County"). The County may approve the conveyance, sale, assignment, transfer, pledge or encumbrance of the Ground Water only where the County determines, in its sole discretion, that such conveyance, sale, assignment, transfer, pledge, or encumbrance will facilitate the provision of water service to and for the Property.

Declarants, as the present owner of the land which overlies the Ground Water, hereby grants its irrevocable CONSENT, as required by Section 37-90-137(4), C.R.S., and as may be required from time to time by any other provision of Colorado law, to the issuance to any water provider of a permit or permits for the construction of a well or wells to take, appropriate, use, and produce the Ground Water for the benefit of the owners of lots, tracts and parcels of land within the Rezoning; and said CONSENT shall be binding upon Declarants successors and assigns, and shall constitute a covenant running with the land to the fullest extent permitted by law or equity for the use and benefit of all lots, tracts and parcels of land within the Rezoning; provided, however, that nothing herein shall be construed as granting or reserving (1) any right to locate wells, pipelines, storage tanks or other facilities on the Property, (2) any easement on, over or under the Property for the purpose of transporting or storing such Ground Water, or (3) any right to disturb the surface of the Property or any improvements thereon.

This Declaration and the restrictions contained herein shall run with the Property, and shall be binding upon the Declarants and all other persons or parties claiming of, from, through, or under the Declarants, and shall be a limitation and restriction upon the Declarants and all persons who may acquire or obtain an interest in the Property hereafter.

This Declaration and the restrictions contained herein are for the benefit of the County and the Rezoning area, and shall be specifically enforceable by the County through its Board of County Commissioners and by any owner or owners of a lot, tract or parcel of land in the Rezoning.

EXHIBIT A

A TRACT OF LAND PARTLY IN THE EAST ½ OF SECTION 24, TOWNSHIP 8 SOUTH, RANGE 67 WEST AND PARTLY IN THE WEST ½ OF SECTION 19, TOWNSHIP 8 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST ¼ OF THE NORTHEAST OF SAID SECTION 24 AND CONSIDERING THE NORTH LINE OF SAID SOUTHEAST ¼ OF THE NORTHEAST ¼ TO BEAR N 89°34'45" W WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;
THENCE N 89°34'45" W ALONG SAID NORTH LINE A DISTANCE OF 626.28 FEET TO THE TRUE POINT OF BEGINNING;
THENCE N 89°34'45" W ALONG SAID NORTH LINE A DISTANCE OF 285.00 FEET;
THENCE S 4°53'07" E A DISTANCE OF 114.57 FEET;
THENCE S 19°35'51" E A DISTANCE OF 113.87 FEET;
THENCE S 26°56'21" E A DISTANCE OF 922.26 FEET;
THENCE S 25°17'12" E A DISTANCE OF 152.60 FEET TO THE NORTH LINE OF A COUNTY ROAD RIGHT OF WAY;
THENCE N 66°08'58" E ALONG SAID RIGHT OF WAY A DISTANCE OF 45.00 FEET;
THENCE S 23°51'02" E ALONG SAID RIGHT OF WAY A DISTANCE OF 337.33 FEET;
THENCE N 8°18'32" E A DISTANCE OF 643.34 FEET TO THE WEST RIGHT OF WAY LINE OF N. LAKE GULCH ROAD;
THENCE N 4°22'19" W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 280.60 FEET;
THENCE N 4°37'32" W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 487.42 FEET;
THENCE N 9°26'49" W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 263.21 FEET;
THENCE N 14°15'28" W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 124.52 FEET;
THENCE N 86°50'04" W A DISTANCE OF 392.32 FEET;
THENCE N 89°34'45" W A DISTANCE OF 440.54 FEET;
THENCE N 19°05'14" W A DISTANCE OF 273.16 FEET TO THE TRUE POINT OF BEGINNING.

This Declaration and the restrictions contained herein cannot be amended, modified, or terminated without the consent of the County.

Dated this 10 day of December, 2016.

Scott R. McHenry:

Scott R. McHenry

By: _____
Title: Owner

State of Colorado)
County of Angels) ss.

The foregoing instrument was acknowledged before me on this 10 day of December, 2016, by Scott McHenry as Owner of 1433 Lake Gulch Rd.

Witness my hand and official seal.

My commission expires: 4/7/17

LORIE S LIMBAUGH
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20054013963
MY COMMISSION EXPIRES APRIL 7, 2017

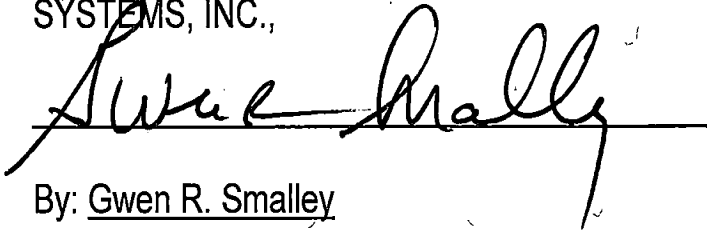
[Signature]
Notary Public

MIN# 10005361314867184
SIS# (888)679-MERS


SUBORDINATION AGREEMENT

The undersigned, being the beneficiary of a deed of trust dated September 25, 2015, and recorded at Reception Number 2015071361 of the real estate records in the office of the Clerk and Recorder of Douglas County, Colorado, encumbering the property described in the foregoing Declaration of Restrictive Covenants, hereby subordinates the lien of its deed of trust to the terms, conditions, and provisions of said Declaration.

MORTGAGE ELECTRONIC REGISTRATION
SYSTEMS, INC.,



By: Gwen R. Smalley
Title: Vice President


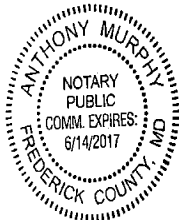
Attest: 
Laura E. Valentine
Title: Vice President

State of Maryland)
) ss.
County of Frederick)

The foregoing Subordination of Declaration of Covenants was subscribed and sworn to before me on this 25th day of January, 2017 by Gwen R. Smalley as Vice President and Laura E. Valentine as Vice President of Mortgage Electronic Registration Systems, Inc.,

Witness my hand and official seal.

My commission expires: June 14, 2017.



Anthony Murphy, Notary Public

SUBORDINATION AGREEMENT

The undersigned, being the beneficiary of a deed of trust dated May 31, 2016, and recorded at Reception Number 2016035644 of the real estate records in the office of the Clerk and Recorder of Douglas County, Colorado, encumbering the property described in the foregoing Declaration of Restrictive Covenants, hereby subordinates the lien of its deed of trust to the terms, conditions, and provisions of said Declaration.

CASTLE ROCK BANK

D.J. Tedesco

By: D.J. Tedesco

Title: President

Attest:

Thomas Wayman

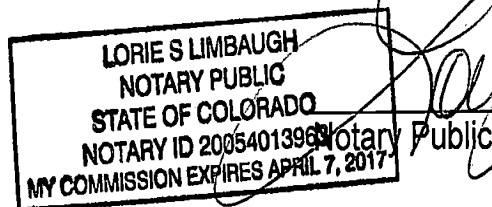
Title: VICE PRESIDENT

State of Colorado)
) ss.
County of Douglas)

The foregoing Subordination of Declaration of Covenants was subscribed and sworn to before me on this 16 day of December, 2016 by D.J. Tedesco as President and Thomas Wayman as Vice President of Castle Rock Bank

Witness my hand and official seal.

My commission expires: 4/7/17.

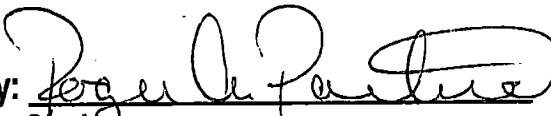


Lorie S Limbaugh

ACCEPTANCE OF DECLARATION OF RESTRICTIVE COVENANTS

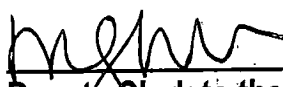
The Board of County Commissioners of the County of Douglas hereby accepts the foregoing Declaration of Restrictive Covenants.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS

By: 
Chair

Date: 2-28-17

ATTEST:


Deputy Clerk to the Board

