

Subject: Opposition to Proposed Four-Story Height Limit – Protection of Property Rights and Investment Expectations

Dear Mayor and Members of the Castle Rock Town Council,

As a property owner and long-term investor in downtown Castle Rock, I write to respectfully express my strong opposition to the proposed amendment to the Castle Rock Municipal Code that would restrict building heights in the downtown area to four stories.

My investment decisions have been guided by the current zoning regulations under the **Castle Rock Municipal Code, Title 17 (Zoning)**—specifically within the **Downtown Overlay District (Section 17.38)**—which currently permits structures up to seven stories in designated zones. These long-standing regulations, coupled with the Town’s Comprehensive Master Plan and stated goals for vibrant downtown development, formed the basis of my good-faith investment in assembling and planning property under this framework.

The proposed height restriction raises the following serious legal and policy concerns:

1. Loss of Property Value and Development Rights

A reduction in the allowable building height would directly diminish the permissible development intensity on my property, resulting in a material and measurable decrease in its market value. Under the principles established by Colorado case law, this may constitute a **regulatory taking** if it deprives the property of reasonable economic use (*Animas Valley Sand & Gravel, Inc. v. Bd. of Cty. Comm'rs*, 38 P.3d 59, 64 (Colo. 2001)).

2. Violation of Investment-Backed Expectations

My actions have been based on the Town’s published zoning code and development policies, creating what courts recognize as “**investment-backed expectations**” protected under the **Takings Clause of the Fifth Amendment to the U.S. Constitution** and **Article II, Section 15 of the Colorado Constitution**. Sudden and retroactive downzoning without compensation undermines these expectations and may trigger a valid claim for inverse condemnation (*Westwood Meat Co. v. Logan*, 688 P.2d 1106, 1110 (Colo. 1984)).

3. Unequal and Inconsistent Application of Policy

Multiple buildings in the downtown area currently exceed four stories. Allowing these to remain while precluding others from pursuing the same scale of development introduces **inconsistencies in land use regulation** that may violate equal protection principles under both state and federal law (*City of Cleburne v. Cleburne Living Center*, 473 U.S. 432 (1985)). Such unequal treatment, especially without a compelling rational basis, may invite legal scrutiny and claims of arbitrary governance.

4. Chilling Effect on Future Investment

The predictability and stability of zoning regulations are critical to attracting private investment.

Retroactive changes erode trust in Castle Rock's regulatory environment, discouraging future development and potentially deterring capital from flowing into our community.

Request for Grandfathering and Legal Safeguards

At a minimum, I respectfully request that any proposed changes include a **"grandfather clause"** (also known as a legal nonconforming use provision under **CRMC Section 17.70**) to protect the rights of property owners who have initiated development under current zoning. This would preserve the integrity of investments already made in reliance on existing law and reduce the risk of costly litigation for the Town.

I appreciate the Council's commitment to shaping Castle Rock's future. However, I urge you to approach this zoning amendment with a balanced perspective that honors both the community's long-term goals and the legal and financial interests of stakeholders who have invested under the Town's existing regulatory framework.

Thank you for your time, service, and thoughtful consideration.

Sincerely,
Billy Halax

Dakota Ridge Capital

303-550-1211

Halax@303realestate.com