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RESOLUTION NO. 20-395

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO**

**APPROVE PRELIMINARY PLAN FOR SOLACE OF COLORADO SPRINGS
(SP-20-001)**

WHEREAS, Butler and Peetz, LLC, did file an application with the El Paso County Planning and Community Development Department for the approval of a preliminary plan for the Solace of Colorado Springs Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on November 5, 2020, upon which date the Planning Commission did by formal resolution recommend approval of the preliminary plan application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on November 10, 2020; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

- 1. The application was properly submitted for consideration by the Planning Commission.**
- 2. Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.**
- 3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.**
- 4. All exhibits were received into evidence.**

5. The subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
6. The subdivision is in substantial conformance with the approved preliminary plan.
7. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of El Paso County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.
8. Sufficiency: A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of the Land Development Code. (Phase 1 Only)
9. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of the Land Development Code.
10. All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions [C.R.W. §30-28-133(6)(c)].
11. Adequate drainage improvements complying with State law [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and the Engineering Criteria Manual are provided by the design.
12. Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Land Development Code and the Engineering Criteria Manual.
13. The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encouraging a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in

the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.

14. Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.
15. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
16. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
17. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations.
18. That the proposed subdivision of land conforms to the El Paso County Zoning Resolutions.
19. That for the above-stated and other reasons, the proposed subdivision is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the preliminary plan application for the Solace of Colorado Springs Subdivision;

BE IT FURTHER RESOLVED that the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. Applicable traffic, drainage and bridge fees shall be paid with each final plat.
2. Applicable school and park fees shall be paid with each final plat.
3. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency

requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.

4. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assigns that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the Countywide Transportation Improvement Fee Resolution (Resolution 18-471), as amended, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
5. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
6. A 30 db(A) indoor noise reduction shall be achieved by approved construction techniques as evidenced by a Noise Reduction Certificate prior to site development plan approval.
7. The applicant shall place a plat note on all final plats providing notice and disclosure that the properties may be impacted by air quality, lighting, noise, and other potential nuisances created by existing and future industrial land uses and activities conducted on the nearby industrially zoned properties. Such disclosure shall also be recorded by separate instrument in the office of the El Paso County Clerk and Recorder. The disclosure shall be reviewed and approved by the Planning and Community Development Director prior to inclusion into the records of the El Paso County Clerk and Recorder.
8. The applicant shall submit a Federal Aviation Administration (FAA) Form 7460-1 "Notice of Proposed Construction or Alteration" for any new vertical development at this site, including temporary construction equipment.
9. Additional right-of-way for Paonia Street and Galley Road shall be dedicated to El Paso County with the final plat and the necessary road improvements, including construction of Paonia Street as a collector road

through the site to the south end of the existing Paonia Street, shall be completed by the developer and preliminarily accepted by the County prior to County authorization of a Certificate of Occupancy for the site.

10. The applicant/developer and/or property owner(s) shall be required to participate in a fair and equitable manner in the upgrading/construction of the surrounding roads and intersections impacted by the traffic generated by this development, including Paonia Street and Galley Road, as well as any other offsite impacts as identified in the applicable traffic impact analysis. With any subsequent final plat(s), the developer's design and financial responsibilities for completing offsite improvements shall include a pro-rata share of the following improvements if not already completed by others:
 - a. Design, construction, contribution and/or escrow of funds as appropriate to construct the traffic signals, as warranted, at the Galley Road and Paonia Street intersection.
 - b. Design and construction of a six (6) foot wide sidewalk along the north side of Galley Road from Powers Boulevard to an appropriate connection or termination on the east side of Paonia Street.
 - c. Design and construction of westbound auxiliary lanes as warranted on Galley Road at Paonia Street.
 - d. Design and construction of the necessary improvements on Paonia Street immediately north of the project site as appropriate to connect to the existing segment of Paonia Street.
 - e. Other offsite impacts as identified in any new/updated traffic impact analysis for the development of the property pursuant to the RM-12 (CAD-O) zoning.

11. The applicant shall construct a four to six-foot tall decorative fence along the perimeter of the site development. The material and location shall be provided with the site development plan, which may be approved by the Planning and Community Development Director.

12. At the time of making an application for approval of the final plat, site development plan, and construction documents for Phase 1, the applicant shall provide a floodplain development permit and no-rise letter for work in the Sand Creek Floodway channel.

NOTATIONS

1. The subsequent final plat application for Phase 1 may be approved administratively by the Planning and Community Development Director.
2. This preliminary plan approval does not authorize administrative approval for future final plat filing for Phase 2.
3. Approval of the preliminary plan will expire after twenty-four (24) months unless a final plat has been approved and recorded or a time extension has been granted.
4. Preliminary plans not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed to be withdrawn and will have to be resubmitted in their entirety.
5. The applicant has elected not to place any structures within 125 feet of the north and east property lines. The Planning and Community Development Department has issued an administrative determination which has been incorporated into the permitting system for all properties adjacent to the subject parcel. The administrative determination identifies and memorializes the additional setback requirement and acknowledges that the applicant has chosen not to build within 125 feet of these properties.
6. A noise barrier fence is not a requirement along Powers Boulevard so long as development of the site is in compliance with Condition of Approval No. 6 above.

AND BE IT FURTHER RESOLVED that the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 10th day of November, 2020, at Colorado Springs, Colorado.

ATTEST:
By: 
County Clerk & Recorder



BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

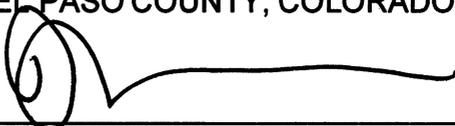
By: 
Chair

EXHIBIT A

LEGAL DESCRIPTION

THAT PORTION OF SECTION 7, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, DESCRIBED IN BOOK 5046 AT PAGE 748; AND POWERS AND GALLEY PLAZA FILING NO. 1 AS RECORDED IN PLAT BOOK A-4 AT PAGE 30 OF THE RECORDS OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 7; THENCE N00°27'46"E, 1407.69 FEET ALONG THE WEST LINE OF SAID NORTHWEST QUARTER; THENCE N89°59'53"E, 1435.46 FEET ALONG THE SOUTHERLY BOUNDARY LINE OF THE TRACT OF LAND DESCRIBED IN BOOK 3845 AT PAGE 126 OF SAID RECORDS, AND ALONG THE SOUTHERLY BOUNDARY LINE OF O.K. SUBDIVISION AS DESCRIBED IN PLAT BOOK G- 3 AT PAGE 42 OF SAID RECORDS TO THE SOUTHEASTERLY CORNER OF SAID O.K. SUBDIVISION, A POINT ON THE WESTERLY BOUNDARY LINE OF CIMARRON INDUSTRIAL NO. 2 AS DESCRIBED IN PLAT BOOK Y-2 AT PAGE 22 OF SAID RECORDS; THENCE S00°29'25"W, 1375.25 FEET ALONG SAID WESTERLY BOUNDARY LINE OF CIMARRON INDUSTRIAL NO. 2, AND ALONG THE WESTERLY BOUNDARY LINE OF CIMARRON INDUSTRIAL NO. 1 AS DESCRIBED IN PLAT BOOK N-2 AT PAGE 6 TO THE SOUTHWEST CORNER THEREOF, A POINT ON THE NORTHERLY LINE OF THE TRACT OF LAND DESCRIBED IN BOOK 2230 AT PAGE 932 OF SAID RECORDS; THENCE N89°42'00"W, 444.88 FEET ALONG SAID NORTHERLY LINE AND ALONG THE NORTHERLY LINE OF THE TRACT OF LAND DESCRIBED IN BOOK 2388 AT PAGE 982 OF SAID RECORDS TO THE NORTHWEST CORNER THEREOF; THENCE S00°18'00"W, 40.00 FEET ALONG THE WESTERLY LINE OF SAID TRACT TO THE SOUTHWEST CORNER THEREOF, A POINT ON THE SOUTH LINE OF SAID NORTHWEST QUARTER OF SECTION 7; THENCE N89°42'00"W, 990.00 FEET ALONG SAID SOUTH LINE OF THE NORTHWEST QUARTER TO THE POINT OF BEGINNING.

EXCEPT THE SOUTHERLY 40 FEET OF THE WESTERLY 990 FEET THEREOF AS CONVEYED TO EL PASO COUNTY BY DEED RECORDED JANUARY 15, 1965 IN BOOK 2053 AT PAGE 135 AND BY DEED RECORDED FEBRUARY 9, 1970 IN BOOK 2388 AT PAGE 981.

AND EXCEPT ANY PORTION HEREOF TAKEN OR USED AS POWERS BOULEVARD INCLUDING, BUT NOT LIMITED TO THAT CERTAIN TRACT CONVEYED TO THE CITY OF COLORADO SPRINGS BY DEED RECORDED OCTOBER 27, 1987 IN BOOK 5437 AT PAGE 983.

AND EXCEPT THAT PORTION OF SECTION 7, TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, AND THAT PORTION OF POWERS AND GALLEY PLAZA NO. 1 AS RECORDED IN

PLAT BOOK A4 AT PAGE 30 OF THE RECORDS OF SAID COUNTY ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE ADDITIONAL RIGHT OF WAY PARCEL AS RECORDED IN SAID POWERS AND GALLEY PLAZA FILING NO. 1; (THE FOLLOWING SIX (6) COURSES ARE ALONG THE SOUTHERLY, WESTERLY AND NORTHERLY LINES OF THE ADDITIONAL RIGHT OF WAY FOR GALLEY ROAD AS RECORDED IN SAID POWERS AND GALLEY PLAZA FILING NO. 1); (1) THENCE N89°42'00"W, 960.06 FEET; (2) THENCE N00°27'47"E, 170.42 FEET; (3) THENCE ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST, SAID CURVE HAVING A CHORD BEARING OF S44°37'07"E, A CENTRAL ANGLE OF 90°09'47" AND A RADIUS OF 150.00 FEET FOR AN ARC DISTANCE OF 236.05 FEET; (4) THENCE S89°42'00"E, 29.52 FEET; (5) THENCE S85°53'09"E, 150.33 FEET; (6) THENCE S89°42'00"E, 330.00 FEET TO THE SOUTHWEST CORNER OF LOT 1, SAID POWERS AND GALLEY PLAZA FILING NO. 1; (THE FOLLOWING TWO (2) COURSES ARE ALONG THE WESTERLY AND NORTHERLY LINES OF SAID LOT 1); (1) THENCE N00°27'47"E, 200.00 FEET; (2) THENCE S89°42'00"E, 300.09 FEET TO THE NORTHWEST CORNER OF THE TRACT OF LAND DESCRIBED IN BOOK 5168 AT PAGE 1257 OF SAID RECORDS; (THE FOLLOWING THREE (3) COURSES ARE ALONG THE NORTHERLY, EASTERLY AND SOUTHERLY BOUNDARY LINES OF SAID TRACT); (1) THENCE S89°42'00"E, 68.61 FEET; (2) THENCE S00°27'47"W, 200.00 FEET; (3) THENCE N89°42'00"W, 68.61 FEET TO A POINT ON THE EASTERLY BOUNDARY LINE OF SAID POWERS AND GALLEY PLAZA FILING NO. 1; THENCE S00°27'47"W, 10.00 FEET ALONG SAID EASTERLY BOUNDARY LINE TO THE POINT OF BEGINNING.

AND EXCEPT THAT PORTION CONVEYED TO DEPARTMENT OF TRANSPORTATION, STATE OF COLORADO BY DEED RECORDED APRIL 16, 2010 UNDER RECEPTION NO. 210035525.

AND EXCEPT THAT PORTION OF LOT 2 OF POWERS & GALLEY PLAZA FILING NO. 1 BY DEED RECORDED FEBRUARY 17, 2016 UNDER RECEPTION NO. 216015634.

PARCEL B:

TEMPORARY NON-EXCLUSIVE INGRESS AND EGRESS EASEMENT OVER AND ACROSS THAT PORTION OF LOT 1 IN POWERS AND GALLEY PLAZA NO. 1 AS DESCRIBED IN EASEMENT AGREEMENT RECORDED DECEMBER 13, 1991 IN BOOK 5913 AT PAGE 713.

TOTAL ACREAGE: 28.82