

EL PASO

COMMISSIONERS:
DARRYL GLENN (PRESIDENT)
MARK WALLER (PRESIDENT PRO TEMPORE)



COUNTY

SIÂN VANDERWERF
LONGINOS GONZALEZ
PEGGY LITTLETON

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Board of County Commissioners
Darryl Glenn, President

FROM: Nina Ruiz, PM/Planner II
Gilbert LaForce, PE Engineer II
Craig Dossey, Executive Director

RE: Project File #: VR-17-005
Project Name: Padmark Business Park Filing No 1
Parcel No.: 5408102048

OWNER:	REPRESENTATIVE:
Hallgren Properties, Inc. 1110 Meadowbrook Parkway Colorado Springs, CO 80915	Lisa Peterson 1411 Woolsey Heights Colorado Springs, CO 80915

Commissioner District: 2

Planning Commission Hearing Date:	9/19/2017
Board of County Commissioners Hearing Date	10/10/2017

EXECUTIVE SUMMARY

A request by Hallgren Properties, Inc., for approval of a vacation and replat of one (1) commercial lot into three (3) commercial lots. The 3.85 acre lot, known as Lot 44 Claremont Business Park Filing No. 2, is zoned CS (Commercial Services) and is located west of the Highway 24 and Marksheffel Road intersection and is within Sections 8 and 5, Township 14 South, Range 65 West of the 6th P.M. The property is not within the boundaries of a small area plan.

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

www.ELPASOCO.COM

10/10/17 (c)
Boc 16962

A. REQUEST/WAIVERS/AUTHORIZATION

Request: A request for a vacation of one (1) commercial lot and replat into three (3) commercial lots.

Waiver(s): There are no waivers associated with the vacation and replat request.

Authorization to Sign: Final Plat and any other documents necessary to carry out the intent of the Board of County Commissioners.

B. PLANNING COMMISSION SUMMARY

Request Heard: September 19, 2017, as a consent item

Recommendation: Approval, subject to the conditions and notations. A copy of the Planning Commission Resolution is included as an attachment.

Waiver Recommendation: N/A

Vote: 7 to 0

Vote Rationale: N/A

Summary of Hearing:

SPEAKING FOR: Applicant was represented at the hearing

SPEAKING AGAINST: None

Legal Notice:

C. APPROVAL CRITERIA

Section 7.2.3.C, Actions Vacating or Altering a Recorded Plat, Replat, of the El Paso County Land Development Code states that a replat, "involves two actions, the vacation of the portion of the subdivision plat where the change is proposed...and approval of a new subdivision plat." The Code goes on to define a replat as providing a replat of a subdivision or lots in a subdivision, in which the original subdivision is substantially modified or additional lots are created. In approving a replat, the following findings shall be made:

- The replat complies with this Code, and the original conditions of approval associated with the recorded plat;
- No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
- The replat is in keeping with the purpose and intent of this Code;
- The replat conforms to the required findings for a minor or major subdivision, whichever is applicable;

- Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The approval will not adversely affect the public health, safety, and welfare; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the replat has been resolved

D. LOCATION

North:	I-2 (Limited Industrial)	Vacant
South:	CS (Commercial Service)	Commercial
East:	CS (Commercial Service)	Commercial
West:	MHP (Mobile Home Park)	Residential

E. BACKGROUND

On May 6, 2004 a sketch plan for the property was approved by the Board of County Commissioners. The sketch plan depicted commercial and industrial uses (SKP-03-003) for the subject property. The property was rezoned from the MHP (Mobile Home Park) zoning district to the PBD (Planned Business District) zoning district on January 6, 2005 (PBD-04-003). Due to changes of the nomenclature of the El Paso County Land Development Code (2016), the PBD (Planned Business District) zoning district has been renamed as the CS (Commercial Services) zoning district. The 3.85 acre parcel, known as Lot 44 Claremont Business Park Filing No. 2, was originally platted on January 4, 2007(SF-06-007).

A site development plan allowing for a 12,000 square foot office and warehousing building was approved on July 25, 2017. The applicant is now proposing to subdivide the parcel into three (3) commercial lots with sizes of 1.29 acres (Lot 1), 1.69 acres (Lot 2), and 0.87 acres (Lot 3). No right-of-way dedication is required or proposed with this vacation and replat. The building and associated landscaping and parking that was previously approved with the site development plan will be retained on Lot 1 and will meet the dimensional standards and development standards of the Land Development Code.

F. ANALYSIS

1. Land Development Code Compliance

This application meets the requirements of Sections 7.2.3.A (Vacation) and 7.2.3.C (Replat), Actions Vacating or Altering a Recorded Plat, the vacation and replat submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the Land Development Code.

2. Zoning Compliance

The proposed replat will create three (3) lots that will conform to the standards of the CS (Commercial Services) zoning district. The CS (Commercial Services) zoning district density and dimensional standards are as follows:

- Minimum zone district area- 2 acres
- Minimum lot size – none
- Setbacks – 25 feet on all sides unless the adjacent lot is zoned CS. In this instance the side and rear setback may be reduced to zero.
- Maximum building height – 45 feet
- Maximum lot coverage – none

The existing building will continue to meet the dimensional standards of the CS zoning district, should the vacation and replat request be approved. The approved site development plan will still comply with the development standards included within Chapter 6 of the Code.

3. Policy Plan Analysis

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues, and provides a framework to tie together the more detailed sub-area elements of the County master plan. Relevant policies are as follows:

Policy 6.1.3- Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use, and access.

Policy 6.1.15- Recognize the need for new development and redevelopment to respond to changes in demographic, market and technological conditions.

The average lot size in the Claremont Business Park is 0.5 to 1.5 acres in size. The subject lot is more than double the average lot size at 3.85 acres. The applicant is requesting to subdivide the 3.85 acre lot into three (3) lots with lot sizes of 0.87, 1.69, and 1.29 acres. The owner of the lot is currently in the process constructing a building for his door manufacturing facility and has determined that only a small portion of the lot is needed to operate the business.

Per the applicants letter of intent “The original concept for this lot was to house 2 large buildings used for a distribution center. This is not a feasible concept as the property has changed ownership...” The current property owner requests the lot

be redeveloped to allow for the creation of three smaller lots of similar size to the other lots within the Claremont Business Park.

4. Small Area Plan Analysis

The property is not located within a small area plan.

5. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the property as having a low wildlife impact potential. Colorado Parks and Wildlife and El Paso County Community Services Department, Environmental Division, were each sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies potential valley fill mineral deposits in the area of the subject property. A mineral rights certification was prepared by the applicant indicating that, upon researching the records with El Paso County, mineral rights have been severed and are under three separate ownerships. Notification was sent by both the applicant and the Planning and Community Development Department regarding the vacation replat and scheduled hearing dates.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified in the review of the proposed vacation and replat.

2. Wildlife

The El Paso County Wildlife Habitat Descriptors (1996) identifies the property as having a low wildlife impact potential. Colorado Parks and Wildlife and El Paso County Community Services Department, Environmental Division, were each sent a referral and have no outstanding comments.

3. Floodplain

Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) panel numbers 08041C0756F and 08041C0752F as revised by the Letter of Map Revision (LOMR) 06-08-B137P, dated December 13, 2006, show the property is located outside the FEMA designated 100-year floodplain of East Fork Sand Creek.

4. Drainage and Erosion

The property is located in the Sand Creek (FOFO4000) drainage basin which was studied in 1996. Basin drainage and bridge fees have been previously paid

for Lot 44 with the Claremont Business Park Filing No. 2 Final Plat. Only the increase in impervious acreage is assessed drainage fees with a vacation and replat request. The Padmark Business Park Filing No. 1 final drainage report assumes the same imperviousness (95 percent) as the original Claremont Business Park Filing No. 2 final drainage report. No additional fees will be assessed since the vacation and replat does not result in an increase in imperviousness.

Per the approved final drainage report for Claremont Business Park Filing No. 2, flood control detention is not required; however, based on current engineering criteria, water quality detention is required. In accordance with the approved Padmark Business Park Filing No. 1 final drainage report, a permanent water quality facility is required on each individual lot in the subdivision. The water quality facilities will be owned and maintained by the individual property owners. Design and construction of each water quality facility shall be finalized with the subsequent site development plans for each lot.

Due to the requirement for each lot to provide water quality on an individual basis, a grading and erosion control plan is anticipated with each subsequent site development plan. The grading and erosion control plan will identify construction and permanent best management practices (BMPs) to prevent sediment and debris from affecting adjoining properties and the public stormwater system before, during, and after grading activities.

5. Transportation

The site is accessed through Meadowbrook Parkway (Non-Residential Collector). Direct lot access is not permitted from a non-residential collector roadway unless there is no local public or private roadway that can provide access. Since there is no local public or private roadway that can provide access, a single access point is identified on the plat for all three (3) lots. A private ingress and egress easement is proposed to be established with the vacation and replat to allow shared access for all three (3) lots.

In accordance with Resolution No. 12-387, this subdivision will not be assessed any additional fees through the El Paso County Road Impact Fee program since the subdivision is located within the boundaries of the Central Marksheffel Metropolitan District. The Central Marksheffel Metropolitan District assesses and collects a separate fee at the time of building permit.

H. SERVICES

1. Water

Sufficiency: Sufficient

Quality: Sufficient

Quantity: Sufficient

Dependability: Sufficient

Attorney's summary: See County Attorney's Letter Attached.

2. Sanitation

Cherokee Metropolitan District provides wastewater service to the existing lot.

The District provided a will serve letter and a wastewater disposal report indicating capacity to serve the two (2) additional lots.

3. Emergency Services

The site is located within the boundaries of the Cimarron Hills Fire Protection District. The Fire Protection District was sent a referral and has no outstanding comments.

4. Utilities

Colorado Springs Utilities will provide natural gas and electrical service to the proposed subdivision.

5. Metropolitan Districts

The property is located within the Cherokee and Central Marksheffel Metropolitan Districts.

6. Parks/Trails

Park land dedication or fees in lieu of park land dedication are not required for commercial subdivisions.

7. Schools

School land dedication or fees in lieu of school land dedication are not required for commercial subdivisions.

I. APPLICABLE RESOLUTIONS: See attached

J. STATUS OF MAJOR ISSUES

There are no major outstanding issues.

K. CONDITIONS AND NOTATIONS

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2016) staff recommends the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides a certification from the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. 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.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.

NOTATIONS

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.
2. No additional drainage and bridge fees will be assessed since such fees were previously paid and the vacation and replat does not result in an increase in overall imperviousness.

3. Per the denied appeal (APP-16-002) water quality will be required for each individual lot.
4. In accordance with Resolution No. 12-387, this subdivision will not be assessed any additional fees through the El Paso County Road Impact Fee program since the subdivision is located within the boundaries of the Central Marksheffel Metropolitan District.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified eleven (11) adjoining property owners on August 30, 2017, for the Planning Commission and Board of County Commissioners meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Plat Drawing
State Engineer's Letter
County Attorney's Letter
Planning Commission Resolution
Board of County Commissioners Resolution

El Paso County Parcel Information

File Name: VR-17-005

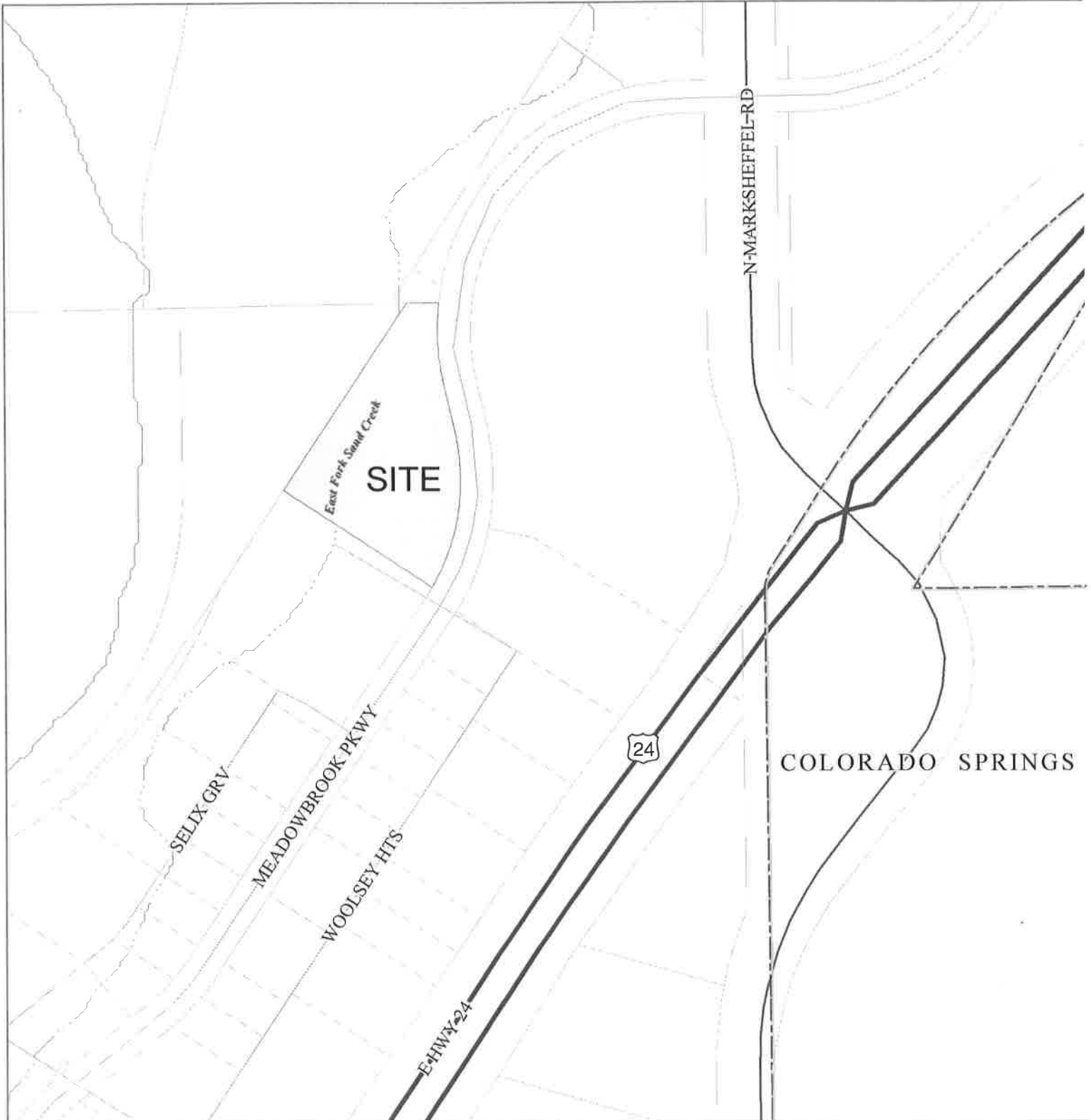
PARCEL	NAME
5408102048	HALLGREN PROPERTIES INC

Zone Map No.: --

ADDRESS	CITY	STATE
5909 63RD ST	LUBBOCK	TX

ZIP	ZIPLUS
79424	

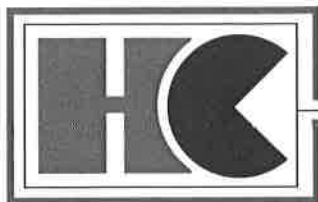
Date: August 30, 2017



Please report any parcel discrepancies to:
El Paso County Assessor
1675 W. Garden of the Gods Rd.
Colorado Springs, CO 80907
(719) 520-6600



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Steve Hammers, President

HAMMERS CONSTRUCTION, INC.

1411 Woolsey Heights • Colorado Springs, Colorado 80915-5400
(719) 570-1599 • FAX (719) 570-7008

• SPECIALIZING IN DESIGN / BUILD •

Letter of Intent

Final Plat

Owner Information

Hallgren Properties Inc.
1110 Meadowbrook Pkwy
Colorado Springs, CO 80915
Project Name: Padmark Business Park

Owner Representatives:

Zack Crabtree – Project Manager
Lisa Peterson – Design (Applicant)
1411 Woolsey Heights
Colorado Springs, CO 80915
(719) 570-1599

Contractor Information:

Hammers Construction
1411 Woolsey Heights
Colorado Springs, CO 80915
(719) 570-1599

Site:

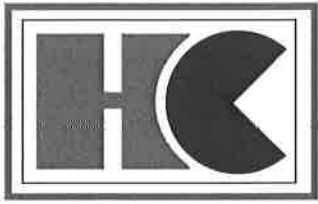
Lot 44, Filing 2, Claremont Business Park
1110 Meadowbrook Pkwy
Colorado Springs, CO 80915
Lot Size: 3.85 acres
Zoned – CS
Parcel number: 54081-02-048

Request and Justification

Proposing to subdivide the property into 3 separate lots. This property has sat vacant since it was originally platted and the owner has a better chance of developing the property with smaller lots. The original plat for Filing 2 in Claremont Business Park shows that the average lot size for this development at 0.40 – 1.5 acres. Our proposal is consistent with the adjacent development. The original concept for this lot was to house 2 large buildings used for a distribution center. This is not a feasible concept as the property has changed ownership and the owner is in the process of constructing his own building for his business on the property (Lot 1 of this plat). The uses we are intending for the remaining lots are planned for office/warehouse which is consistent and are approved uses within the CS zone. We feel this proposal will help to develop the area faster and enhance the neighborhood (the owner has already received interested calls on the smaller lots granted the proposal is approved). Not to mention it will help increase revenue for the County and support the neighboring residential and commercial business already existing in the area.

Existing and proposed facilities, structures and roads.

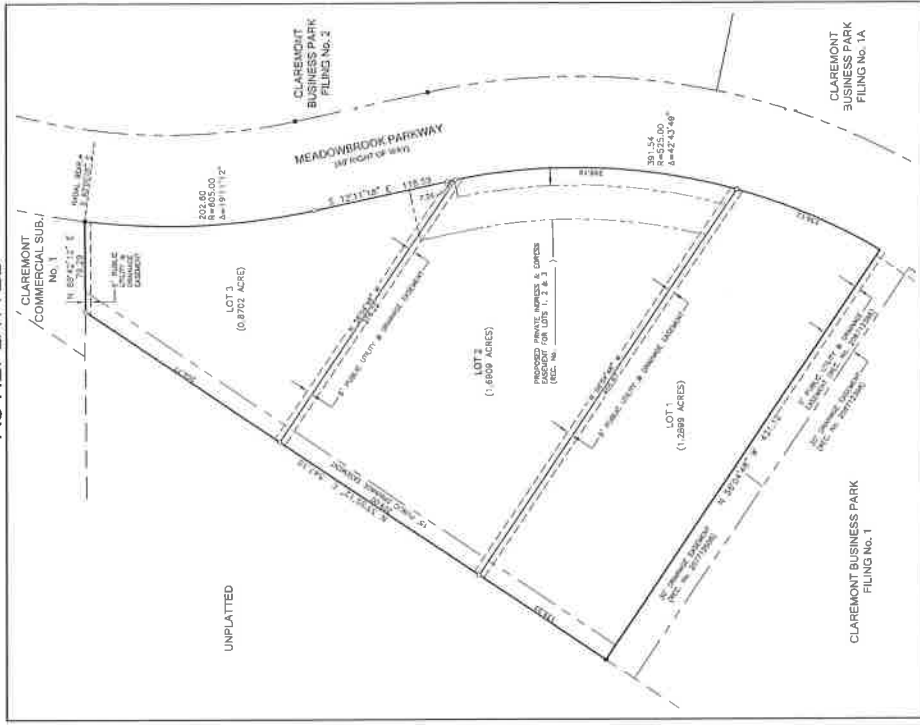
The lot is currently vacant and doesn't have any existing facilities, however construction is underway for Lot 1 for the property owner. We are also proposing an access easement to access all 3 lots from Meadowbrook Parkway's entry point. There will also be cross-



lot drainage easements along the rear of the property (along Sand Creek) to properly meet EPC requirements for water quality and run-off flows. No new waivers are being requested at this time, but we would like to keep the approved administrative relief for this property in regards to the landscaping along the Sand Creek channel. With all the cross-lot drainage, we will not have room to add landscaping for screening from residential and since we added all the trees on the Springs Mobile Home Park, they are still sufficiently screened per the agreement.

PADMARK BUSINESS PARK FILING NO. 1

A REPLAT OF LOT 44, CLAREMONT BUSINESS PARK FILING No. 2
LOCATED IN THE NORTHEAST QUARTER OF SECTION 8,
TOWNSHIP 14 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO



LEGEND:

- - Denotes found 1 1/2" aluminum cap marked "PLS 27065"
 - - Denotes set #5 rebar & plastic cap marked "PLS 32439"
 - Denotes street address.
- (406)



COMPASS SURVEYING & MAPPING, LLC
5015 CHANCELLOR DRIVE
COLORADO SPRINGS, CO 80920

719-354-4120
WWW.CSAMILL.COM
PROJECT NO. 17-067
MAY 18, 2017; REVISED: JULY 3, 2017
SHEET 2 OF 2 SHEETS

PCD FILE NO VR-17-005



COLORADO

Division of Water Resources

Department of Natural Resources

Office of the State Engineer

1313 Sherman St, Suite 821

Denver, CO 80203

August 14, 2017

El Paso County Development Services Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910-3127

RE: Padmark Business Park, Filing No. 1
Final Plat/Replat
Sec. 8, Twp. 14S, Rng. 65W, 6th P.M.
Water Division 2, Water District 10
CDWR Assigned Subdivision No. 24071

To Whom It May Concern:

We have received additional information concerning the above-referenced proposal to replat a 3.85 +/- acre tract of land into 3 lots. The comments provided herein supersede those comments previously provided by letter dated July 6, 2017, attached. According to the submittal, the tract of land is described as lot 44, Claremont Business Park Filing No. 2, for which this office provided comments dated July 20, 2006. The proposed supply of water and wastewater disposal is to be served by the Cherokee Metropolitan District ("Cherokee").

Water Supply Demand

The Water Supply Information Summary, Form No. GWS-76, included with the submittal provides a total estimated demand of 1.68 acre-feet/year for the proposed development, which was based on a water use rate of 0.1 gallon/square foot/day for 15,000 square feet of commercial space.

Source of Water Supply

The proposed source of water is to be served by Cherokee and a January 26, 2017 letter from Cherokee was included with the original submittal. As stated in the letter:

In conclusion this is an Intent to Serve Letter, which provides you reasonable information on the District's facilities, water supplies, treatment capabilities and general ability to serve. However a Quantitative Commitment letter, required for final platting, will be provided once a water and sewer demand allocations are provide to the District.

Additionally, a May 23, 2017 letter from Cherokee was included with the original submittal. As stated in the letter:

This Will Serve letter is hereby exclusively for commercial development at this location within the District. The Cherokee Metropolitan District is in the process of instituting a Developer Packet that will specify items required for submission by developers to ensure adequate water and wastewater infrastructure and design criteria. Hammers Construction will be required to submit application for Lots 2 and 3 of this development for plan review and tap fee calculation, and must achieve appropriate zoning and a final plat land use entitlement from El Paso County Development Services within 12 months of the date of this letter.



According to the July 20, 2017 letter and spreadsheet from Cherokee that was provided as additional information, it appears that Cherokee has allocated 4.54 acre-feet/year to the proposed development. The "Kane No. 1 Water Right" is not a separate water right, but rather a contractual water right for a portion of water removed under contract from the Sweetwater Well Field operated by Cherokee. The Kane Water Right is not viewed by this office as a commitment from Cherokee, but a pre-existing "first-in-line" delivery that Cherokee accepted upon assuming control of the Sweetwater Well Field. Since Sweetwater Nos. 1-3, 5, 8-9, 11, 13 and 15-16 are currently the only wells that may legally be used to supply water outside of the Designated Basin, the State Engineer's Office based its opinion on the understanding that the 200 acre-feet would come from Sweetwater Nos. 1-3, 5, 8-9, 11, 13 and 15-16.

Additional Comments

Should the project include a proposal to collect stormwater runoff in a drainage/water quality pond, the Applicant should be aware that, unless the proposed improvements to the existing storm water structure can meet the requirements of a "storm water detention and infiltration facility" as defined in section 37-92-602(8), Colorado Revised Statutes, the structure may be subject to administration by this office. The applicant should review DWR's *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado*, available on DWR's website at: <http://water.state.co.us/DWRIPub/Documents/DWR%20Storm%20Water%20Statement.pdf>, to ensure that the notice, construction and operation of the proposed structure meets statutory and administrative requirements.

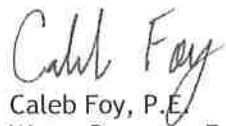
State Engineer's Office Opinion

Pursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that so long as the water demands for the proposed development do not exceed 4.54 acre-feet/year, the proposed water supply can be provided without causing injury to decreed water rights and is expected to be adequate.

The Sweetwater Wells (from which the Kane Water Right is withdrawn from) are constructed into the Quaternary alluvium, which is considered to be an annually renewable source of water with no administrative lifespan. The long term adequacy of any ground water source may be subject to fluctuations due to hydrological and climatic trends.

Should you have any questions concerning this matter, please feel free to contact me directly.

Sincerely,



Caleb Foy, P.E.
Water Resource Engineer

Attachment: July 6, 2017 Letter - Padmark Business Park, Filing No. 1

cc: Steve Witte, Division 2 Engineer (via email)
Doug Hollister, District 10 Water Commissioner (via email)



COLORADO

Division of Water Resources

Department of Natural Resources

Office of the State Engineer

1313 Sherman St, Suite 821

Denver, CO 80203

July 6, 2017

El Paso County Development Services Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910-3127

RE: Padmark Business Park, Filing No. 1
Final Plat/Replat
Sec. 8, Twp. 14S, Rng. 65W, 6th P.M.
Water Division 2, Water District 10
CDWR Assigned Subdivision No. 24071

To Whom It May Concern:

We have received a referral concerning the above-referenced proposal to replat a 3.85 +/- acre tract of land into 3 lots. According to the submittal, the tract of land is described as lot 44, Claremont Business Park Filing No. 2, for which this office provided comments dated July 20, 2006, attached. The proposed supply of water and wastewater disposal is to be served by the Cherokee Metropolitan District ("Cherokee").

Water Supply Demand

The Water Supply Information Summary, Form No. GWS-76, included with the submittal provides a total estimated demand of 1.68 acre-feet/year for the proposed development, which was based on a water use rate of 0.1 gallon/square foot/day for 15,000 square feet of commercial space.

Source of Water Supply

The proposed source of water is to be served by Cherokee and a January 26, 2017 letter from Cherokee was included with the submittal. As stated in the letter:

In conclusion this is an Intent to Serve Letter, which provides you reasonable information on the District's facilities, water supplies, treatment capabilities and general ability to serve. However a Quantitative Commitment letter, required for final platting, will be provided once a water and sewer demand allocations are provide to the District.

Additionally, a May 23, 2017 letter from Cherokee was included with the submittal. As stated in the letter:

This Will Serve letter is hereby exclusively for commercial development at this location within the District. The Cherokee Metropolitan District is in the process of instituting a Developer Packet that will specify items required for submission by developers to ensure adequate water and wastewater infrastructure and design criteria. Hammers Construction will be required to submit application for Lots 2 and 3 of this development for plan review and tap fee calculation, and must achieve appropriate zoning and a final plat land use

Office of the State Engineer

1313 Sherman Street, Room 821, Denver, CO 80203 P 303.866.3581

www.water.state.co.us



entitlement from El Paso County Development Services within 12 months of the date of this letter.

According to this office's records, it appears that Cherokee has adequate water resources to serve the estimated demand of 1.68 acre-feet/year for the proposed development.

Additional Comments

Should the project include a proposal to collect stormwater runoff in a drainage/water quality pond, the Applicant should be aware that, unless the proposed improvements to the existing storm water structure can meet the requirements of a "storm water detention and infiltration facility" as defined in section 37-92-602(8), Colorado Revised Statutes, the structure may be subject to administration by this office. The applicant should review DWR's *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado*, available on DWR's website at: <http://water.state.co.us/DWRIPub/Documents/DWR%20Storm%20Water%20Statement.pdf>, to ensure that the notice, construction and operation of the proposed structure meets statutory and administrative requirements.

State Engineer's Office Opinion

Pursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply for Padmark Business Park Filing No. 1 cannot be provided without causing injury to decreed water rights until a firm letter of commitment is provided by Cherokee which quantifies the amount of water Cherokee has committed to serve the proposed development. Additionally, should the water supply include a portion of the 58 acre-feet of Kane Water Right served by Cherokee for use in Claremont Business Park Filing Nos. 2 and 3, the letter of commitment from Cherokee must specify how the 58 acre-feet of Kane Water Right is allocated. According to this office's records, it appears that Cherokee has adequate water resources to serve the estimated demand of 1.68 acre-feet/year for the proposed development.

Should you or the Applicant have questions concerning any of the above, please feel free to contact me directly.

Sincerely,



Caleb Foy, P.E.
Water Resource Engineer

Attachment: July 20, 2006 Letter - Claremont Business Park Filing No. 2

cc: Steve Witte, Division 2 Engineer (via email)
Doug Hollister, District 10 Water Commissioner (via email)

STATE OF COLORADO

OFFICE OF THE STATE ENGINEER

Division of Water Resources
Department of Natural Resources

1313 Sherman Street, Room 818
Denver, Colorado 80203
Phone (303) 866-3581
FAX (303) 866-3589

www.water.state.co.us



July 20, 2006

Bill Owens
Governor

Russell George
Executive Director

Hal D. Simpson, P.E.
State Engineer

Carol Weber
El Paso County Development Services Department
2880 International Circle
Colorado Springs, CO 80910

RE: Claremont Business Park Filing No. 2
Sec.s 5 & 8, T14S, R65W, 6th P.M.
Water Division 2, Water District 10

Dear Ms. Weber:

We have received additional information for the Claremont Business Park Filing No. 2 final plat (54 commercial lots on 60.139 acres). The subdivision is located outside the boundaries of the Upper Black Squirrel Creek designated Basin (UBSCDB).

The water for this proposal is 58 acre-feet of the Kane Water Right water owned by Claremont Development, Inc., purchased from PLW, Inc. Submitted in support of this claim is a contract for 58 acre-feet of the Kane Water Right, dated June 23, 2006. The Kane Water Right consists of a portion of water removed under contract from the Sweetwater Well Field operated by Cherokee Metropolitan District (Cherokee). The Kane Water Right is not viewed by this office as a commitment from Cherokee, but as a pre-existing "first-in-line" delivery that Cherokee accepted upon assuming control of the Sweetwater Well Field. This filing requires 43.6 acre-feet (300 year supply) and the remaining 14.4 acre-feet per year will be reserved for future development.

Pursuant to Section 30-28-136(1)(h)(I), C.R.S., the State Engineer's Office offers the opinion that the proposed water supply will not cause material injury to existing water rights and that the supply is adequate. Should you have any questions, feel free to contact this office.

Sincerely,

Dick Wolfe, P.E.
Assistant State Engineer

cc: Division 2
Cherokee Metro District
Cherokee Metro. Dist. File
UBSCDB (Andy Jones & Rich LiPuma)
Jim Culichia
Rodney Preisser
Subdivision File
HCF:Claremont business park 2

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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August 24, 2017

Hallgren Vacation and Replat – Padmark Business Park Filing No. 1
VR-17-005

Reviewed by: Cole Emmons, Senior Assistant County Attorney
Edi Anderson, Paralegal

1. This is a proposal by Hallgren Properties, Inc. ("Applicant") for vacation and replat of Lot 44, Filing 2 of Claremont Business Park, into 3 commercial lots on approximately 3.85 acres. The proposed property use is office/warehouse or light industrial. The property is zoned CS (Commercial Service).

2. The Applicant has provided that the source of water for the subdivision will come from the Kane Water Right as served by the Cherokee Metropolitan District ("District") pursuant to the Water and Sewer Service Agreement that Claremont Development, Inc., entered into with the District in 2006, in which Claremont purchased 58 acre-feet of the Kane Water Right for use in then-planned Claremont Business Park, Filings No. 2 and 3. Pursuant to the Water Supply Information Summary and the Water/Wastewater Report for Padmark Business Park Filing No. 1 – A Replat of Lot 44 Claremont Business Park Filing No. 2 dated May 2017, which were provided with the proposal, the Applicant estimates the annual water requirement to serve the 3 commercial lots at 1.68 acre-feet per year for the development or 0.56/acre-feet per lot per year. Based on this estimate, the Applicant will need to provide a supply from the District of 504 acre-feet (1.68 acre-feet x 300 yrs.) to meet the County's 300 year water supply requirement. Because the State Engineer has determined that both water sources are annually renewable, the water supply is presumed to meet the County's 300 year aquifer life requirement.

3. The General Manager of the District provided a general "Will Serve" letter for the development dated May 23, 2017, followed by a formal commitment letter dated July 20, 2017. The July 20th letter included a spreadsheet noting that 4.54 acre-feet/year has been allocated for the development by the District. The General Manager stated, regarding the Kane Water Right, "of the available 58.0 acre feet / year, 49.12

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acre feet / year has been allocated leaving 8.88 acre feet / year available for additional use."

4. In a letter dated August 14, 2017, the State Engineer reviewed information for the Hallgren Vacation and Replat a/k/a Padmark Business Park Filing No. 1. The State Engineer referenced several letters provided by the District dated January 26, 2017, May 23, 2017, and July 20, 2017. Based on the July 20th letter, the State Engineer noted that "it appears that Cherokee has allocated 4.54 acre-feet/year to the proposed development." Further, the State Engineer provided its finding that pursuant to "Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that so long as the water demands for the proposed development do not exceed 4.54 acre-feet/year, the proposed water supply can be provided without causing injury to decreed water rights and is expected to be adequate."

The State Engineer further notes:

"The 'Kane No. 1 Water Right' is not a separate water right, but rather a contractual water right for a portion of water removed under contract from the Sweetwater Well Field operated by Cherokee. The Kane Water Right is not viewed by this office as a commitment from Cherokee, but a pre-existing 'first-in-line' delivery that Cherokee accepted upon assuming control of the Sweetwater Well Field. Since Sweetwater Nos. 1-3, 5, 8-9, 11, 13 and 15-16 are currently the only wells that may legally be used to supply water outside of the Designated Basin, the State Engineer's Office based its opinion on the understanding that the 200 acre-feet would come from Sweetwater Nos. 1-3, 5, 8-9, 11, 13 and 15-16."

In addition, the State Engineer's Office also provided an advisory to the Applicant related to the project's storm water collection and/or conveyance facilities. The Engineer advised the Applicant that ". . . unless the proposed improvements to the existing storm water structure can meet the requirements of a 'storm water detention and infiltration facility' . . . the structure may be subject to administration by this office. The applicant should review the *DWR's Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado* . . . to ensure that the notice, construction and operation of the proposed structure meets statutory and administrative requirements."

Finally, the State Engineer stated "[t]he Sweetwater Wells (from which the Kane Water Right is withdrawn from) are constructed into the Quaternary alluvium, which is considered to be an annually renewable source of water with no administrative lifespan."

5. Section 8.4.7(B)(10)(g), of the El Paso County Land Development Code allows for the presumption of acceptable water quality for projects such as this where

water is supplied by an existing Community Water Supply operating in conformance with Colorado Primary Drinking Water Regulations unless there is evidence to the contrary that may be provided by the El Paso County Health Department.

6. Analysis and Recommendation. With 58.0 acre-feet per year of Kane Water Right water supply contracted to be served by Cherokee Metropolitan District, of which 49.12 acre-feet per year has been committed, there would be 8.88 acre-feet per year available for additional use, from which the annual demand of 1.68 acre-feet for this development is subtracted, leaving a remaining surplus of 7.2 acre-feet per year. Thus there appears to be a sufficient supply available to meet the demands of this development. Therefore, based upon the finding of sufficiency by the State Engineer's Office and no injury to existing water rights, based on Applicant's stated demand of 1.68 acre-feet per year, and based on the commitment by the District to serve the property in the amount of 4.54 acre-feet per year, subject to the requirements set forth below, the County Attorney's Office recommends a finding that the proposed water supply is **sufficient** in terms of quantity and dependability.

CONDITION OF COMPLIANCE:

- A. Applicant and all future owners of lots within this filing shall be advised of, and comply with, the conditions, rules, regulations, and specifications set by the District, including the District's requirement that the project "must achieve appropriate zoning and a final plat land use entitlement from El Paso County Development Services within 12 months of the date of this letter" [letter dated May 23, 2017].
- B. It is Applicant's responsibility, and not the County's, to comply with the advisory by the State Engineer's Office regarding any storm water collection and/or conveyance facilities that may be included in the development to ensure that any such structures meet the requirements of a 'storm water detention and infiltration facility,' and that notice, construction, and operation of the proposed structure meets statutory and administrative requirements.

cc: Nina Ruiz, Project Manager, Planner II

VACATION AND REPLAT (RECOMMEND APPROVAL)

Commissioner Gioia moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. VR-17-005

WHEREAS, Hallgren Properties, Inc., did file an application with the Planning and Community Development Department of El Paso County for approval of a vacation and replat of one (1) commercial lot into three (3) commercial lots 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 this Commission on September 19, 2017; 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, and comments by the El Paso County Planning Commission Members during the hearing, this Commission 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 hearing before the Planning Commission.
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons and the general public were heard at that hearing.
4. All exhibits were received into evidence.
5. That the vacation and replat complies with the El Paso County Land Development Code and the original conditions of approval associated with the recorded plat.
6. No nonconforming lots are created and, in the case of existing nonconforming lots, the degree of nonconformity is not increased.
7. That the vacation and replat conforms to the required findings for a minor or major subdivision, whichever is applicable.

8. That 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)(1)] and the requirements of Chapter 8 of the Land Development Code.
9. Where lots or parcels are subject to any Covenants, Conditions and Restrictions (CC&Rs) or other restrictions, the vacation and replat will not result in a conflict with the CC&Rs or other restrictions unless specifically approved by the Homeowners Association or controlling authority.
10. The vacation and replat is in general conformance with the goals, objectives, and policies of the Master Plan.
11. 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.
12. The proposed replat of land conforms to the El Paso Zoning Resolutions.
13. For the above-stated and other reasons, the vacation and replat 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 that the Planning Commission recommends approval of the vacation and replat of Padmark Business Park Filing No. 1 with the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides a certification from the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.

5. 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.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.

NOTATIONS

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.
2. No additional drainage and bridge fees will be assessed since such fees were previously paid and the vacation and replat does not result in an increase in overall imperviousness.
3. Per the denied appeal (APP-16-002) water quality will be required for each individual lot.
4. In accordance with Resolution No. 12-387, this subdivision will not be assessed any additional fees through the El Paso County Road Impact Fee program since the subdivision is located within the boundaries of the Central Marksheffel Metropolitan District.

AND BE IT FURTHER RESOLVED that this Resolution and the recommendations contained herein be forwarded to the El Paso County Board of County Commissioners for its consideration.

Commissioner Lucia-Treese seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Egbert	aye
Commissioner Risley	aye
Commissioner Curry	aye
Commissioner Gioia	aye
Commissioner Wood	aye
Commissioner Luccia-Treese	aye
Commissioner Smith	aye

The Resolution was adopted by a vote of 7 to 0 by the El Paso County Planning Commission, State of Colorado.

DATED: September 19, 2017

EXHIBIT A

LOT 44 CLAREMONT BUSINESS PARK FIL NO 2

RESOLUTION NO. 17-

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

APPROVE VACATION AND REPLAT OF PADMARK BUSINESS PARK FILING
NO. 1 VR-17-005)

WHEREAS, Hallgren Properties, Inc., did file an application with the Planning and Community Development Department of El Paso County for approval of a vacation and replat of Padmark Business Park Filing No. 1 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 September 19, 2017, upon which date the Planning Commission did by formal resolution recommend approval of the vacation and replat; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on October 10, 2017; 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 of El Paso County.
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. That the vacation and replat complies with the El Paso County Land Development Code and the original conditions of approval associated with the recorded plat.
6. No nonconforming lots are created and, in the case of existing nonconforming lots, the degree of nonconformity is not increased.
7. That the vacation and replat conforms to the required findings for a minor or major subdivision, whichever is applicable.
8. That 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)(1)] and the requirements of Chapter 8 of the Land Development Code.
9. Where the lots or parcels are subject to any Covenants, Conditions and Restrictions (CC&Rs) or other restrictions, the vacation and replat will not result in a conflict with the CC&Rs or other restrictions unless specifically approved by the Homeowners Association or controlling authority.
10. The vacation and replat is in general conformance with the goals, objectives, and policies of the Master Plan.
11. 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.
12. The proposed Replat of land conforms to the El Paso County Zoning Resolutions.
13. For the above-stated and other reasons, the proposed vacation and replat 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 vacation and replat of Padmark Business Park Filing No. 1;

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

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides a certification from the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. 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.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.

NOTATIONS

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.
2. No additional drainage and bridge fees will be assessed since such fees were previously paid and the vacation and replat does not result in an increase in overall imperviousness.
3. Per the denied appeal (APP-16-002) water quality will be required for each individual lot.

4. In accordance with Resolution No. 12-387, this subdivision will not be assessed any additional fees through the El Paso County Road Impact Fee program since the subdivision is located within the boundaries of the Central Marksheffel Metropolitan District.

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

DONE THIS 10th day of October 2017, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
President

By: _____
County Clerk & Recorder

EXHIBIT A

LOT 44 CLAREMONT BUSINESS PARK FIL NO 2