

**EL PASO**  **COUNTY**  
**COLORADO**

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Board of County Commissioners  
Mark Waller, Chair**

**FROM: Kari Parsons, Planner II  
Jeff Rice P.E., Engineer III  
Craig Dossey, Executive Director**

**RE: WSEO-18-001 Palmer-Williams Creek Solar Array – Wind and/or Solar  
Energy Generation Plan Overlay District Rezone (WSE-O)  
Parcel Nos.: 56000-00-122, 56000-00-137, and 56000-00-123**

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| <b>APPLICANTS:</b><br>Colorado Springs Utilities<br>On behalf of City of Colorado Springs<br>Palmer Solar, LLC<br>On behalf of Woodmoor Water & Sanitation District | <b>REPRESENTATIVE:</b><br>Stuart Coles<br>1710 29 <sup>th</sup> Street, Suite 1068<br>Boulder, Colorado 80301 |
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**Commissioner District: 4**

|   |            |
|---|------------|
| Planning Commission Hearing Date:           | 12/18/2018 |
| Board of County Commissioners Hearing Date: | 01/22/2019 |

**EXECUTIVE SUMMARY**

A request by Colorado Springs Utilities and Palmer Solar, LLC, for approval of an overlay map amendment (rezoning) for the Palmer-Williams Creek Solar Array pursuant to Section 4.3.5, WSE-O (Wind and/or Solar Energy Generation Plan Overlay) District zoning district, of the El Paso County Land Development Code (2018). The three (3) parcels, totaling 711 acres, are zoned RR-5 (Residential Rural). The parcels are located, four (4) miles south of the City of Fountain, and east of Old Pueblo Road.



The applicant is proposing to place the Wind and/or Solar Energy Generation Plan Overlay on the subject properties to allow solar arrays and appurtenant components to include two substations. The 60 megawatt (MW) solar energy generation project is proposed to interconnect with Colorado Springs Utilities (CSU) supply system. A smaller collection substation (Palmer substation) is proposed to connect the solar arrays to CSU's proposed Williams Creek substation which supports CSU's power grid via 1700 linear feet of proposed above ground 230 kV line.

The applicant is proposing one phase of development of the overall solar energy project to include a solar array site, associated equipment, meteorological monitoring devices, electrical collection devices, eight (8) lay down and parking areas, two substations, and the electrical transmission corridor with a maximum generating capacity of 60 MW. The facility is proposed to be accessed from Birdsall Road and a private gravel road connecting to Squirrel Creek Road north of the proposed facility during construction. The anticipated average daily trip number is 550 during construction. The Birdsall Road access will remain as the single point of access post construction during normal operations which is anticipated to generate ten (10) trips per month.

The parcels are not included within a comprehensive planning area.

**A. REQUEST/WAIVER/AUTHORIZATION**

**Request:** A request by Colorado Springs Utilities and Palmer Solar, LLC, for approval of an overlay rezoning for the Front Range Midway Solar Array pursuant to Section 4.3.5, WSE-O (Wind and/or Solar Energy Generation Plan Overlay District) zoning district. The three (3) parcels, totaling 711 acres, are zoned RR-5 (Residential Rural). The applicant is proposing to place the Wind and/or Solar Energy Generation Plan Overlay Zoning District on the subject properties to allow for solar arrays, two substations, a transmission corridor and appurtenant components as allowed uses.

**Waiver:**

The applicant is requesting approval of a waiver of the application of Section 4.3.5.D.2 of the Land Development Code. Section 4.3.5.D.2 of the Land Development Code states that, "A development impact mitigation agreement shall be required with all wind and/or solar energy generation plan overlay district applications." Staff is not requiring impact mitigation with this application due to the minimal impacts, if any, anticipated with the project.

**Authorization to sign:** The WSE-O Plan and any other documents necessary to carry out the intent of the Board of County Commissioners.

**B. PLANNING COMMISSION SUMMARY**

**Request Heard:** At the December 18, 2018 hearing.

**Recommendation:** Approval, based on recommended conditions and notations.

**Waiver Recommendation:** Approval as presented

**Vote:** 9 to 0

**Vote Rationale:** N/A

**Summary of Hearing:** Applicant was represented at the hearing. Planning Commission draft minutes are attached.

**Legal Notice:** Advertised in Shopper's Press on January 2, 2019

**C. APPROVAL CRITERIA**

**1. LAND DEVELOPMENT CODE COMPLIANCE**

The WSE-O Plan complies with Section 4.3.5.B of the El Paso County Land Development Code (2008) if the above waiver request is approved.

Compliance with the approval criteria in Section 4.3.5.G.1 is discussed, as follows:

- *The application is in general conformance with the El Paso County Master Plan, including applicable Small Area Plans or there has been a substantial change in character of the neighborhood since the land was last zoned.*

Please see the discussions below in the Policy Plan, Small Area Plan Compliance, and Other Master Plan Elements sections of this report for detailed evaluations of the general conformance of the project with the applicable portions of the County master plan.

- *The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111, § 30-28-113, and § 30-28-116.*

Staff recommends that the overlay rezoning (map amendment) request, which includes the use and dimensional standards within the proposed WSE-O Plan and supporting documentation, is in compliance with all applicable statutory provisions.

- *The site is suitable for the intended use(s), including the ability to meet the general development standards of the Land Development Code, except as otherwise amended by the specific overlay zoning district.*

Please see the discussions below in the Zoning Compliance, Policy Plan, and Other Master Plan Elements sections of this report for detailed evaluations whether the site is suitable for the intended uses and if the proposal is able to meet the general development standards of the Land Development Code (2018).

- *The application is consistent with the specific development standards in the Land Development Code pertaining to wind and/or solar energy generation facilities.*

Please see the discussion below in the Zoning Compliance section of this report for a detailed evaluation of whether the application is consistent with the development standards for wind and/or solar energy generation facilities.

- *The application meets the air, water, light, odor or noise standards established by County, State, or federal regulations.*

The applicant submitted an air quality management plan which indicates no air pollution is anticipated. The site does not propose to discharge water nor contaminates from the operation of the solar energy facility. The daily operations of the solar project are not anticipated to generate any odor or noise.

- *The proposed use(s) will not be detrimental to the health, safety, or welfare of the inhabitants of the area and the County.*

Staff has not identified any potential health, safety, or welfare concerns with the proposed solar array.

- *The proposed use(s) will not cause undue burden on existing infrastructure.*

The facility is proposed to be accessed from Birdsall Road and a private gravel road connecting to Squirrel Creek Road north of the proposed facility during construction. The anticipated average daily trip number is 550 during construction. The Birdsall Road access will remain as the single point of access post-construction during normal operations, which is anticipated to generate ten (10) trips per month.

**D. LOCATION:**

Abutting zoning and land use:

- North: RR-5 (Residential Rural)/vacant/grazing land
- South: RR-5 (Residential Rural)/sanitation treatment/grazing land
- East: RR-5 (Residential Rural)/vacant/grazing land
- West: RR-5 (Residential Rural/Residential/grazing land

**E. BACKGROUND**

**1. Wind and/or Solar Energy Generation Plan Overlay District**

Section 4.3.5, WSE-O (Wind and/or Solar Energy Generation Plan Overlay District), of the El Paso County Land Development Code was adopted by the Board of County Commissioners on August 11, 2011, in an effort to address interest in developing utility-scale wind and/or solar energy generation facilities within El Paso County. The purposes of the adopted regulations are:

- To regulate wind and/or solar energy generation facilities which are not subject to C.R.S. § 40-1-103 and C.R.S. §30-28-110 and Section 5.3.3. of this Code;
- To site wind and/or solar energy generation facilities where they are most appropriate, considering impacts to the environment, visual corridors, existing infrastructure, and the established development pattern;
- To ensure the preservation of public health, safety, and welfare;
- To provide a regulatory scheme that is designed to address certain standards regarding setbacks, height restrictions, and other requirements for wind and/or solar power energy generation facilities;
- To provide mitigation measures for impacts associated with large-scale wind and/or solar energy generation facilities; and
- To provide greater design flexibility and efficiency in siting wind and/or solar energy generation facilities.

**2. Relationship of Wind and/or Solar Energy Generation Plan Overlay District to Base (Underlying) Zone District**

Section 4.3.5.A.3.a of the Code states that the, “WSE-O functions in combination with base zoning districts to both modify the existing standards associated with the base zoning districts and to impose additional requirements and standards on specific properties.” This means that the rights and restrictions associated with the base zoning district (RR-5)

associated with the individual properties included in this request will only be modified as indicated on the proposed WSE-O Plan, if approved.

**3. Relationship between WSE-O and Appendix B: Guidelines and Regulations for Areas and Activities of State Interest (a.k.a. “1041 Regulations”)**

On June 6, 2013, the El Paso County Board of County Commissioners, pursuant to Section 24-65.1-101, et seq., C.R.S., adopted Appendix B of the El Paso County Land Development Code, which is titled “Guidelines and Regulations for Areas and Activities of State Interest”, as amended. Commonly referred to as “1041 Regulations”, the Guidelines and Regulations serve to “facilitate identification, designation, and administration of matters of state interest,” of which is included the designated activity of state interest for “Site Selection and Construction of Major Facilities of a Public Utility” within Chapter 5 of Appendix B. The proposed 60 MW capacity Palmer-Williams Creek Solar Array is subject to guidelines and regulations of Appendix B, specifically Chapter 5, pursuant to the definition of “power plant” within the regulations. The definition of “power plant” includes the following:

*(b) Any solar or wind electrical energy generating facility or addition thereto with a generating capacity in excess of five hundred (500) kilowatts, and any appurtenant facilities.*

**4. Palmer-Williams Creek Solar Array**

The applicants, Colorado Springs Utilities and Palmer Solar, LLC, initiated discussions with the County regarding the process for developing the solar energy project in March, 2018. An early assistance meeting was held by staff with the applicant on April 19, 2018. An open house meeting held by the applicant occurred on April 24, 2018. Ten (10) adjacent landowners attended the open house meeting. Concerns discussed at the open house were the setbacks on the western property boundary, fire mitigation, drainage, avoiding Teepee Bluff, and removing solar arrays south of Birdsall Road. The applicants incorporated these concerns into the design as depicted on the WSE-O plan. A formal WSE-O rezoning application was submitted on August 28, 2018. No objections to the application have been received to date.

**1. ZONING COMPLIANCE**

The WSE-O zoning can be applied for in any base zoning district. Section 4.3.5.B of the Code provides recommended use and dimensional standards

for development within a WSE-O plan area. However, the same section also states that “the use, dimensional, and development standards for a WSE-O district shall be set forth in the approved WSE-O plan, and shall include: uses, maximum structure height(s), minimum setbacks, structure elevations, access, accessory structures, signage, lighting, project phasing, and other standards necessary to administer the plan.” Below is a comparison between the recommended use and dimensional standards and the proposed standards within the Palmer-Williams Creek Solar Array WSE-O:

## **A. USE STANDARDS**

### **Principal Uses**

#### Section 4.3.5. Recommended Principal Uses for a Solar Project

The Code anticipates solar panels (arrays), transmission line(s), substations, meteorological monitoring devices, and energy generation facility-related temporary batch plants as allowed principal uses.

#### Proposed Palmer-Williams Creek Solar Array WSE-O Principal Uses

The proposed WSE-O Plan is proposing meteorological monitoring devices, energy generation facility-related solar panels, two substations, transformers, stands, inverters, power stations, power poles and a 230kV line as principal uses. The applicant has depicted the locations of each of the proposed principal uses on Sheets 5, 6, 7, 8 and 9 of the proposed WSE-O Plan (see attached).

### **Accessory Uses**

#### Section 4.3.5 Recommended Accessory Uses for a Solar Project

The Code anticipates collection lines, maintenance facilities, and other accessory uses necessary to carry out the intent of the overlay zoning as allowed accessory uses.

#### Proposed Front Range Midway Solar Array WSE-O Accessory Uses

Collection lines from the solar arrays to the project substation are proposed as accessory uses with this WSE-O request.

## **B. DIMENSIONAL STANDARDS**

### **Maximum Structure Heights**

#### Section 4.3.5.B.2.a Maximum Structure Heights

The Code states that the height restrictions for solar panels are established by the specific WSE-O zoning and plan. All other structures

(e.g., inverters and transformers) shall comply with the height restrictions of the base (underlying) zoning district unless otherwise established by the specific WSE-O zoning and plan.

The density and dimensional standards established within the RR-5 zoning district as identified in Chapter 5, Table 5-4 of the Code are as follows:

- Setbacks – 25 feet front, rear and side
- Maximum building height – 30 feet
- Maximum lot coverage – 25 percent

Proposed Palmer-Williams Creek Solar Array WSE-O Maximum Structure Heights

The proposed WSE-O Plan identifies the following as the maximum heights for each anticipated structure type:

*Solar Panels* – 14 feet tall as measured from finished grade to the top of the solar module in the vertical position.

*Inverter and Transformer* – 14 feet tall as measured from finished grade.

*Meteorological Monitoring Facilities* – 14 feet tall as measured from finished grade.

*Transmission Line Poles* – 90 feet tall as measured from finished grade.

*Substations* – 75 feet tall as measured from finished grade

**Structure Setbacks**

Section 4.3.5.B.2.b Structure Setbacks

The Code states that all structures within a WSE-O Plan, except wind turbines and transmission lines, shall “meet the setbacks of the underlying zone district unless otherwise established by the specific wind/solar energy generation overlay district zoning and development plan.”

Proposed Palmer-Williams Creek Solar Array WSE-O Structure Setbacks

The proposed structure setbacks with this WSE-O Plan are proposed to be a minimum of 25 linear feet.

Section 4.3.5.B.2.b.iv of the Code states that, “there shall be no setback requirement for the transmission lines.”

## **2. POLICY PLAN COMPLIANCE**

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. See the applicant's narrative in the letter of intent for a discussion regarding how the project conforms to the applicable goals and policies. Staff's review of the relevant policies is as follows:

### **SECTION 6 – Growth and Land Use**

**Policy 6.1.1-** *Allow for a balance of mutually supporting interdependent land uses, including employment, housing and services in the more urban and urbanizing areas of the County.*

**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 6.1.6-** *Direct development toward areas where the necessary urban-level supporting facilities and services are available or will be developed concurrently.*

**Policy 6.1.7-** *Encourage infill development which complements existing uses, is consistent with Small Area and other adopted plans.*

**Policy 6.1.8-** *Encourage incorporating buffers or transitions between areas of varying use or density where possible.*

**Policy 6.1.9-** *Viable residential properties should be reasonably protected from the adverse*

The proposed solar array will provide solar-generated electricity to the grid via interconnection with the Colorado Springs Utilities transmission lines at a point along the east side of the site. Staff recommends that the industrial character of the proposed solar array is compatible with the existing transmission lines running through the site and along the eastern portion of the site. The topography will mitigate the view of the facilities

from nearby residents to the west. The visual analysis has been attached to this staff report. For the above reasons, staff recommends compliance with the above policies.

***Policy 6.1.10-*** *Ensure that new development will not create a disproportionately high demand on public services and facilities by virtue of its location, design or timing.*

Following a detailed review of the proposed project, including a review of the potential for project-related impacts to existing infrastructure in the area, staff recommends that the impacts, if any, that are caused by the project will be negligible. For that reason, staff recommends compliance with this policy.

***Policy 6.1.11-*** *Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.*

***Policy 6.1.14-*** *Support development which complements the unique environmental conditions and established land use character of each sub-area of the County.*

The proposed solar arrays should be largely concealed from view due to the interior siting of the arrays on the 711 acre property. The rolling terrain should adequately screen the solar arrays from view by owners and residents of adjacent properties. For that reason, staff recommends that the project will functionally and aesthetically be integrated into the area.

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

***Policy 6.1.16-*** *Allow for new and innovative concepts in land use design and planning if it can be demonstrated that off-site impacts will not be increased and the health, safety and welfare of property owners and residents will be protected.*

The growing solar energy industry and the increasing activity in El Paso County appears to be a response to a change in State mandates for

renewable energy sources in addition to changes in market and technological conditions. Development of the proposed site for other uses could be challenging given the existing overhead transmission line corridors running through the site east-west and north-south. For that reason, staff recommends that the proposed solar arrays and appurtenant components are a reasonable use for the site and are not anticipated to cause off-site impacts or negatively affect the health, safety, and welfare of residents in the area.

### **SECTION 7 – Special and Unique Land Uses**

***Policy 7.1.2-** Consider the future combined impact of potential additional land use requests when considering individual applications for special or unique land uses.*

***Policy 7.5.1-** Encourage the multiple use of utility sites and corridors where feasible and appropriate.*

The solar array site is within an area that has existing transmission lines which will reduce the number of improvements that would otherwise need to be constructed to facilitate delivery of solar-generated energy. The solar arrays will connect to the proposed smaller Palmer substation and then a proposed section of electrical transmission lines will connect directly to CSU's proposed Williams Creek substation which will interconnect to CSU's existing 230kV transmission lines.

### **SECTION 12– Other Services and Utilities**

***Policy 12.4.1-** Ensure that electric, natural gas, petroleum and other facilities (generation, distribution, pipelines and storage) are located in a manner which is safe, environmentally sensitive and which does not unreasonably burden particular property owners with adverse impacts.*

The future development of residential properties adjacent to the project area is discouraged by the existing 230 kV transmission lines and current ownership of the land by the State of Colorado, Lower Fountain Metropolitan Disposal District and the Hannah Ranches.

***Policy 12.4.5-** Encourage the use of existing easements for utility installation in order to reduce negative impacts in other areas.*

The transmission corridor from the solar arrays will connect into the existing overhead 230kV lines which will eliminate the need for additional powerlines, thereby reducing the potential for additional visual impacts.

***Policy 12.4.7-*** Allow for the effective use of renewable energy resources especially where it minimizes the local impacts on neighboring properties and non-renewable energy use.

This policy applies due to the “renewable” nature of the proposed solar energy generation facility. A general assessment of this policy as it applies to the proposed WSE-O rezoning has been provided in detail throughout this report.

### **3. SMALL AREA PLAN COMPLIANCE**

The project is not located within the boundaries of a small area plan.

### **4. OTHER MASTER PLAN ELEMENTS**

The Master Plan for Mineral Extraction (1996) identifies potential limestone deposits (sedimentary rock consisting mainly of calcium carbonate, generally dense and quarried for use as aggregate). The applicant provided an affidavit certifying that mineral rights for the property were researched and found and such rights are owned by multiple interests. The mineral rights owners were notified of the application on November 14, 2018, via certified mail. No responses have been received.

## **F. PHYSICAL SITE CHARACTERISTICS**

### **1. HAZARDS**

The applicant provided a document titled “Geotechnical Engineering Report”, which was prepared by Terracon Engineering, Inc., dated May 21, 2018. The document does not identify any significant areas of geologic concern that would preclude development of the solar energy generation facility.

The property included within the proposed WSE-O Plan is not identified as being within a high wildfire hazard area.

### **2. WILDLIFE**

Potential impacts to wildlife are generally low in the area south of the Calhan Reservoir and high in the areas adjacent and north of the Calhan Reservoir as depicted in the El Paso County Wildlife Descriptors Map (1996).

### **3. FLOODPLAIN**

No portion of the proposed project lies within the FEMA floodplain.

### **4. DRAINAGE AND EROSION**

The subject property lies in the both the Calhan Reservoir and the Lower Williams Creek drainage basins. Both basins ultimately discharge to Fountain Creek. A conceptual Drainage Report dated October, 2018, was received with the submittal. According to the report, proposed drainage patterns will match the historic patterns. Permanent sediment basins are proposed in some areas of the western portion of the site to alleviate existing drainage issues. Temporary sediment basins will be utilized in the other construction areas during grading and revegetation phases. Overall site imperviousness and release rates are proposed to be maintained at existing levels.

This project has limited potential to cause short-term drainage, erosion, and sedimentation impacts to downstream properties, which will be addressed with the grading and erosion control plan to be provided at the site development plan stage. The applicant will be required to mitigate construction impacts with Best Management Practices (BMPs) as outlined in the Drainage Criteria Manual, Volume II.

### **5. TRANSPORTATION**

Primary access to the site is via Interstate 25 (I-25), Old Pueblo Road, Squirrel Creek Road and Birdsall Road. Access from Squirrel Creek Road to the eastern portion of the site is from a private gravel road. Peak construction traffic is anticipated to occur for three months out of a total construction schedule of approximately one year. Post-construction traffic will consist of minimal maintenance activities anticipated at 10 trips per month. A breakdown of anticipated traffic types from each access point is provided in the Traffic Analysis Letter dated June 27, 2018, which was received with the WSEO submittal. There are no anticipated offsite road improvements necessary due to the project.

## **G. SERVICES**

### **1. WATER**

A finding of water sufficiency is not required with map amendment (rezoning) requests. In addition, the proposed use as a solar array does not require water supply service.

**2. SANITATION**

The proposed use as a solar array does not require wastewater service.

**3. EMERGENCY SERVICES**

The subject parcels are located within the service area of Hanover Fire Protection District. Staff recommends Condition of Approval No. 1.j below which requires the applicant to work with the El Paso County Office of Emergency Management to develop an acceptable emergency response plan, which will be required as part of the site development plan application.

**4. UTILITIES**

The State of Colorado mandate described in Colorado Revised Statute §40-2-124 requires 30 percent of retail energy sales to be deliverable from renewable energy generation for investor owned utilities and 10 percent for large municipal utilities by the year 2020. These solar arrays will provide power to CSU's proposed Williams Creek substation where it will be integrated into the electrical grid and distributed to Front Range customers.

**5. PARKS/TRAILS**

The El Paso County Parks Master Plan (2013) does not depict a park or trail corridor in this area. No fees are due with this request.

**6. SCHOOLS**

Staff provided Hanover School District No. 28 with an electronic referral packet and an opportunity to comment on the project. No comments were received in response.

**H. APPLICABLE RESOLUTIONS:**

See Attached Resolution.

**I. STATUS OF MAJOR ISSUES**

There are no remaining issues

**J. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Board of County Commissioners approve the map amendment (overlay rezoning) staff recommends the following conditions and notations:

## **CONDITIONS OF APPROVAL**

1. Prior to excavation or construction, approval of a site development plan by El Paso County for the solar array facility is required. Site development plan applications shall include, but are not limited to the following information:
  - a. Site development plan drawings;
  - b. Final drainage report;
  - c. Stormwater Management Plan (SWMP)
  - d. Erosion and Stormwater Quality Control Permit (ESQCP);
  - e. Any permits required by the Colorado Department of Public Health and Environment, if needed
  - f. Detailed reseeding plan;
  - g. Lighting plans and detailed specifications, including plans and specifications for temporary lighting, as applicable;
  - h. Sign plans, if signage is proposed;
  - i. Elevations of any above ground structures;
  - j. Emergency response plan, to be prepared in coordination with and acceptable to the El Paso County Office of Emergency Management;
  - k. Noxious weed management plan, to be prepared in coordination with and acceptable to El Paso County Environmental Services; and
  - l. Colorado Department of Health and Environment (CDPHE)-accepted surface and groundwater quality monitoring plans, if required;
2. The applicant shall provide copies of all required State and County air quality permits prior to approval of a site development plan application.
3. The applicant shall comply with all applicable local, State, and Federal laws and regulations regarding the use, disposal, storage, and transportation of solid and/or hazardous materials on and off site.
4. A County Erosion and Stormwater Quality Control Permit (ESQCP) shall be obtained prior to construction. All disturbed areas shall be promptly stabilized and re-vegetated in accordance with Best Management Practices (BMPs) as outlined in the Drainage Criteria Manual, Volume II.
5. The Board of County Commissioners, at a public hearing, shall have the authority to require the shutdown, removal, and/or relocation of any glare-causing component or components if the Board finds that any such component or components is/are creating a health and/or safety risk. Such

shutdown, removal, and/or relocation requirement by the Board shall be based upon documented inspection of the facility by a County official.

6. The hours of operation during the construction and long term maintenance of the project shall be limited to seasonal day time hours unless otherwise authorized by the Planning and Community Development Department Director prior to the proposed construction and/or maintenance. Requests to conduct nighttime construction activities shall be submitted to the Planning and Community Development Department Director at least two business days prior to the time of the proposed construction. Any failure to respond to the requests by the Planning and Community Development Department Director within two business days shall be interpreted as an approval of the request.
7. Site lighting, including temporary lighting, will be limited to that characterized in the Project Lighting Memo and Lighting Plan. The detailed specifications shall be provided at the site development plan stage. All light fixtures shall be directional and positioned so that the light sources are concealed and fully shielded from adjacent properties and roadways, unless otherwise specifically authorized under the regulations of the Occupational Safety and Health Administration (OSHA) of the United States Environmental Protection Agency.
8. The Board of County Commissioners may elect at an open and public hearing, following full published notice, to approve a rezoning of the properties included within the WSE-O boundary for the purpose of removing the overlay zoning if the applicant has not begun construction within two (2) years of the date of Board of County Commissioners approval.
9. Any approval of the WSE-O rezoning request is only valid with the additional approval of the concurrently reviewed 1041 permit. Failure to receive approval of the 1041 permit shall render approval of the WSE-O rezoning null and void.
10. At least six (6) months prior to the initiation of decommissioning activities, Developer shall prepare a Project Decommissioning and Site Restoration Plan (PDSRP) prepared in sufficient detail to identify, evaluate, and resolve all major deconstruction, environmental, hauling, and public health and safety issues reasonably anticipated by the developer on the date thereof and submit the same to the County for review and approval. The PDSRP shall

describe the process that will be used to evaluate the options and select the measures that will be taken to restore, reclaim, or preserve the project site and to otherwise ensure the protection of the public against risks or dangers resulting from the project decommissioning. The PDSRP shall address provision for funding or bonding arrangements to meet the project site restoration or management costs and it shall include an estimate of market value of the equipment and salvage value of all other equipment and materials that do not have value at resale.

11. Developer shall provide notice to the Planning and Community Development Department of the date of initial delivery of power to the existing utility distribution system within 30 days following such date.
12. Developer, its successors or assigns, as the case may be, shall provide financial assurances sufficient for decommissioning costs in the form of a performance bond, guaranty or letter of credit, or cash to ensure the availability of funds for such costs to El Paso County no later than the beginning of year twenty (20) following the date of initial delivery of power. An updated engineering estimate of the amount of the decommissioning costs shall be provided by the developer to the County at least sixty (60) days and no sooner than ninety days prior to providing financial assurances to the County. If decommissioning should occur prior to year 20, an updated engineering estimate of the amount of the decommissioning costs shall be provided by the developer to the County at least 60 days and no sooner than 90 days prior to the start of decommissioning activities.
13. Any expansion, enlargement, or modification of the WSE-O Plan shall be subject to the provisions of Sections 4.3.5.E and F, as amended, of the El Paso County Land Development Code.
14. The approval is limited to the WSE-O plan as depicted. An amendment to the WSE-O Plan shall be required prior to development of any additional phases (No future phases are proposed at this time).
15. Development of the project shall be conducted in accordance with the regulations of El Paso County, conditions of approval and notations of the Board of County Commissioners and the accompanying documents/reports in the Planning and Community Development Department file for the rezoning application (WSEO-18-001).

## **NOTATIONS**

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
  
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

## **K. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified 6 adjoining property owners on November 28, 2018, for both the Board of County Commissioners' hearing. Responses will be provided.

## **L. ATTACHMENTS**

Vicinity Map  
Letter of Intent  
Palmer-Williams Solar Array WSE-O Plan  
Planning Commission Draft Minutes  
Planning Commission Resolution  
Board of County Commissioners' Resolution

# El Paso County Parcel Information

File Name: WSEO-18-001

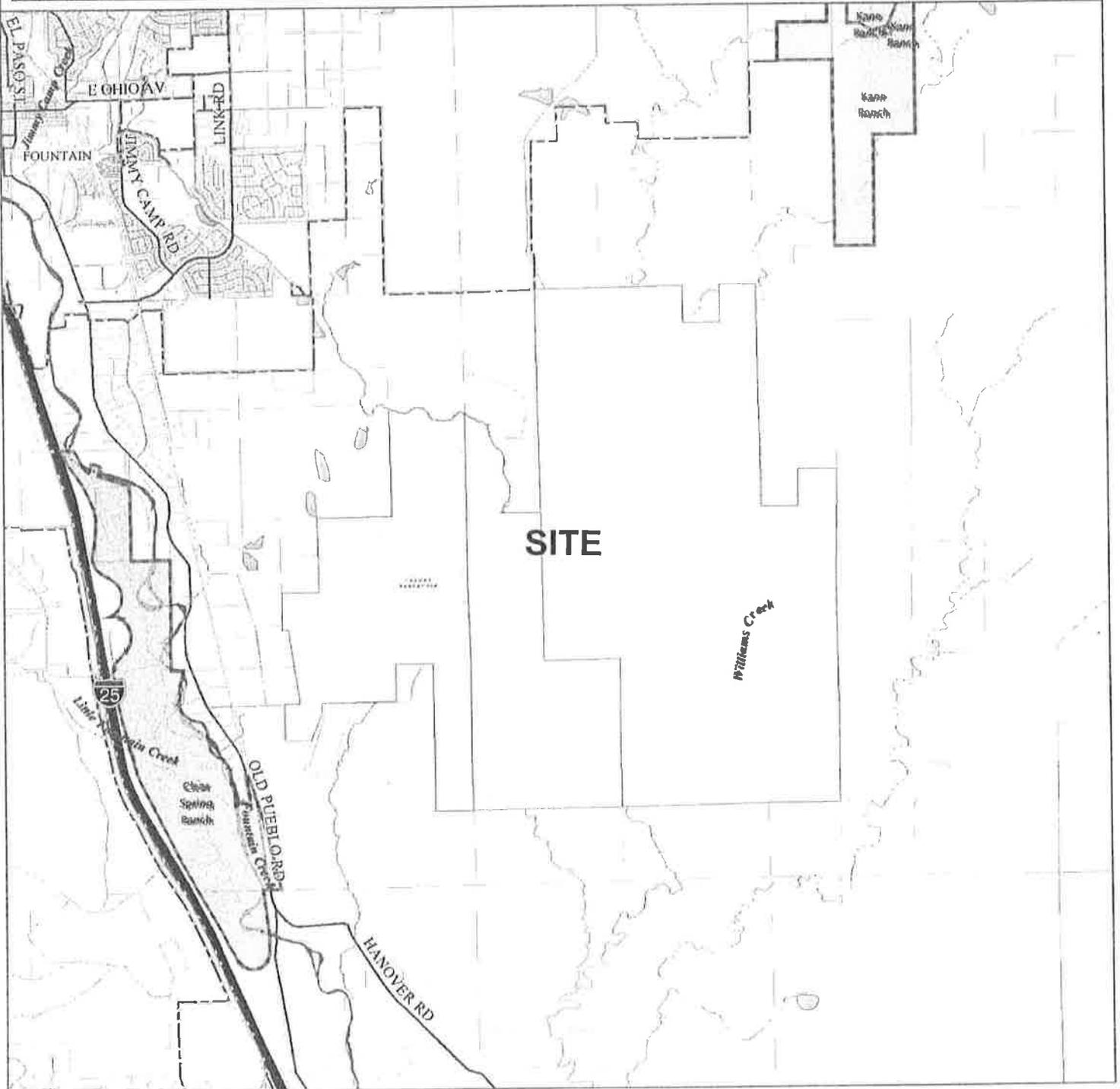
Zone Map No.: --

| PARCEL     | NAME                        |
|------------|-----------------------------|
| 5600000122 | WOODMOOR WATER & SANITATION |
| 5600000137 | WOODMOOR WATER & SANITATION |
| 5600000123 | COLORADO SPRINGS CITY OF    |

Date: November 28, 2018

| ADDRESS                   | CITY             | STATE |
|---------------------------|------------------|-------|
| 1845 WOODMOOR DR          | MONUMENT         | CO    |
| 1845 WOODMOOR DR          | MONUMENT         | CO    |
| PO BOX 1575 MAIL CODE 455 | COLORADO SPRINGS | CO    |

| ZIP   | ZIPLUS |
|-------|--------|
| 80132 | 9066   |
| 80132 | 9066   |
| 80901 | 1575   |



Please report any parcel discrepancies to:  
 El Paso County Assessor  
 1619 Garden of the Gods Rd  
 Colorado Springs, CO 80907  
 (719) 520-6600



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Office + 1.303.440.7430

Kari Parsons, Project Manager/Planner II  
El Paso County, Planning & Community Development  
2880 International Circle  
Colorado Springs, CO. 80910

*Submitted electronically via EDARP: [www.epcdevplanreview.com](http://www.epcdevplanreview.com)*

July 24, 2018

**RE:** Palmer-Williams Creek Wind and Solar Energy Overlay (WSEO) Application

Dear Ms. Parsons and El Paso County Planning and Community Development Department,

Please find a complete application for a Wind and Solar Energy Overlay (WSEO) in El Paso County included with this letter. The Palmer-Williams Creek WSEO is jointly proposed by two co-applicants to allow for future project-level permitting for the Palmer Solar Project and Williams Creek Substation. While the creation of an Overlay does not in itself authorize project development or establish Overlay entitlement, the applicants have determined that it is generally important to outline the relationship and interests of the respective parties at the onset of the permitting process. The proposed Palmer-Williams Creek WSEO includes the following components:

- **Component 1:** A solar energy generation project proposed by Palmer Solar LLC on land owned by Woodmoor Water and Sanitation District No. 1. Component 1 herein is referred to as the “Palmer Solar Project”, “Palmer Solar” or “Solar Project.”
- **Component 2:** A utility substation proposed by JSI Construction Group LLC as agent of Colorado Springs Utilities on land owned by City of Colorado Springs. Component 2 herein is referred to as the “Williams Creek Substation”, “Williams Creek”, or “Substation Project.”

Thank you for your full consideration of this application. The undersigned companies (collectively, “Applicant”) are eager to begin formal review with the Planning and Community Development Department and El Paso County.

Sincerely,

Stuart Coles, Project Planner  
Palmer Solar LLC  
JSI Construction Group LLC as agent of Colorado Springs Utilities  
720.245.2922  
[scoles@juwiamericas.com](mailto:scoles@juwiamericas.com)

## I. Introduction to the Palmer Solar Project and Williams Creek Substation Project

Palmer Solar LLC proposes to construct, operate, and decommission the Palmer Solar Project, a solar facility capable of generating up to 60 alternating current (AC) megawatts (MW) of photovoltaic (PV) solar energy. The proposed Solar Project consists of ground-mounted solar arrays and associated infrastructure sited within approximately 622 acres of the WSEO on land owned by Woodmoor Water and Sanitation District No. 1 in El Paso County (herein called the “County”).

Colorado Springs Utilities proposes to construct, operate, and decommission the Williams Creek Substation, a utility substation sized to accommodate new electrical power from the Palmer Solar Project onto the existing Colorado Springs Utilities transmission system. The Williams Creek Project consists of a new three-breaker ring bus switchyard planned by Colorado Springs Utilities; sited within an 89-acre area of City of Colorado Springs-owned land in the County (jointly, the WSEO acreage proposed is 711 acres).<sup>1, 2</sup>

The Palmer Solar Project will be built with proven and bankable technology, building off Applicant’s experience building facilities in fourteen (14) states across the United States. The Solar Project will be a single-axis PV tracking system that connects directly to the Colorado Springs Utilities’ existing 230-kilovolt (kV) transmission system. In its first year of operation, the facility will have a generating capacity of approximately 151,728 MWh: directly powering local homes, business, and institutions.

If approved by El Paso County, the proposed Palmer Solar Project will be the newest generation resource for Colorado Springs Utilities, an enterprise of the City of Colorado Springs, Colorado. More than 85% of the population of the County is directly or indirectly served by Colorado Springs Utilities’ Electric System. Recent project approvals and planning efforts have shown ample coordination and collaboration between El Paso County and Colorado Springs Utilities, including the field of renewable energy. The Clear Spring Ranch Solar Project, approved by the County in 2016, was the first utility-scale solar energy project permitted and constructed under both entities.

Like the Clear Springs Ranch Project, the Palmer Solar Project will support the long-term, energy planning efforts of Colorado Springs Utilities. In its 2016 Electric Integrated Resource Plan, Colorado Springs Utilities sets forward a strategic plan for generation resource acquisition, including for renewable energy. Driven by scenario modeling, cost modeling, and customer/public involvement; the approved Plan identifies a renewable energy goal of 20 percent renewables by 2020.<sup>3</sup>

In December of 2016, Colorado Springs Utilities released a Request for Proposals (RFP) for a Renewable Energy Solicitation. This Solicitation accepted proposals for new generation resources up to 150,000MWh/year that met the Colorado Renewable Portfolio Standards (RPS) requirements, including solar

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<sup>1</sup> Colorado Springs Utilities is a charter-created municipal enterprise of the City of Colorado Springs, Colorado. The City owns and operates the Colorado Springs Utilities, which includes the electric light and power system, in accordance with the home rule charter of the City. Accordingly, Colorado Springs Utilities and City of Colorado Springs act in coordination as it pertains to issues covered by such charter.

<sup>2</sup> Not all portions of the WSEO will host infrastructure (see WSEO Plan).

<sup>3</sup> See Colorado Springs Utilities Electric Integrated Resource Plan: <https://www.csu.org/CSUDocuments/2016eirp.pdf>

and wind energy projects. Some of the reasons stated by Colorado Springs Utilities to consider renewable energy additions through the 2016 Solicitation included:<sup>4</sup>

- Achieving Colorado Springs Utilities 2020 Energy Vision renewable energy goals
- Responding to recent and historical trend of customer surveys indicating interest in Colorado Springs Utilities expanding its renewable energy portfolio
- A desire by Colorado Springs Utilities customer base to move beyond the Renewable Portfolio Standard (RPS)
- The potential for an increased Colorado RPS or a national RPS

The Palmer Solar Project was originally proposed to Colorado Springs Utilities as part of its 2016 Request for Proposal (RFP) for new renewable energy generation resources to serve Utilities' customers. Through this competitive solicitation, it was selected as the best option to meet resource planning needs by Colorado Springs Utilities and the energy needs of its customer base. The Applicant has since completed pre-development activities, including site studies, energy agreements, and design modeling to meet the Palmer Solar Project schedule and milestones.

Colorado Springs Utilities, as the identified purchaser of the Solar Project's power, entered into a Power Purchase Agreement (PPA) with Palmer Solar LLC on June 6<sup>th</sup>, 2018. The PPA lays the foundation for the Palmer Solar Project and establishes expectations for power generation and delivery onto the utility's electrical grid. The PPA for the Palmer Solar Project establishes terms and conditions for delivery of power, including Colorado Springs Utilities' agreement to purchase electricity generated from the Palmer Solar Project for 20 years at a minimum. Both groups are in the process of finalizing the Interconnection Agreement (expected August of 2018). Relevant interconnection studies, with support of Palmer Solar LLC, have also been completed by Colorado Springs Utilities in compliance with State and Federal standards.

Following the selection of the Palmer Solar Project and the finalization of the PPA, Colorado Springs Utilities selected JSI Construction Group LLC to be the authorized agent for permitting and building the Williams Creek Substation; a necessary component for delivering the energy generated from the Palmer Solar Project onto the grid. The Williams Creek Substation will be owned and operated by Colorado Springs Utilities.

## II. Project locations and overview

Palmer Solar and the Williams Creek Substation will be located on Water and Sanitation District-owned and City-owned land, respectively, in El Paso County, Colorado approximately 1.25 miles east of I-25 along Birdsall Road and approximately 4 miles south of the town of Fountain, Colorado. The land in the proposed location is primarily vacant, undeveloped, and relatively flat. The Overlay covering both components encompasses 711 acres.

Current zoning for the Overlay area is Residential Rural-5 (RR-5). The surrounding land is primarily used for livestock grazing, with dispersed residential development along the western boundary (all zoned as RR-5). As shown in the Overlay Map (Appendix A – Overlay Plan), the Solar Project will be divided into two main project areas (an eastern and western section); both of which are sited on land owned by Woodmoor Water and Sanitation District No. 1. The El Paso County Assessor lists these parcels as 5600-00-0122 and 5600-00-

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<sup>4</sup> See example 2016 RFP Scope of Work:

<https://legacy.rockymountainbidsystem.com/Bids/Attachments.asp?TN=134735&GroupID=1028>

0137. The Williams Creek Substation is sited on land owned by Colorado Springs Utilities listed as 56000-00-123. All land falls within Township 16S, Range 65W, Section 22, 26, 27, 28 and 35.

Palmer Solar has a favorable geography and development context. It's in the second highest zone for annual solar radiation in Colorado as determined by the National Renewable Energy Laboratory in Golden, Colorado. The gently-sloped topography of the property and its avoidance of sensitive environmental features make it a viable location for PV technology.

The location of the proposed Solar Project is particularly attractive because of its position on the Colorado Springs Utilities grid. As demonstrated in interconnection studies, the technology and targeted generation capacity of Palmer Solar will be compatible with Colorado Springs Utilities electrical infrastructure. The identified point of interconnection will be on the existing 230-kV Colorado Springs Utilities' system, which is identified as the Fuller to Ray D Nixon 230-kV transmission line (running East-West from the Ray D Nixon facility and heading north at the location of the proposed Solar Project). Since the Colorado Springs Utilities grid is relatively small (as compared to non-municipally owned utilities in the State), the proposed Project location represents an important opportunity to add renewables directly on the Utilities' system.

Main components of the proposed 60MW (AC) Palmer Solar Project will include:

- Single-axis tracker arrays with photovoltaic modules
- Power infrastructure including inverters and transformers for grid interconnection
- A 34.5-kV overhead line within the project boundary to connect the two array areas
- A project substation near existing transmission infrastructure
- Two access points on existing roads
- An operations and maintenance area with a small shed
- Private, interior maintenance roads (gravel)
- Drainage controls designed to minimize surface runoff flows to existing primary drainages
- Perimeter security fencing surrounding project
- Exterior fire and vegetation break surrounding security fence

Solar modules will be the predominate feature of the Palmer Solar Project; set on metal frames and mounting structures. These modules are manufactured at an off-site location and delivered to the site in an assembly-ready condition. The mounting system proposed is a single-axis tracker, which is engineered for optimum generation. The tracking arrays will follow the sun; facing east in the morning, lying flat at noon, and facing west in the afternoon. Foundations for this technology consist of embedded posts or piles. From soil testing on site, post anchoring with concrete will not be necessary since posts can be driven to depths in native soil that adequately secure the photovoltaic technology.

Since the Solar Project is laid out into two distinct areas, an overhead distribution line in a 100-foot wide corridor is required to move power from the western area to the point of interconnection. The 34.5kV interconnection line will consist of overhead poles. These structures will be at least 30 feet off the ground, as required by surface lease agreement and the National Electric Safety Code (NESC). The distance between the poles will generally be between 400 and 600 feet. To minimize impact of the distribution line, the proposed route follows existing transmission infrastructure.

The Palmer Solar Project requires a project substation sited on lands owned by Woodmoor Water and Sanitation District No. 1. The purpose of which is to collect power from the two array areas and convert the voltage from 34.5-kV to 230-kV. It is proposed on the east side to minimize the distance between the project substation and the point of interconnection on the Colorado Springs Utilities system. The project substation will require a control building, transformers, circuit breakers and switches, support structures, dead-end towers, SCADA communication system, and overhead electrical bus work. The appearance will resemble other substations in El Paso County and Colorado.

The unnamed project substation will have an interconnecting powerline that feeds the utility substation (the future Williams Creek Substation), which is the identified point of interconnection for the Solar Project. Colorado Springs Utilities is the ultimate decision-maker regarding design elements for the Substation on its existing system. A contract between Colorado Springs Utilities and JSI Construction Group LLC allows for JSI Construction Group LLC to build this new point of interconnection on the existing Colorado Springs Utilities transmission network. The new Williams Creek Substation, sited on land owned by the City of Colorado Springs, will accommodate the Palmer Solar Project and may potentially serve other needs of Utilities in the future.

An Operations and Maintenance (O&M) storage shed will be constructed to store materials and equipment. It will be approximately 960 square feet in size, have a maximum height of 20 feet and have a concrete foundation. The shed will be utilized to store PV facility replacement parts and spare materials. The small shed will be unoccupied.

Access to the Project (as shown in Appendix H – Traffic Impact Study) is proposed at two locations depicted on the Site Plan. The first access point is from the west off existing Birdsall Road, which intersects with Old Pueblo Road. The second access point is from the east off an unnamed roadway that intersects with Squirrel Creek Road.

Construction is proposed in a single phase and is estimated to take between 9 months and 12 months.

### III. Proposed Wind and Solar Energy Overlay

To move forward with the Palmer Solar Project and William Creek Substation, Palmer Solar LLC and Colorado Springs Utilities are requesting approval of the Palmer-Williams Creek Wind and Solar Energy Overlay (WSEO) for the area included in the project footprint. The purpose of the proposed WSEO is to allow construction, operation, maintenance, and decommissioning of a utility-scale solar energy facility; specifically, the Palmer Solar Project.

Principal uses for the proposed WSEO include solar panels and substations, while accessory uses include transmission and distribution lines (overhead or underground), operations and maintenance facilities, DC and AC inverters, MET stations, medium-voltage transformers, circuit breakers and disconnect switches, communication systems, access roads, and fencing, and other structures needed to support identified principal uses in the Overlay. Elevation plans are included in Appendix B –Elevations Plans.

Section 4.3.5 of the El Paso Land Development Code requires WSEO Dimensional and Density Standards. The requested Palmer-Williams Creek WSEO Dimensional and Density Standards are as follows:

|                                   | <b>Minimum Setbacks for Structures (Principal and Accessory)</b> | <b>Max Height of Solar Panels</b> | <b>Max Height of Transmission Line Poles</b> | <b>Maximum Height of MET Stations</b> | <b>Maximum Height of Inverters/Transformers</b> | <b>Maximum Height of Substation Facilities</b> |
|-----------------------------------|--|-----------------------------------|--|---------------------------------------|---|--|
| <i>Palmer-Williams Creek WSEO</i> | 25   | 14                                | 90   | 14                                    | 14  | 75   |
| <i>Underlying Zoning (RR-5)</i>   | 25   | 30                                | 30   | 30                                    | 30  | 30   |

The Palmer-Williams Creek WSEO does not include minimum lot size or maximum lot coverage requirements.

Structure elevations, access, accessory structures, signage, lighting, project phasing, and other standards necessary to administer Palmer Solar and the proposed plan are included in this document and Appendices. In accordance with the Land Development Code Site Specific Development Plan, this LOI includes the following information:

1. Owner/applicant and consultant, including addresses and telephone numbers
2. Site location, size, and zoning
3. Request and justification
4. Existing and proposed facilities, structures, roads, etc.
5. Deferral and waiver requests (if applicable) and justification
6. The purpose and need for the change in zone classification
7. The total number of acres in the requested area
8. The total number of residential units and densities for each dwelling unit type
9. The number of industrial or commercial sites proposed
10. Approximate floor area ratio of industrial and/or commercial uses
11. The number of mobile home units and densities
12. Typical lot sizes: length and width
13. Type of proposed recreational facilities
14. If phased construction is proposed, how will it be phased
15. Anticipated schedule of development
16. How water and sewer will be provided
17. Proposed uses, relationship between uses and densities
18. Areas of required landscaping
19. Proposed access locations
20. Approximate acres and percent of land to be set aside as open space

## 1. Project Owner/Application

### Project Owner/Applicant:

Palmer Solar, LLC  
1710 29<sup>th</sup> Street, Suite 1068  
Boulder, CO 80301

Colorado Springs Utilities  
2855 Mesa Road  
Colorado Springs, CO 80904

### Point of Contact: \*

Stuart Coles, Project Planner  
1710 29<sup>th</sup> Street, Suite 1068  
Boulder, CO 80301  
Phone: 720.245.292

\* Woodmoor Water and Sanitation District No. 1 and Palmer Solar LLC have provided appropriate documentation to El Paso County for representation pertaining to the Palmer Solar Project. Likewise, an agreement is in place authorizing JSI Construction Group's Point of Contact to represent Colorado Springs Utilities in permitting for identified portions of its land and for proposed uses identified within this document; specifically limited to the proposed Colorado Springs Utilities Williams Creek substation and associated development actions.

## 2. Site Location, Size, and Zoning

*Location:* The proposed Overlay includes portions of parcel 5600-00-0122, 5600-00-0137, 56000-00-123 owned by Woodmoor Water and Sanitation District No. 1 and City of Colorado Springs (see Appendix A – WSEO Overlay Plan). These parcels of land in unincorporated El Paso County, Colorado are largely vacant, undeveloped, and relatively flat. It is approximately 1.25 miles east of I-25 along Birdsall Road and approximately 4 miles south of the town of Fountain, Colorado.

*Size:* The total area of the proposed WSEO (comprised of the Palmer Solar Project and Williams Creek Substation): 711 acres.

*Zoning:* All parcels are zoned as Rural Residential-5. A portion of parcel 5600-00-0122 exhibits overlap with a commercial Airport Overlay, which does not preclude designation of a WSEO. Consistency and conformance with underlying zoning is addressed below. A WSEO can be reasonably applied to the existing base zoning.

## 3. Request and Justification

Beyond the context and drivers for the Solar Project and Substation Project described in the Introduction, the proposed Overlay is consistent with the El Paso County Master Plan. The El Paso County Master Plan is comprised of guiding documents for land use and zoning. It includes topic-specific and location-specific elements, including: El Paso County Policy Plan (CPP), Small Area Plans, the Parks Master Plan, and the

Master Plan for Mineral Extraction. This application addresses relevant components of El Paso County plans and offers a detailed discussion on the consistency of the Palmer-Williams Creek WSEO with the Master Plan. The sections below reflect the order of applicable goals and policies as they appear in the CPP.

### **CPP 1.0 Small Area Plans**

El Paso County is divided into discrete planning areas to help facilitate compatible land-use decisions. Termed as Small Area Plans, these planning areas have been in place since the 1970s and are important features of the County's comprehensive planning efforts. The Solar Project and Substation Project are located within the Proposed Fountain Valley Small Area Plan boundary. As a proposed Small Area Plan, a formal land-use plan has not been completed for this area. Accordingly, this WSEO application exclusively addresses the County Policy Plan and the Zoning Map for this portion of unincorporated El Paso County.

### **CPP 2.0 Natural Systems**

- *Goal 2.1: Preserve, enhance and restore the environment to acceptable health standards.*

Renewable energy systems have the benefit of supplying power to the local energy grid without contributing to regional haze, pollution, or greenhouse gas emissions. Population growth in El Paso County is expected to continue and likely increase over the coming years and decades. The proposed Palmer Solar Project and Williams Creek Substation Project will help address growing populations by contributing to Utilities' energy portfolio, while not incurring major environmental costs to the County's air, water, land, or waste. No major regulatory approvals with State or Federal environmental agencies have been identified for the Solar Project or Substation Project. The Solar Project and Substation Project will further responsible development that meets acceptable health standards.

Project design and construction methods seek to minimize environmental impacts to the greatest degree possible. However, as discussed below, there will be localized impacts from development, including modifications to minor ravine (non-wetland) features<sup>5</sup> and wildlife habitat. The sections below address the relevant policy components of CPP Section 2.0 Natural Systems by topic:

### **CPP 2.1 Air Quality**

- *Policy 2.1.1 Meet the Federal Clean Air and Clean Water Acts and its amendments*

During the construction phase, there will be particulate emissions from fugitive dust and internal combustion engine exhaust. However, these emissions will be short-term and at no time will exceed National Ambient Air Quality Standard levels or County standards for air quality. In advance of construction, an Air Pollutant Emission Notice (APEN) will be filed with Colorado Department of Public Health and the Environment (required for projects disturbing over 25 acres). Potential air quality impacts will be minimized through best management practices for dust suppression and emission reduction, and commitments to comply with State

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<sup>5</sup> Dirt-moving and project infrastructure is proposed in and around existing channels on the eastern portion of the site. These areas were identified by National Wetlands Inventory (NWI) dataset, which is a national geospatial layer that provides coarse data of potential wetlands. NWI areas in the WSEO were surveyed twice by professional biologists and were not found to meet criterion for jurisdictional wetland as defined by the US Army Core of Engineers.

of Colorado and Federal regulations. Best management practices for air quality include speed limits within the site (11 miles per hour) and suspending major soil disturbing activities during high-wind events.

Once completed, the proposed developments will not generate emissions or pollution. Solar facilities are a beneficial energy generation resource in part, because of their contribution to pollution and emission reduction goals. The Solar Project's construction, as an alternative to additional conventional resources, represents avoided emissions. Since the solar arrays will have native grasses underneath, dust will not be a major concern for local air quality during operations.

#### **CPP 2.1 Hazardous Materials**

- *Policy 2.1.3 Meet regulations and monitoring for the transportation and storage of hazardous materials and wastes.*
- *Policy 2.1.5 Encourage the practice of appropriate management techniques for handling and disposal of hazardous materials and wastes.*
- *Policy 2.1.6 Encourage the control, reduction, and elimination of hazardous materials and wastes at their sources.*

A Phase I Environmental Site Assessment was conducted for the area. The Phase I assessment revealed no evidence of Recognized Environmental Conditions (RECs), Controlled RECs, or Historical RECs in connection with the property.

The risk of release of hazardous materials is low as there will not be a significant amount of temporary or permanent hazardous materials on-site at any one time. The control and release of petroleum products held for construction equipment will abide by a Spill Prevention, Control, and Countermeasure (SPCC) Plan. All potentially hazardous materials will be transported, stored, and handled in accordance with applicable regulations. Project developers and site crew have training in emergency response.

#### **CPP 2.1 Noise**

- *Policy 2.1.7 Encourage the adoption of noise level standards which limit or mitigate adverse impacts to surrounding land-owners*
- *Policy 2.1.8 Carefully consider all proposed land uses adjacent to interstate highways, railroads, military training areas, and in designated flight zones to protect them from associated disruptive noise levels.*

The proposed Solar Project is a quiet use of the land that requires no on-site employees. Modern PV technology produces minimal amount of noise once operational.

Noise impacts are limited to construction phases and steps will be taken to limit the amount of noise during this time. This includes noise-suppression techniques, posted site rules, and use of modern equipment. Construction on the eastern portion of the Solar Project will be over a mile-and-a-half from residences near Old Pueblo Road and therefore, is not expected to rise above ambient levels. Construction on the western portion of the Solar Project will produce noise during construction, particularly for post driving and placing of PV racking systems. Added precautions will be taken to minimize sound disturbance to nearby residences.

Work across the site will take place during working hours between 7:00 a.m. and 6:00 p.m. on Monday through Saturday, with Sundays being utilized infrequently. Any construction personnel on site outside of these times will receive strict guidance on noise expectations.

The Applicant will develop additional noise plans, as required, to mitigate noise from construction and to comply with County ordinance.

### **CPP 2.1 Water Quality**

- *Policy 2.1.1 Meet the Federal Clean Air and Clean Water Acts and its amendments*
- *Policy 2.1.9 Encourage approaches to land use that promote innovative techniques to protect water quality and encourage mitigation to reduce pollution from non-point sources such as run-off from roads, parking lots and lawn chemicals.*

A Drainage Report has been completed based on current design at the time of the WSEO application. The Applicant has engaged Kimley Horn, a very experienced consultancy for development and engineering services, out of their Colorado Springs office to complete Drainage and Grading Plans in compliance with County regulations and manuals. While the Solar Project overlaps with some minor drainage features east of Calhan Reservoir, it will not impact historic flows of minor or major drainage basins in the Project vicinity. The Solar Project minimizes downstream flow onto adjacent properties and retains the property's natural hydrography using ditches and diversion techniques. Kimley Horn concluded in its Drainage Report that:

“The proposed drainage patterns will match the existing drainage conditions and historic patterns discussed in the previous section of this report. Overlot grading of specific areas within the Site will be required to facilitate the construction of the solar arrays on adequate slopes. The overlot grading will follow the existing topography and will not alter the historic drainage patterns.”<sup>6</sup>

Following input during the WSEO and 1041 Permit review, a Final Drainage Report for the Solar Project and Substation Project will be completed for the El Paso County Site Plan Review.

Water is further addressed in this application in CPP 3.0: Water Resources.

### **CPP 2.2 Wildlife and Vegetation Impacts**

- *Goal 2.2 Protect the flora and fauna found in the County's five life zones and transitional communities.*
- *Policy 2.2.1. Encourage a coordinated and systematic planning approach to identify, locate and protect critical areas of wildlife habitat from all five life zones and transitional communities.*
- *Policy 2.2.3 Evaluate the impact from proposed developments on watersheds and wildlife habitat with appropriate governmental agencies early in the development process.*
- *Policy 2.2.4 Provide incentives to encourage development to incorporate sensitive planning that ensures the protection of watersheds and wildlife habitat*
- *Policy 2.2.7 Comply with requirements of the federal Endangered Species Act*
- *Policy 2.2.8 Encourage the protection and preservation of state listed endangered and threatened species, species of special concern, and species with immediate conservation needs*

### **Wildlife**

The Applicant has taken a conservative approach to wildlife by considering resources within the Overlay boundary as well as a larger footprint surrounding the Solar Project and Substation Project. Based upon a

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<sup>6</sup> See Conceptual Drainage Report included in WSEO application.

thorough review of publicly available datasets and field studies, development will be sited in an area that does not contain regionally-significant habitat or ecological resources. The properties have been used for cattle grazing and ranching activities for almost a century. These historic uses have noticeably altered the natural condition of the property. Noxious weeds, rangeland and electrical infrastructure, and the large water-retention facility (Calhan Reservoir) demonstrate major ecological modifications and habitat degradation.

The site was selected as a suitable site across the suite of available land in the Colorado Springs Utilities' service area because it demonstrates low-conflict features with natural resources. The Solar Project and Substation Project do not overlap with floodplains or designated critical habitat for Threatened and Endangered species. Moreover, the Overlay is outside all Potential Conservation Areas (including Critical Wetland Areas) in El Paso County, as identified by the Colorado Natural Heritage Program's County-wide survey and analysis.<sup>7</sup> It is also outside Candidate Open Space Lands identified by the El Paso County Parks, Trails and Open Space Master Plan.

Ecology & Environment, Inc. (E&E) was contracted to complete a Wetlands and Wildlife Memo to review existing wildlife and potential habitat on site. The Applicant has also undertaken early and voluntary coordination with the Colorado Parks and Wildlife (CPW) Energy team and Southern Field Office. Results of field surveys and desktop review by E&E and CPW can be found in Appendix J and Appendix M respectively. In both reviews, no major constraints were identified due to wildlife impacts.

The Applicant recognizes that even as a low-impact site, a project of this scale will have impacts on wildlife. The area proposed for development is agricultural and vacant, and provides forage for big game, birds, and small mammals that are adapted to rangeland settings. The Solar Project and Substation Project will result in the loss of terrestrial habitat in the area for certain species, mainly for mammals (including potential habitat for deer). Construction may also likely lead to the mortality of common animal species, such as small, ground-dwelling mammals and reptiles. Construction and design elements incorporate recommendations provided by CPW. These plans and elements include (but are not limited to):

- Adhering to "Suggested Practices for Avian Protection on Power Lines"
- Undertaking preconstruction surveys to ensure that birds protected by the Migratory Bird Treaty Act or species protected under the Endangered Species Act are not on site. Applicant will abide by setback distances identified by CPW for raptor and sensitive species.
- Co-locating the Solar Project's distribution line with existing transmission infrastructure
- Installing motion-detected night lighting with reduced lumen and shielding methods
- During construction phases, adhering to construction buffers in the event of active nests of protected or sensitive raptor species identified by CPW
- Educating construction personnel on local wildlife and ways to avoid potential impacts to species
- Developing a Weed Management Plan
- Committing to a site decommissioning and restoration plan following facility operation

Early outreach with CPW resulted in recommendations for construction and design that are included above. Furthermore, the Applicant has provided responses to CPW's May 2018 development review to detail development plans and incorporation of wildlife recommendations. The Applicant will continue coordination with CPW as it finalizes site designs and construction plans.

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<sup>7</sup> See *Survey of Critical Wetlands and Riparian Areas in El Paso and Pueblo Counties*: [http://county.pueblo.org/sites/default/files/documents/Survey of Critical Wetlands and Riparian Areas in El Paso and Pueblo Counties%2C Colorado%2C by CNHP.pdf](http://county.pueblo.org/sites/default/files/documents/Survey_of_Critical_Wetlands_and_Riparian_Areas_in_El_Paso_and_Pueblo_Counties%2C_Colorado%2C_by_CNHP.pdf)

Pre-construction surveys, targeted for spring of 2019, will be important for determining construction approaches, including phased development, timing stipulations, and the use of buffers; adhering to wildlife best management practices. The Applicant recognizes that there is a potential need to adapt construction plans for wildlife, including the active Great Horned Owl nest on the northwest portion of the site. Additionally, there is a potential that sensitive species, like burrowing owl and swift fox (see CPW correspondence) will be found on the eastern portion of the site. The following construction stipulations are possible based on existing and potential conditions:

- *Buffers for active nests of raptor species:* A ¼ mile buffer for all nests, generally February 15 to June 15
- *Burrowing Owls:* If nesting burrowing owls are present, no human encroachment within 150 feet of nesting burrows from March 15 to October 31
- *Mountain Plover:* Undertake construction activities outside critical nesting periods where species are found
- *Swift fox/kit fox:* avoid surface disturbance within 1/4 mile of den sites while young are den dependent (approximate dates: kit fox Feb 1 to May 1; swift fox March 15-June 15).

### Vegetation

Vegetation on the sites are typical to the Central Shortgrass Prairie ecosystem (including blue gramma dominated shortgrass, cholla cactus, and saltbush shrublands). Site studies have not documented any sensitive or listed plant species and CPW did not raise concerns on this issue.

Construction will result in short-term impacts to vegetation, including removal of plant cover during land-clearing activities and grading. To address any losses to vegetation on site, a native seed mix (approved by El Paso County Environmental Department) will be applied promptly. Passive revegetation from seedbanks along boundaries will also assist in natural revegetation. Monitoring of ground cover and vegetation during and after construction will drive active management, including mowing and control of noxious weeds.

In terms of long-term impacts, the Solar Project requires minimal amount of impervious surface as posts, which host PV panels, are mounted directly into the ground. Disturbance on the ground is limited to where posts and other infrastructure are located (such as roads, substation, and O&M shed). Impervious surface is estimated to be less than 1% of the total Overlay area. Cumulative impacts to vegetation in the region and to the larger ecosystem is negligible.

Following decommissioning, the site will be restored to a condition available for a range of uses, including agricultural and grazing, open space, or other uses as determined by the landowner and County.

### Noxious Weeds

Per El Paso County requirements, a detailed Noxious Weed Management Plan was created to address County and State requirements for noxious weeds (see Appendix F – Noxious Weed Management Plan). The Plan is driven by an on-site survey with species and location-specific management actions. To meet standards of the El Paso County Environmental Department and best practices for weed control, a comprehensive inventory of the area was completed in June of 2018 by Pinyon Environmental, Inc. This was done to fully capture the presence and extent of noxious weeds during the growing season. Deferring weed inventories and management plans until Winter or Spring months before construction would likely result in an incomplete picture of site conditions.

Management actions for noxious plant species in the Noxious Weed Management Plan are tailored to individual species and address goals put forward in the El Paso County Noxious Weed Management Plan as well as listed (A, B, and C) species on the State of Colorado Noxious Weed List. Implementation of standard Best Management Practices for utility-scale solar projects will help identify, prevent, and treat the spread of invasive species on site and to adjacent properties.

### Wetlands

As part of the pre-development actions, a wetlands review of the area was completed by a team of qualified professional environmental consultants from E&E. The review included desktop analysis and two separate field surveys of the entire site that resulted in two reports (included in Appendix J and Appendix K).

In areas proposed for solar arrays and substation, the Project does not exhibit any overlap or impact Waters of the US and wetlands would not be impacted from development. There are non-jurisdictional hydrologic features (ditches) located on the eastern portion of the proposed project. Solar arrays would have some overlap with these features. As detailed in the report from E&E, these features do not meet the criterion for jurisdictional waters. Permitting with or approvals from the US Army Corps of Engineers (USACE) are not required for impacts to these features. The natural hydrologic conditions would be retained throughout the project, as determined by Kimley Horn in the Conceptual Drainage Report.

Wetlands and potential wetlands are exclusively identified in the central portion of the Woodmoor Water and Sanitation District No. 1 property; immediately downstream from the Calhan Reservoir. This area, while not within the main footprint of the Solar Project, was included in the review because a distribution line is required between the two main array areas.

The hydrographic connections to Calhan Reservoir that flow south (in the direction of Fountain Creek) would imply the property wetland and streams as delineated and connected Waters of the U.S. Given the presence of the planned overhead line in the area, it is important to describe the following permitting scenarios with USACE as possible pathways for construction activity planned within the boundaries of the wetland and streams:

- No impact or fill material placed in the boundaries
  - o No USACE notification, consultation or requirement
- Less than 1/10th Acre permanent fill material placed with boundaries
  - o No notification or consultation with the USACE is necessary
  - o Follow USACE Nationwide Permit General Conditions
- Greater than 1/10th Acre Impact permanent fill material placed with boundaries
  - o Notification and consultation with the USACE is required
  - o Follow USACE Nationwide Permit General Conditions

As part of the professional wetlands review, E&E completed a jurisdictional delineation to avoid wetlands impacts during construction and operations. All Solar Project activity will take place in uplands, including the upland swale identified in Appendix K – Wetland Report. Poles will be placed well-outside of wetland areas. Construction in these areas are not regulated by the USACE and therefore, do not require USACE notification or consultation. The Southern Colorado Regulatory Office of USACE reviewed the portion of the Project with potential impacts to wetlands (the transmission line interconnecting the two sites) and made a formal determination that a Department of the Army Nationwide Permit is not required. The project will

not result in the discharge of dredged/fill material into waters of the United States (see Jurisdictional Determination Action No. SPA-2018-00184-SCO). This formal determination is also included in Appendix K – Wetlands Report.

Importantly, there are two existing, high-voltage transmission lines that traverse these wetlands, immediately adjacent to the proposed distribution line. By siting the distribution line in this area, the Solar Project incorporates El Paso County policy and CPW’s recommendations for collocation of utility infrastructure wherever possible.

### **CPP 3.0 Water Resources**

- *Policy 3.1.7 Carefully analyze each new development’s proposed use of water.*
- *Policy 3.3.2 Consider the water requirements for natural areas adjacent to proposed developments*
- *Policy 3.3.4 Implement appropriate measures to protect and/or mitigate effects of point and non-point sources of pollution to surface water*
- *Policy 3.3.6 Evaluate the consequences to surface water from new development including run off of natural soils, as well as chemical compounds that may result from the proposed uses including pesticides, herbicides and hydrocarbons*

Long-term water supply is not required or necessary for the Solar Project or Substation Project. The Solar Project requires only a small amount of water during the operational phase for panel washing. Panel washing will occur on a ‘as-needed’ basis and is not expected to exceed two times a year. For washing during operations and maintenance, water will be provided by an off-site provider.

### **CPP 4.0 Historic Resources**

- *Goal 4.1 Encourage preservation and enhancement of historical resources.*
- *Policy 4.1.1 Support a systematic inventory to identify and categorize historic sites, structures and artifacts*
- *Policy 4.1.6 Encourage reporting of all artifacts unearthed during construction of roadcuts, utility lines, outside storage, water tanks and buildings.*

A desktop survey of historical and cultural resources of the area was completed as part of site due diligence and project preparation. The results, incorporated into a professionally-consulted Cultural Resources Survey, are included in Appendix J. Results show no major concerns pertaining to historic features; as none of the resources identified in the review (a desktop data review of resources within the survey boundary and a 1-mile buffer) are on the National Register of Historic Places.

The desktop review concluded that there are cultural sites and isolated finds within the Project area, including a 1-mile buffer. The sites included a prehistoric open camp (5EP4846) and a segment of the Chilcott Ditch (5EP3296.1). Both sites are recommended as not eligible for inclusion in the NRHP. Importantly, the area considered in the cultural review encompassed a significantly larger area than what is proposed in the WSEO.

The final boundary, proposed here within, overlaps with a single feature. This feature (5EP.3296.1) is identified as a historic ditch and is not eligible for inclusion in the NRHP. The historic resource slightly overlaps (less than .1 acres) with the proposed corridor for the overhead transmission line. Like the transmission lines that exists on the landscape currently, the feature will be avoided through pole placement and micro-siting (shown in Resource Map of Appendix A – WSEO Plan). The poles will span the feature and the line will be slightly north of it. The location of all other features identified by consultants are included in Appendix J – Wildlife, Wetlands, and Cultural Resource Surveys.

The Project boundary proposed is unlikely to have prehistoric or historic resources. As recommended by E&E, the professional environmental consultant that completed the review of historic resources, any discovery of prehistoric or historic resources or artifacts will be immediately reported to applicable authorities (including El Paso County and Colorado State Historic Preservation Office). E&E did not recommend additional analysis or field studies based on concerns for cultural or historic resources.

#### **CPP 5.0 Economic Development**

- *Goal 5.1 Maintain a land use environment which encourages quality economic development that is compatible with surrounding land uses.*
- *Policy 5.1.1 Encourage economic development that enhances a sense of community, provides vigor to the economy and considers the environment while contributing to the overall health of the County.*
- *Policy 5.1.6 Promote economic development alternatives, such as locating in industrial parks, which place the lowest strain on available infrastructure*

Construction will support economic development in El Paso County. The Solar Project and Substation Project will result in construction jobs and materials procurement in El Paso County as well as secondary economic impacts to local businesses in Fountain and Colorado Springs (service industry, hotels, etc.). An estimated peak of 250 workers will be employed daily during construction (on and off-site). Therefore, it is a short-term regional growth opportunity for the economy in El Paso County for 2019.

The Solar Project, as a local form of energy generation, will also support businesses in El Paso County and help meet growing energy demand. The production of renewable energy provides alternative and diversified energy choices for the local economy and Colorado Springs Utilities. Consumers and business owners in the area have a stated interest and preference for renewable energy generation to be part of the local power portfolio in the coming years. At completion, the project will power as many as 15,000 homes and business in the area. The Solar Project and Substation Project will also produce job opportunities over the life of the project, including Operations and Maintenance jobs, vegetation management, site security, and other operational jobs as needed.

The Solar Project is compatible with the Colorado Springs Utilities' electrical grid and does not require additional County infrastructure, such as public roads, water utilities, or additional emergency response capacity.

#### **CPP 6.0 Growth and Land Use**

- *Goal 6.1.b Support growth and development in the unincorporated County in a manner which reasonably limits long term public costs, provides for the development of supporting infrastructure, preserves environmental quality, provides economic opportunities, and otherwise enhances the quality of life.*
- *Policy 6.1.1: Allow for a balance of mutually supporting interdependent land uses, including employment, housing and services in the more urban and urbanizing areas of the County.*
- *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.*

The area is characterized by utility infrastructure that provide services to the citizens of Fountain and El Paso County. Utility uses in the area include the Colorado Springs Utilities Pump Station, Calhan Reservoir water storage site owned by Woodmoor Water and Sanitation District No. 1, Lower Fountain Metro Sewage facility, the nearby Broadacre Landfill, and the distant Ray Nixon Power Plant. Electrically, the area hosts

multiple high-voltage transmission lines owned by three separate utilities as well as low voltage distribution lines. These features, particularly the existing transmission lines, allow for colocation of utility infrastructure and show compatibility with existing development in this portion of the County.

The Solar Project and Substation Project are proposed in a rural area with minimal residential character and surrounding residences. Adjacent properties are primarily used for rangeland activities, while the west side of the Solar Project boundary supports low-density residential development alongside Old Pueblo Road. Operations on neighboring parcels will not be dislocated by the facility. Moreover, the west side of the Solar Project incorporates sizable buffers from property lines and residences to help to reduce visual impacts to residential properties.

- *Policy 6.1.6: Direct development toward areas where the necessary urban-level supporting facilities and services are available or will be developed concurrently.*

The site was selected because Colorado Springs Utilities' transmission infrastructure is available as a point of interconnection.

- *Policy 6.1.8: Encourage incorporating buffers or transitions between areas of varying use or density where possible.*

The Solar Project incorporates the current setback of the RR-5 zone, which is 25 feet. While the final layout is dependent on additional review by the County, the actual distance of the setback from parcel lines with residential properties on the west side generally ranges from 198-feet to 394-feet. The site has topographic features (small mounds) and a gradient that helps limit views of the eastern portion of the Solar Project from nearby residents. For residents and commuters alongside Old Pueblo Road, a significant portion of the facility is concealed from view due to its remote location and topography. Additionally, a seven-foot-tall fence will be installed around the perimeter of the Solar Project that meets standards for protective arrangements in electric supply stations defined by the National Electrical Safety Code.

- *Policy 6.1.10: Ensure that new development will not create a disproportionately high demand on public services and facilities by virtue of its location, design or timing.*

Pressure on public services from the Solar Project and Substation Project is expected to be minimal for construction, operations, and decommissioning phases of the project. Additional demand is not anticipated to stress service capacity or infrastructure that could not be met by current conditions.

Once operational, there will be little additional traffic in the area since the facilities do not require on-site workers on a regular basis. No special or additional emergency response capacity will be required as part of the construction of the facilities. A Fire Plan, resulting from coordination with the Hanover Fire Department, was created to address and minimize potential fire risks.

- *Policy 6.1.11: Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.*

The Solar Project will be added to utility infrastructure as a predominate development form in the area, including high-voltage transmission lines, a sewage facility, and a pump station. Following construction, a native seed mix will be applied to areas of disturbance. Solar arrays are low in height and generally follow the contours of the landscape.

- *Policy 6.1.15: Recognize the need for new development and redevelopment to respond to changes in demographic, market and technological conditions.*
- *Policy 6.1.16: Allow for new and innovative concepts in land use design and planning if it can be demonstrated that off-site impacts will not be increased, and the health, safety and welfare of property owners and residents will be protected.*

Solar energy facilities are a new development type in El Paso County. The PV technology planned for the facility consists of proven technology to minimize risk and impacts. The facility is designed to be low-impact with ground resources, water, and adjoining properties. Based upon preliminary drainage studies and plans, there will be little to no additional impact to groundwater resources. Existing and historic drainage patterns will be retained.

In terms of safety, the Solar Project and Substation Project will be protected by a perimeter fence. Access will be controlled at each access point. The layout of the Solar Project will allow for vehicular access on the perimeter of the arrays and between PV modules for security, operations, and maintenance.

A Fire Prevention and Protection Plan has been prepared for the Solar Project and Substation Project. Vegetation will be mowed or removed during growing season to minimize fire risk. Modules are designed to be resistant to fire and the solar module racking system uses non-combustible steel and aluminum. The Applicant has been in communication with Hanover Fire District to discuss design features, access, and safety of the proposed facilities and adjacent property owners. Construction will follow site-specific recommendations, including additional fire monitoring during heightened fire danger. The Solar Project's design allows for firetruck access and vegetation management around its perimeter (see Appendix N – Fire Prevention & Protection Plan).

- *Policy 6.2.1: Fully consider the potential impact of proposed zone changes and development on the integrity of existing neighborhoods.*

The addition of solar panels on the Woodmoor Water and Sanitation District No. 1 property will result in some visual impacts to residential properties on the west side of the Solar Project. The Solar Project follows existing contours of the land and the height of the panels are not higher than 8 feet from grade. The Applicant hosted an Open House in April of 2018 where visual impacts were voiced as a potential concern. Following this meeting, the Applicant more than tripled the size of setbacks in some places and rearranged solar arrays to decrease visual contrast. As it stands, the proposed Solar Project has a sizable buffer from the parcel boundary of neighboring residential properties (greater than 500 feet in places). Visual renderings (Appendix K – Visual Impact Study) show the Solar Project is not visible from City of Fountain neighborhoods to the north.

- *Policy 6.2.10: Utilize buffer zones to provide mutually compatible transitions between neighborhoods and adjoining development with differing uses or densities.*

The Project was modified to increase buffer distance on the west-side of the facility.

- *Policy 6.6.6: Consider the development of cooperative building, zoning and infrastructure standards in areas that interface with municipalities and military properties.*

The Project is in unincorporated El Paso County and is not adjacent to a municipality or military property. The Federal Aviation Administration (FAA) reviewed potential impacts to nearby military facilities and

operations. A Determination of No Hazard to air navigation was secured for the Project (see Appendix R—Determination of No Hazard).

### **CPP 7.0 Special and Unique Land Uses**

- *Policy 7.5.1: Encourage the multiple uses of utility sites and corridors where feasible and appropriate.*

A major factor in the selection of the property was colocation with existing utility infrastructure and transmission corridors. The Project will not require a new transmission system. The distribution line between the two Project areas is a medium-voltage power feeder that will be stepped up to the higher transmission voltage by a transformer at the Solar Project's substation.

### **CPP 8.0 Parks, Trails, and Open Space**

Land included in the WSEO are not open to the public. Additionally, Calhan Reservoir is not used for public recreation activities. No trails or recreation areas are adjacent to the Project. The area is outside the current El Paso County park system, including areas covered by the Fountain Creek Regional Park Master Plan. Furthermore, the area is not identified as a Potential Regional Park, Potential Nature Center, or Candidate Open Space by the El Paso County Parks, Trails and Open Space Master Plan

The 2013 El Paso County Parks, Trails and Open Space Master Plan does identify a proposed bicycle route on the western side of the project area. However, unlike other Proposed Primary Regional Trails, this proposed route does not have an identified name or development schedule. Furthermore, the Project is not incompatible with a potential bicycle route as both uses can take place in the area through micro-siting or other land development options.

### **CPP 9.0 Transportation**

As stated previously in the Introduction, access to the Project is from Birdsall Road and Squirrel Creek Road. A traffic analysis was completed in preparation for the Solar Project and Substation Project (Appendix J—Traffic Impact Analysis). At the start of construction, approximately 25 personnel will be onsite during the civil construction activities. This will ramp up to approximately 250 construction workers during peak construction activities with an additional 15 delivery trucks and 10 water trucks per day. After the Palmer Solar Project has been constructed, the number of trips generated by the solar plant is expected to be significantly less than during the construction period. The Substation Project and the Solar Project will be unmanned, with only weekly site visits by operational personnel, not expected to exceed 10 trips per month.

- *Policy 9.1.1 Identify and preserve the functional integrity of the corridors necessary to meet the County's potential future surface transportation needs.*

The Solar Project and Substation Project do not exhibit any features that conflict with existing transportation designations or uses by County, State, or Federal plans. In addition, the Solar Project and Substation Project do not conflict with El Paso County's Adopted 2040 Major Transportation Corridor Plan and are outside the Pikes Peak Area Council of Government's boundary for regional transportation planning. For these reasons, the proposed developments are largely compatible with existing and future transportation uses in El Paso County.

Based on a review of long-term El Paso County planning documents, however, the Solar Project falls in the vicinity of a 2060 Corridor Preservation expressway. The 2060 Corridor Preservation Map provided by El Paso County identifies a new expressway between Interstate-25 and Squirrel Creek Road. As stated in the plan:

“Right-of-ways on these corridors should be preserved and development setback should be required to respond to potential development and growth as it occurs. The preservation plan *does not imply that all of the facilities will be improved to the level indicated.* If anticipated developments do not happen, a particular long-range roadway expansion may not be needed.” (Emphasis added)

The proposed Solar Project overlaps with a small portion of the identified 2060 Corridor. Given the long planning horizon for this corridor, there are several potential solutions to support local development, including micro-siting of the corridor further north. It is also important to note that as part of decommissioning actions for the Solar Project, the land is returned to a natural condition suitable for a range of development activities, including roadways. The schedule of the facility may align with long-term transportation planning in El Paso County.

- *Policy 9.3.1 Place a high priority on maintaining the environmental condition when planning or building roads.*

No new public roads will be required for the Solar Project or Substation Project. The Operations and Maintenance roads are private and are already in use for transportation across the site.

- *Policy 9.3.4 Provide for noise attenuation and visual screening along major transportation corridors by incorporating techniques including setbacks, buffers, berms, and vegetation treatments.*

The Overlay does not include major transportation corridors. However, setbacks, buffers, natural berms, and vegetation treatment will be present along the west access of the Solar Project.

#### **CPP 10.0 Water and Wastewater Facilities**

- *Policy 10.2.2 Carefully consider the availability of water and wastewater services prior to approving new development.*

El Paso County’s Water Master Plan has demonstrated that use and availability of water is a frequent resident concern and is commonly expressed in public hearings regarding land use decisions.<sup>8</sup> The proposed Solar Project is a low water-use development. Water from an off-site source is required for construction (including dust suppression, soil compaction, and revegetation). However, operational requirements are minimal and limited to occasional panel washing (if needed). Water will be brought in from local water purveyors.

#### **CPP 11.0 Drainage and Flood Protection**

- *Policy 11.1.4 Require development plans to effectively address both quantitative and qualitative impacts of drainage within the project site*
- *Policy 11.1.8 Promote planning approaches which allow for interim solutions for drainage problems in less developed basins*
- *Policy 11.4.7 Limit new development in and modification of flood plains in accordance with regionally adopted flood-plain regulations*

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<sup>8</sup> <https://planningdevelopment.clpasoco.com/wp-content/uploads/ResourcesReference/MasterPlan/RFP-17-063-Water-Master-Plan-DSD.pdf>

FIRM Panel 080059 indicates that the Solar Project and Substation Project will not be in a special flood hazard area (sited in Zone X which covers areas outside of 500-year floodplains). Therefore, a floodplain use permit is not required. Erosion and sediment control will be accomplished through the application of Best Management Practices (BMPs) detailed in a Stormwater Management Plan (SWMP) that will be developed at the time of the Site Plan Review.

The Solar Project requires minimal impervious surfaces. Grading work will follow waterflows of major and minor basins and meet compliance with the El Paso County Drainage Criteria Manual. Since water will follow existing flows and patterns, no major changes are expected following construction.

### **CPP 12.0 Other Services and Utilities**

- *Goal 12.4 Reduce the adverse impacts and maximize the efficiency of energy generation, transmission and distribution systems.*
- *Policy 12.4.1: Ensure that electric, natural gas, petroleum and other facilities (generation, distribution, pipelines and storage) are located in a manner which is safe, environmentally sensitive and which does not unreasonably burden particular property owners with adverse impacts.*
- *Policy 12.4.3: Promote energy efficiency through careful siting, design and landscaping, especially the use of passive solar.*
- *Policy 12.4.5: Encourage the use of existing easements for utility installation in order to reduce negative impacts in other areas.*
- *Policy 12.4.7: Allow for the effective use of renewable energy resources especially where it minimizes the local impacts on neighboring properties and non-renewable energy use.*

The Solar Project is colocated with existing transmission infrastructure owned by Colorado Springs Utilities and other utility providers in Colorado. As a renewable energy system, the new energy generation resource will meet Utilities' needs, while limiting emissions and pollution in El Paso County. Furthermore, the Solar Project and Substation Project will not disrupt the operations of adjacent property owners. The site was selected in part because of lack of conflict with sensitive areas and resources in Colorado, such as Threatened or Endangered Species or Potential Conservation Areas.

### **CPP 13.0 Housing**

The proposed Overlay does include a housing component.

### **CPP 14.0 Public Finance District**

- *Policy 14.1.2: Encourage coordination among existing and potential future special districts, municipalities, utilities, and other entities in order to provide needed facilities and services in the most cost-effective, equitable and environmentally sensitive way possible.*

A PPA has been signed for the Palmer Solar Project. This agreement provides a development partnership between Palmer Solar LLC and Colorado Springs Utilities to provide electricity in a cost-effective and environmentally-sensitive way.

### **CPP 15.0 Land Development Regulations**

The WSEO is a unique planning tool created by El Paso County for utility-scale solar and wind energy generation projects. This application adheres to the process laid out for the WSEO designation. Moreover, the Applicant has attended pre-application meetings with El Paso County, provided opportunities for public engagement, and committed to continued coordination with El Paso County, the public, and other agencies throughout the approval process (WSEO, 1041, and Site Plan Review).

Letters were mailed to property owners in March 2018 notifying them of the project and providing contact information for any questions about the project. The Applicant has met with the owners of these residences and has incorporated their recommendations in the Solar Project design. Based on the feedback received at the Open House meeting in April 2018, the following adjustments were made to the Solar Project to address potential concerns raised by El Paso County citizens:

- Increased setbacks beyond 25 feet on western boundary
- Better demonstration of Solar Project avoidance of topographic features in map products
- Removing arrays south of Birdsall Road
- Further committing to best management practices for fire prevention
- Further committing to retention of existing surface and water runoff conditions

The Solar Project and Substation Project will abide by all relevant El Paso County land development regulations and conditions of approval.

#### **4. Existing and proposed facilities, structures, roads, etc.**

Existing uses: The area within the WSEO boundary includes Colorado Springs Utilities transmission lines, a private road, and rangeland infrastructure. The eastern half of the Solar Project includes a distribution line owned by Mountain View Electric and underground sewage/water lines. These features are accounted for and/or avoided.

Proposed uses: Principal uses for the WSEO include solar panels and substations. Accessory uses include transmission and distribution lines (overhead or underground), operations and maintenance facilities, DC and AC inverters, MET stations, medium-voltage transformers, circuit breakers and disconnect switches, communication systems, access roads, and fencing, and other structures needed to support identified principal uses.

#### **5. Deferral and waiver requests (if applicable) and justification**

The Applicant requests the following deferrals:

- *Interconnection Agreement:*
  - o Timing: Defer until executed Agreement (expected by December 2018).
  - o Justification: To meet development schedule, the Applicant requests that El Paso County review the application in advance of the Interconnection Agreement. The Applicant expects the Agreement to be finalized within the review period of the WSEO application and before the Board of County Commissioners meeting. However, Applicant requests that the County accept proof of Interconnection Agreement at any time throughout the permitting process, including the 1041 and Site Plan Review. A letter from Colorado Springs Utilities is included in the application package to demonstrate progress on the Interconnection Agreement. The

Applicant will provide relevant updates as needed to the Planning and Community Development Department regarding timing of a finalized agreement.

- *Colorado Department of Health and the Environment Permits (including Colorado Air Pollution Emission Notice and Construction Stormwater Permit)*
  - o Timing: Defer until the time of Site Plan Review and Approval
  - o Justification: Securing the APEN does not take a substantial amount of time with the State of Colorado and the Applicant prefers to provide clarity on construction schedule. The Applicant has successfully secured, maintained, and closed-out listed environmental permits with the State of Colorado for past projects.
- *Development Mitigation Agreement:*
  - o Section 4.3.5(D)(2) of the El Paso County Land Development Ordinance states that a WSEO requires a zoning applicant to put forward a development mitigation agreement and associated fee for impacts to County infrastructure; namely roads. To address this component of the El Paso County policy, a Road Condition Survey was completed by the Applicant for the proposed Haul Route and submitted to the Planning and Community Development Department as part of the application package. Photographs and videos were taken of existing roads and a written narrative was prepared by a third-party consultant to describe conditions.

The Applicant requests a waiver of any mitigation bonds tied to roadwork or improvement of public roads. Anticipated impacts from construction are expected to be minimal. The impact on traffic and roads will be short-term (about 9 months) and not significant, since County roads are designed in this area to accommodate estimated increases. Applicant commits to repairing and restoring any road features whose condition deterioration is tied to construction traffic. Applicant will communicate and coordinate with the County on all traffic related issues pertaining to safety and well-being of citizens and commuters. Applicant requests that a decision on a Development Mitigation Agreement is deferred until the Site Plan Review and a waiver is considered at that time.

## **6. The purpose and need for the change in zone classification**

Purpose: The purpose of the WSEO is to allow for the primary and accessory uses listed in the application. The Palmer Solar Project will be a reliable, economical, and responsible energy resource for the region.

Need: The Palmer Solar Project will provide solar-generated electricity from a site in El Paso County to meet Colorado Springs Utilities' existing and future electricity needs. The zoning overlay is necessary to allow for construction of the Palmer Solar Project, which is necessary for Colorado Springs Utilities' to meet goals outlined in its Integrated Resource Plan. Important drivers for the Solar Project and Substation Project include: affordable and reliable technology, the Colorado Renewable Energy Standard, Colorado Springs Utilities Integrated Resource Management Plan, and demand in El Paso County.

## **7. The total number of acres in the requested area**

The total area of the proposed WSEO is 711 acres.

## **8. The total number of residential units and densities for each dwelling unit type**

There are no residential units or dwellings included in the WSEO application.

## **9. The number of industrial or commercial sites proposed**

One solar energy generation facility (including project-side substation) and one utility substation is proposed for the WSEO. Project maximums based on current schedule and design assumptions:

- Site Capacity: 60 MW (AC) at Point of Interconnection
- Maximum number of 34.5 kV overhead power line poles: 30
- Maximum length of 34.5 kV overhead power line (feet): 6045 ft
- Maximum number of 230 kV overhead power line poles: 5
- Maximum length of 230 kV overhead power line (feet): 1700 ft
- Maximum MET Towers: 2
- Maximum Fence length: 40,000 LF for solar site, 800 LF for Palmer Substation, 3300 LF for Williams Creek Substation
- Maximum number of solar rows: 3804
- Maximum number of power stations: 21
- Number of substations: 2 (Palmer Substation and Williams Creek Substation)
- Number of access points: 2
- Number of temporary parking/staging areas: 8 (these areas will be used for operations and maintenance temporary parking)

#### **10. Approximate floor area ratio of industrial or commercial uses**

The only structure proposed is the Operations and Maintenance shed. The dimensions for the unmanned shed are approximately 24' x 20' (see Appendix B—Elevations Plans).

#### **11. The number of mobile home units and densities**

There are no mobile home units included in this WSEO application.

#### **12. Typical lot sizes: length and width**

There are no new proposed lots included in this WSEO application. Any future lots will be subject to underlying zoning standards.

#### **13. Type of proposed recreational facilities**

There are no proposed recreational facilities included in this WSEO application.

#### **14. If phased construction is proposed, how will it be phased**

The Solar Project and Substation Project will be constructed concurrently in one phase.

#### **15. Anticipated schedule of development**

The schedule is ultimately determined by permitting with El Paso County. Construction is currently targeted for the first quarter of 2019 in a single phase, as indicated below.

| Milestone   | Start         | Finish         |
|---|---------------|----------------|
| 1. Permit Approvals   | July 2018     | February 2019  |
| 2. Pre-construction (surveys, engineering)  | November 2017 | February 2019  |
| 3. Site Improvements, Substation and Project Construction                               | March 2019    | November 2019  |
| 3.1 Civil Construction (site grading, roads)  | March 2019    | September 2019 |
| 3.2 Post Rack Module Install  | April 2019    | November 2019  |
| 3.3 Electrical Install  | April 2019    | November 2019  |
| 3.4 Construction of Interconnection Facilities<br>(including Williams Creek Substation) | April 2019    | September 2019 |
| 4. Initial Energization   | October 2019  |                |
| 5. Plant Commercial Operation   |               | December 2019  |
| 6. Seeding and close out Stormwater Permit  | March 2019    | July 2020      |

#### 16. How water and sewer will be provided

No water or sewer service is needed for the operation of the Solar Project or Substation Project. Water needed for construction will be trucked in from a local water provider within El Paso County. Temporary lavatory facilities will be provided and maintained during construction.

#### 17. Proposed uses, relationship between uses and densities

Dimensional standards are described in Section III of this application (see page 6).

The solar PV system will be composed of photovoltaic modules that convert the sun's radiant energy into electricity. The modules will be mounted on horizontal single-axis tracking racks that rotate from east to west to track the sun over the course of each day. The modules will be electrically connected in series strings to achieve a system DC design voltage of 1500V DC. Cables from the module strings will be run via cable trays or messenger wire to DC combiner boxes located strategically throughout the field. The DC combiners will connect multiple arrays in parallel, from which point the electricity will be conducted via cables to the inverters, which convert the DC power generated by the modules to grid-synchronized AC power. Step-up transformer(s) will raise the inverter AC output voltage, and the Solar Project output will pass through an AC collection system to a substation and ultimately to the point of interconnection.

A plant monitoring and control system will maximize energy generation while minimizing the downtime associated with planned and forced outages. The system will also provide for the necessary control and dispatching functionality required by sophisticated utilities and grid operators. The supervisory control and data acquisition ("SCADA") system delivers a high-level overview of plant operations in addition to environmental sensing and real-time electrical data associated with subsystems down to the individual array. More importantly, the system is designed to provide operators with an alert of important events including communications outages, inverter failures, and breaker trips.

#### 18. Areas of required landscaping

Required landscaping will be limited to vegetation management: reseeding, mowing, and control of noxious weeds. The Applicant has identified an initial seed mix for active revegetation. The seed mix includes common low-lying grass species that have a high likelihood of reestablishment following disturbance to address dust and fire prevention on the site. Given the rural and agrarian nature of the adjacent properties, seedbanks in the area will assist in passive revegetation.

**19. Proposed access locations**

Access is proposed in two locations: from the west side off Birdsall Road and from the east off an unnamed road that connects with Squirrel Creek Road (see Haul Route Plan in Appendix H – Traffic Memo).

**20. Approximate acres and percent of land to be set aside as open space, not to include parking, drive, and access roads**

No open space designations are set aside within the boundary of the WSEO. A significant portion of the Woodmoor Water and Sanitation District No. 1 property will be off-limits to future solar energy development and kept in rangeland condition.

Appendices\*

- A – WSEO Overlay Plan
- B – Elevation Plans
- C – Geotechnical Report
- D – Lighting Plan
- E – Noise Plan
- F – Noxious Weed Management Plan
- G – Preliminary Drainage Report
- H – Traffic Memo
- I – Visual Impact Analysis
- J – Wildlife, Wetlands, and Cultural Resource Surveys
- K – Wetlands Delineation Report
- L – Fire Prevention & Protection Plan
- M – Colorado Parks and Wildlife Consultation Letter
- N – Operations and Maintenance Plan
- O – Decommissioning Plan
- P – Determination of No Hazard from Federal Aviation Administration
- Q – Road Condition Survey

\* Note: this list does not represent the full extent of application materials. Appendices are limited to those materials referenced here within.





**LEGAL DESCRIPTION:**  
WSEO LEASE AREA:

A PARCEL OF LAND LOCATED WITHIN SECTIONS 22, 25, 26, 27, 28, & 35, TOWNSHIP 16 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 26, MONUMENTED A 3" ALUMINUM CAP, STAMPED "RLS 1037." 0.5 ABOVE GRADE; THENCE ALONG THE EAST LINE OF SAID SECTION 35, S00°45'31"E. (BASIS OF BEARINGS IS THE WEST LINE OF THE NORTHWEST ¼ OF SECTION 27, TOWNSHIP 16 SOUTH, RANGE 65 WEST OF THE 6TH P.M., BEING MONUMENTED AT THE NORTH END BY A FOUND 2-1/2" ALUMINUM CAP STAMPED "PLS 22095", FLUSH WITH GRADE, AND AT THE SOUTH END BY A FOUND 2-1/2" INCH ALUMINUM CAP STAMPED "PLS 22095", FLUSH WITH GRADE, AND MEASURED TO BEAR S00°50'46"E, A DISTANCE OF 2643.10 FEET), A DISTANCE OF 2641.45 FEET, TO THE EAST ¼ CORNER OF SAID SECTION 35, MONUMENTED BY A 3-1/2" ALUMINUM CAP, STAMPED "RLS 10377" 0.5 FEET ABOVE GRADE; THENCE ALONG THE SOUTH LINE OF THE NORTHEAST ¼ OF SAID SECTION 35, S88°52'48"W, A DISTANCE OF 430.65 FEET; THENCE LEAVING SAID SOUTH LINE, N00°07'13"W, A DISTANCE OF 1.76 FEET, TO THE POINT OF BEGINNING; THENCE S88°50'09"W, A DISTANCE OF 2289.09 FEET; THEN N11°10'51"W, A DISTANCE OF 75.08 FEET; THENCE N00°00'00"E, A DISTANCE OF 1894.46 FEET; THENCE N52°55'53"E, A DISTANCE OF 500.47 FEET; THENCE N09°18'16"E, A DISTANCE OF 454.40 FEET; THENCE N21°02'54"E, A DISTANCE OF 511.40 FEET; THENCE N04°19'45"W, A DISTANCE OF 1048.41 FEET; THENCE N48°56'57"W, A DISTANCE OF 1247.15 FEET, THENCE N00°31'16"W, A DISTANCE OF 122.37 FEET; THENCE S89°12'01"W, A DISTANCE OF 5600.78 FEET; THENCE S32°26'06"W, A DISTANCE OF 226.78 FEET; THENCE S17°21'20"W, A DISTANCE OF 138.27 FEET; THENCE S32°20'34"W, A DISTANCE OF 335.64 FEET; THENCE S36°05'25"W, A DISTANCE OF 819.21 FEET; THENCE S40°56'25"W, A DISTANCE OF 527.08 FEET; THENCE S88°57'19"W, A DISTANCE OF 527.08 FEET; THENCE N00°57'51"W, A DISTANCE OF 86.61 FEET; THENCE S89°04'47W, A DISTANCE OF 755.74 FEET; THENCE N08°32'57"W, A DISTANCE OF 2563.29 FEET; THENCE N35°16'33"W, A DISTANCE OF 424.03 FEET; THENCE N01°00'02W, A DISTANCE OF 990.76 FEET; THENCE N89°15'37"E, A DISTANCE OF 1288.31 FEET; THENCE N01°18'23"W, A DISTANCE OF 1084.07 FEET; THENCE N10°46'45"E, A DISTANCE OF 642.64 FEET; THENCE N00°05'50"E, A DISTANCE OF 829.90 FEET; THENCE N90°00'00"E, A DISTANCE OF 761.39 FEET; THENCE S48°17'37"E, A DISTANCE OF 66.52 FEET; THENCE S68°00'13"E, A DISTANCE OF 316.80 FEET; THENCE S59°59'53"E, A DISTANCE OF 106.89 FEET; THENCE S39°58'24"E, A DISTANCE OF 179.27 FEET; THENCE S42°41'29"E, A DISTANCE OF 136.70 FEET; THENCE S07°18'06"E, A DISTANCE OF 1436.17 FEET; THENCE S28°26'26"W, A DISTANCE OF 536.12 FEET; THENCE S34°48'50"W, A DISTANCE OF 148.00 FEET; THENCE S56°06'29"W, A DISTANCE OF 141.04 FEET; THENCE S00°00'00"E, A DISTANCE OF 141.02 FEET; THENCE S05°11'54"E, A DISTANCE OF 814.71 FEET; THENCE S79°13'15"E, A DISTANCE OF 206.85 FEET; THENCE S14°55'42"E, A DISTANCE OF 38.32 FEET; THENCE S70°20'03"E, A DISTANCE OF 1956.03 FEET; THENCE S00°00'00"E, A DISTANCE OF 432.68 FEET; THENCE N89°12'01"E, A DISTANCE OF 4051.24 FEET; THENCE N00°31'16"W, A DISTANCE OF 230.97 FEET; THENCE N89°22'23"E, A DISTANCE OF 460.00 FEET; THENCE N00°37'37"W, A DISTANCE OF 675.42 FEET; THENCE N89°12'01"E, A DISTANCE OF 2770.07 FEET; THENCE S00°46'02"E, A DISTANCE OF 5280.68 FEET; TO THE POINT OF BEGINNING.

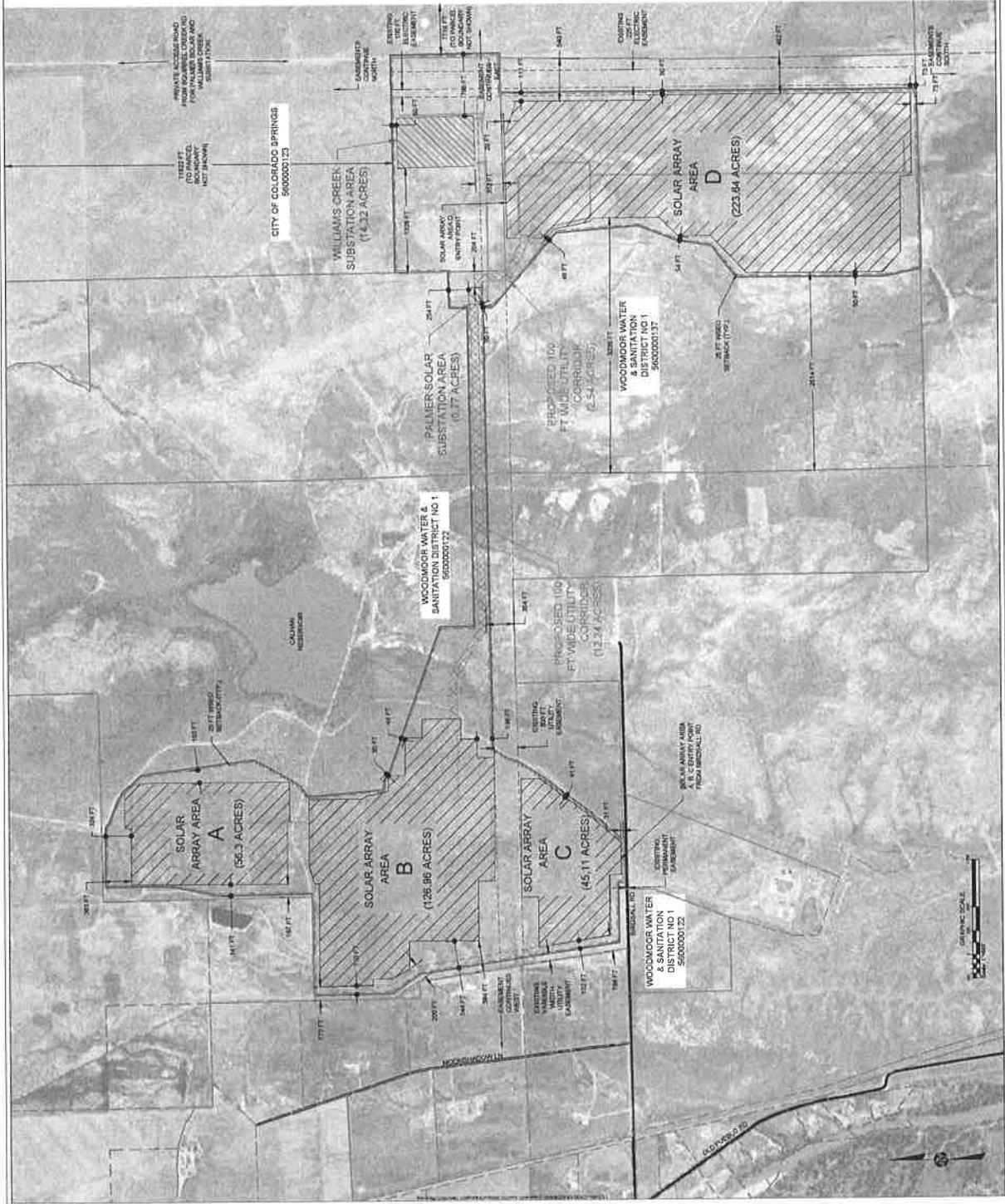
CONTAINING 30,970,372 SQUARE FEET OR 710.982 ACRES, MORE OR LESS.

|  |  |  |           |                          |
|--|--|--|-----------|--------------------------|
|  | <p>WIND/SOLAR ENERGY GENERATION OVERLAY PLAN<br/>         POD EA NUMBER: EA18149<br/>         FILE NUMBER: WSEO181</p> | <p>PRELIMINARY,<br/>         NOT FOR<br/>         CONSTRUCTION</p> | <p>03</p> | <p>Legal Description</p> |
|--|--|--|-----------|--------------------------|

| Symbol            | Description                     |
|-------------------|---------------------------------|
| --- (dashed line) | WASCO BOUNDARY                  |
| --- (dashed line) | PARCEL LINES                    |
| --- (dashed line) | PARCEL LINES WITH WASCO OVERLAY |
| --- (dashed line) | ROAD CENTERLINES                |
| --- (dashed line) | RMS RESIDENTIAL, RURAL, 5 ACRES |
| --- (dashed line) | RA, AGRICULTURAL, 5 ACRES       |
| --- (dashed line) | EXISTING WASCO OVERLAY          |
| --- (dashed line) | PALMER - WILLIAMS CREEK WREO    |



- LEGEND**
- WBEQ BOUNDARY
  - - - 25 FT WBEQ SETBACK
  - - - - - FENCE LINE
  - - - - - 2 FENCE LINES WITH WBEQ OVERLAY
  - - - - - ROAD CENTERLINE
  - - - - - EXISTING ELECTRIC OR COMBINED UTILITY EMBANKMENT
  - - - - - WBEQ SUBSTATION AREA
  - - - - - WBEQ UTILITY CORRIDOR
  - - - - - WBEQ SOLAR ARRAY AREA
  - - - - - PROPOSED REC ACCESS ROAD
  - - - - - DISTANCE FROM INFRASTRUCTURE TO PARCEL LINES
  - - - - - DISTANCE FROM INFRASTRUCTURE TO WBEQ BOUNDARY











# EL PASO



# COUNTY

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

STAN VANDERWERF  
LONGINOS GONZALEZ  
PEGGY LITTLETON

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting  
Tuesday, December 18, 2018  
El Paso County Planning and Community Development Department  
2880 International Circle, Hearing Room  
Colorado Springs, Colorado 80910

**PRESENT AND VOTING: JIM EGBERT, BRIAN RISLEY, ALLAN CREELEY, JOAN LUCIA-TREESE, TOM BAILEY, GRACE BLEA-NUNEZ, KEVIN CURRY, JANE DILLON, AND SHARON FRIEDMAN**

**PRESENT AND NOT VOTING: NONE**

**ABSENT: PETER AURICH**

**STAFF PRESENT: CRAIG DOSSEY, MARK GEBHART, GABE SEVIGNY, NINA RUIZ, MINDY MADDEN, JEFF RICE, GILBERT LAFORCE, BECK GRIMM, AND EL PASO COUNTY ATTORNEY COLE EMMONS**

**OTHERS PRESENT WHO SPOKE AT HEARING: STUART COLES, ERIC GUNDERSON, JUDY VON AHLEFELDT, TERRY STOKKA, ROBERT DUNGAN, CARL TATUM, HAROLD SNOWDEN, VICTORIA EVANS, ANN HANNAH**

## Report Items

### Planning and Community Development Department – Mr. Dossey

- A. The next scheduled Planning Commission meeting is on Tuesday, January 15, 2019. There is no meeting on Tuesday, January 1, 2019.
- B. Item 2C Claremont Commercial Filing No. 2 will not be asking for water sufficiency until Final Plat.
- C. Item 5 Land Development Code Amendment for Small Cell and CMRS Towers has been withdrawn.



D. **Mr. Dossey** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting.

**1. Consent Items**

A. **Approval of the Minutes – December 4, 2018**  
The minutes were approved as presented. (9-0)

B. **P-18-004**

**SEVIGNY**

**MAP AMENDMENT (REZONE)  
HUNSINGER REZONE**

A request by Hunsinger Development Corporation for approval of a map amendment (rezoning) of 8.3 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The property is located approximately 0.4 miles east of the Voyager Parkway and Old Ranch Road intersection. (Parcel No. 62280-04-012)

**PC ACTION: LUCIA-TREESE MOVED/CURRY SECONDED TO APPROVE CONSENT ITEM NO. 2B, P-18-004 FOR A MAP AMENDMENT (REZONE) FOR HUNSINGER REZONE UTILIZING RESOLUTION PAGE 27 WITH TWO (2) CONDITIONS AND ONE (1) NOTATION (MORE PARTICULARY DESCRIBED ON PAGE 18-067) AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (9-0).**

C. **SP-17-004**

**RUIZ**

**PRELIMINARY PLAN  
CLAREMONT COMMERCIAL FILING #2**

A request by Case L G & Nancy Barber Starr for approval of a preliminary plan to create 16 commercial lots. The 13.72 acre property is zoned CS (Commercial Service) and is located northwest of the Marksheffel Road and Highway 24 intersection. (Parcel Nos. 54054-12-003, 54054-12-002, 54054-12-001, 54081-01-053)

**PC ACTION: RISLEY MOVED/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM NO. 2C, SP-17-004 FOR A PRELIMINARY PLAN FOR CLAREMONT COMMERCIAL FILING NO. 2 UTILIZING RESOLUTION PAGE 25 WITH FOUR (4) CONDITIONS AND THREE (3) NOTATIONS (MORE PARTICULARY DESCRIBED ON PAGE 18-068) AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY**

**COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (9-0).**

**D. MS-18-001**

**SEVIGNY**

**MINOR SUBDIVISION  
YARBROUGH MINOR SUBDIVISION**

A request by Richard and Amy Yarbrough for approval of a minor subdivision to create one (1) single-family residential lot. The 1.72 acre property is zoned RR-0.5 (Residential Rural) and is located southwest of Highway 105, approximately 1.5 miles west of Interstate 25. (Parcel No. 71090-00-053)

**PC ACTION: BAILEY MOVED/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM NO. 2D, MS-18-001 FOR A MINOR SUBDIVISION FOR YARBROUGH MINOR SUBDIVISION UTILIZING RESOLUTION PAGE 19 WITH NINE (9) CONDITIONS AND ONE (1) NOTATION (MORE PARTICULARLY DESCRIBED ON PAGE 18-069) WITH A FINDING OF WATER SUFFICIENCY FOR QUALITY, QUANTITY, AND DEPENDABILITY AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (9-0).**

**E. WSEO-18-001**

**PARSONS**

**PALMER WILLIAMS CREEK SOLAR ENERGY PROJECT  
WIND AND/OR SOLAR ENERGY GENERATION PLAN  
OVERLAY DISTRICT REZONE**

A request by Colorado Springs Utilities and Palmer Solar, LLC, for approval of an overlay rezoning for the Palmer-Williams Creek Solar Energy Project pursuant to Section 4.3.5, Wind and/or Solar Energy Generation Plan Overlay District (WSE-O), of the El Paso County Land Development Code. The approximately 711-acre overlay rezoning area is within the RR-5 (Residential Rural) zoning districts and is generally located four (4) miles south of the City of Fountain, east of Old Pueblo Road. The applicant is proposing to overlay rezone the area to allow for an approximately 60 MW solar energy generation facility. The WSE-O rezoning includes an array site, associated equipment, meteorological monitoring devices, electrical collection devices, eight (8) lay down areas, two (2) substations, and an electrical transmission line corridor. (Parcel Nos. 56000-00-122, 56000-00-137, and 56000-00-123)

**Mr. Curry** – Relative to the process, the underlying zoning is RR-5 and put the overlay on, does that authorize the installation of solar energy infrastructure?

**Ms. Parsons** – The WSE-O is an overlay and does not change the underlying zone. The applicant will have to submit a 1041 permit application. The overlay identifies the very specific uses with the wind and solar energy generation projects. This is for a solar energy facility only.

**Mr. Egbert** requested that this item be pulled to the Regular Item section since there are participants in the audience that would like to speak to it.

**Ms. Parsons** introduced the project and asked Mr. Emmons to go over the Review Criteria for WSE-O applications.

**Ms. Parsons** introduced **Mr. Stuart Coles** to give a presentation and answer questions. His presentation is on permanent file.

**Mr. Creely** – CSU wants 20% of renewable energy by 2020? Answer from **Mr. Coles** – That's correct. This project would take them 10% more to that goal.

**Ms. Friedman** – I'm a vegetation person not an electric person. We have some wind farms and there's been concern about electricity in the air and causing physiological issues. Can you explain if that is a concern? Answer from **Mr. Coles** -- There are not measureable EMF sources with solar array like there may be with wind turbines.

**Mr. Bailey** – What is the estimated time of construction? Answer from **Mr. Coles** – 9 months.

**Mr. Bailey** – How do tax revenues and fees come in to play? Answer from **Mr. Coles** – It would come from property taxes assessed at a different level.

**Mr. Risley** – With regard to de-commissioning, solar panels have degradation over time, I believe 20 years from your presentation. Could you explain what the process looks like in the decommission process? Answer from **Mr. Cole** – The Power Purchase Agreement (submitted with the 1041) determines the time line for decommissioning. The Decommissioning Plan will include recycling best practices would be considered, passive and active restoration would occur, all infrastructures would be removed, and a seed mix would be installed for vegetation.

**Mr. Emmons** – My recollection is that the service did not designate critical habitat for the Prebble’s Mouse habitat. They did list the series for that area, so I will be looking for a clearance letter in regards to the Prebble’s Mouse habitat from the US Fish and Wildlife. **Mr. Cole** – There have been no additional requests for a clearance letter.

**Mr. Curry** – Do we need the clearance letter during the overlay rezone?

**Mr. Emmons** – I mainly want them to know that I have concerns with this area and want those addressed. The approval of the 1041 permit will require that letter.

**Mr. Dossey** – You can put a condition on both this application as well as the 1041 application requiring that we get that clearance letter. In doing so, we can’t authorize a construction permit until we get that clearance letter.

**Ms. Parsons** – The applicant has submitted a riparian and wildlife assessment prepared by a qualified professional. The U.S. Fish and Wildlife has provided a letter stating that no concerns or critical habitat has been identified within the studied area. Additionally, the area which the solar arrays are physically proposed is not within the riparian corridor.

**Mr. Emmons** – **My quick read of the letter provided by the U.S. Fish and Wildlife is that the letter does meet the requirement regarding the Prebble’s Mouse habitat for the purposes of this rezoning application.**

**Ms. Parsons** gave her full presentation to the Planning Commission and answered questions.

**Mr. Jeff Rice** gave his engineering report/finding regarding drainage and transportation.

**Mr. Egbert** – Are there any public maintained roads within this project area? **Mr. Rice** – There are no major concerns to the roads due to low impact traffic. Birdsell Road and Old Pueblo Roads are paved.

**IN FAVOR -- NONE**

**IN OPPOSITION**

**Mr. Robert Dungan** – I live on Moonshadow Lane. Woodmoor Water and Sanitation District bought this ranch primarily for the water rights. Their intention is to take the water from the area and build a pipeline and ship it to residents in Woodmoor. They are drying up the land so they can use it elsewhere. This ties into the site location where they want to build the solar array. The area is not flat as they represented; it’s quite sloped.

That's significant to us because the water runs off the south facing area and runs right to our properties. We will have increased velocity from the solar panel site and overwhelm a couple levies and flood our homes. (Pictures shown of past flooding) The levies were overcome with twice this year, so to increase the volume even more it'll flood our homes. I understand there are plans to mitigate; I just don't think they are prepared to deal with the amount of water we are anticipating. The elevation difference is only about 10 feet. They said there would be 1300 feet of berm to help stop the water, but this area spans over a half a mile. It would need to be substantial to stop the amount of water we think they will be. I can see the benefits of renewable energy, but I am concerned with a portion of the site, particularly on the west side. My proposal would be to move the solar panels further into the plains. It would be better to move it east where there is a natural drainage flowing away from our houses. They say that the visual impact is minimal because of a utility feel to it because of the landfill, sewage treatment plant, and high power lines. Those things are not as close to our homes. The visual renderings are a bit deceitful; they are from great distances. They are not focusing on the local area. There is a risk for fire in our area as well. The fire department may have 30-45 minutes to respond to a fire because of the train. They are drying up the area to move the water to Woodmoor. This makes for a bigger fire concern with dry vegetation.

**Mr. Carl Tatum**, Fire Chief, Hanover Fire Department – I noted 5-7 minutes from fire station to location for response time from Birdsall without a train delay. Our station is manned Monday through Friday. I understand that they would be doing construction Monday through Friday during the daylight hours and not on weekends. The train does come across Birdsall and does block it. It doesn't account for the 30-45 minute response time from the Squirrel Creek access point to the solar panels on the eastern portion of the project. A delay for us to respond occurs until the substation is shut down and power to the facility is off.

**Mr. Egbert** – Can you enter the facility? **Mr. Tatum** – No, we cannot enter the system while it's locked out (power is on).

**Mr. Curry** – What impact comes from this development specifically? It sounds like the Fire Department is ok with this project. **Mr. Tatum** -- The fire mitigation plan and weed management plan is adequate. As long as they follow that plan, we are confident that we can handle any flame fronts that come through. It all just depends on us getting to the facility.

**Mr. Curry to Mr. Dungan** – What is it that you want to see happen? **Mr. Dungan** – They will need to use anchor flank and pinch maneuver. Fire grows and spreads exponentially. My concern is time and distance. If we

have a fire start on the hill at ½ mile distance, they would have more time to get to the fire. Otherwise, their facility is just too close.

**Mr. Friedman** – Your worry is that because it's all locked down before the fire department can attack the fire. **Mr. Dungan** – Yes that is correct. The 5-7 minutes is from station to facility. It still takes time to go through dispatch so it's more like 10 minutes. They are a volunteer organization and if it's the weekend or evenings, it'll be even longer of a response time. To isolate a fire in a large area and wait for them to shut off the power, it'll be so large that the resources won't be able to handle it.

**Mr. Emmons** – The record is getting a little muddled. I suggest you have the opponent make his comments and concerns and move on to other opponents.

**Ms. Lucia-Treese** – I'm still trying to understand the fire concerns that exist today versus this plan. It would seem to me that I'm not seeing where the solar facility actually exacerbates the fires given where you are in the County. We all love our large rural areas, but there is a risk living in those areas. I don't see the correlation to how this makes the fire hazard worse.

**Mr. Dungan** – Access and time are the issue. They are locked out until given access. The fire would be out of control.

**Mr. Harold Snowden** – I live in the area. My wife and I have been concerned about this area for a while. The ditches are inadequate already. The slope is definitely there; the panels will go up on that slope. The flood water has already been an issue.

**Mr. Creely** – Do you believe this will exacerbate the water issues you're already having? **Mr. Snowden** – Yes, I do.

**Ms. Victoria Evans** – I live at the very end of JV Ranch. In the 10 years I've lived there, we've had numerous flooding events. We are not in a flood plain, but it seems like we keep having these flood events. The inverted engine gravel trucks generate 1800 degrees Fahrenheit, and it wouldn't take much to start a fire if the trucks drive on the grasses. If they are welding on site, that can cause fires. Lithium batteries cause fires. These are our homes. Why does it have to go right next to our homes? Our property values will be affected.

**Ms. Ann Hannah** – We have land south of Birdsall Road. I don't want to look at lights and construction. But the water runoff is the main issue. They are creating impervious area. The control of the drainage from the

impervious area is a huge concern. The water currently runs right through my pastures into Fountain Creek.

**Mr. Cole** had a chance for rebuttal. I am not aware of any studies that say solar fields increase fire risk. We will operate in accordance with the mitigation plan. We operate our facilities from a remote location and do not need to be onsite to shut power off. (This does not include the substation). We would know immediately from the sensors and alarms and be able to shut it off even before emergency responders can be on site. We will continue to work with Chief Tatum regarding access and responsible approach.

**Mr. Egbert** – Are there fire buffers inside and outside your facility? **Mr. Coles** – Yes, that's correct.

**Ms. Friedman** – There are no problems as far as access to first responders as far as unlocking gates, etc, correct? **Mr. Cole** – No they have access. We will continue to do training with them so that they are familiar with our facility.

**Mr. Creely** – I was concerned that CSU would have to be there to physically turn off the substation, but understanding that it's all remote gives me some relief. (Clarification after PC, CSU does not have remote shutdown feasibility- they must be onsite)

**Mr. Egbert** – You talked about historical flows and you can't exceed those flows. You are increasing impervious surfaces with the solar pads. How does that affect the drainage areas? **Mr. Coles** – There are slight changes, about 1% of impervious conditions. We are adding additional barriers and berms to address the issue even beyond what is required.

**Ms. Friedman** – The footprint is less than 1%? **Mr. Coles** – Yes. **Ms. Friedman** – Is there a difference when the panels are tilted versus straight orientation regarding runoff of water? **Mr. Eric Gunderson** – The groundcover under the panels is not going to change the area. The shade encourages the vegetation to grow. The panels rotate so water will land in different locations and not channel the ground below.

**Ms. Blea-Nunez** – What specifically are the increased drainage impacts shown on your presentation? **Mr. Gunderson** – We look at ways to mitigate the velocity of the water. We came up with the berming process that will slow the water but not retain it. The sediment basins are required during construction. There are no other things we can at this point.

## **DISCUSSION**

**Ms. Lucia-Treese** – Today what we are tasked with is simply the overlay and whether it meets County rules and standards. Some of these other issues will go into the 1041 and site development and then regional building down the line. I think we are getting ahead of the process.

**Mr. Egbert** – We have given the public an opportunity to speak on their concerns. We can't fix drainage issues. We can only act today on the review criteria.

**Mr. Emmons** – Remember this is a zoning action. That's all we are doing today. Is it in conformance with the master plan and Code?

**Mr. Dossey** – You are being asked to create a new zoning overlay district. Each WSE-O proposes to layout its own development standards such as uses and dimensional standards.

**Mr. Creely** – The big picture meets the County requirements. We have given rise to a flooding problem that should be fixed. The County should be doing something to prevent the flooding from occurring.

**Mr. Curry** – This is a rezone, but at the same time it's unique with specific uses. It's important to consider all the arguments. I heard fire concerns, views, and drainage. Views are not protected. As I look at fire and drainage. What is exacerbated and what is being done to mitigate? The impervious surface hasn't really been impacted. With drainage, the mitigation is sufficient in my opinion. The fire department is confident the mitigation is sufficient. For me, in context of our approval criteria, the mitigation efforts have satisfied the experts and therefore satisfied me. I am sensitive to the arguments made, but I'll be voting in favor.

**Ms. Friedman** – With the mitigation efforts that are required, we have to look at the experts and trust their reports. All the things brought up are operational. I too will be voting in favor.

**Ms. Lucia-Treese** – I concur with those statements and will be voting in favor.

**PC ACTION: CREELY MOVED/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM NO. 2E, WSEO-18-001 FOR A WIND AND/OR SOLAR ENERGY GENERATION PLAN FOR PALMER-WILLIAMS CREEK SOLAR ENERGY PROJECT UTILIZING RESOLUTION PAGE 27 WITH FIFTEEN (15) CONDITIONS AND ONE (2) NOTATIONS (MORE PARTICULARLY DESCRIBED ON PAGE 18-070) AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY**

COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (9-0).

Regular Items

3. MP-18-001 WATER MASTER PLAN

DOSSEY/GEBHART

EL PASO COUNTY  
WATER MASTER PLAN

A request by the El Paso County Planning and Community Development Department to update the Board of County Commissioners on the development and adoption of the Water Master Plan as an element of the El Paso County Master Plan. (Craig Dossey, Executive Director, Planning and Community Development; Mark Gebhart, Deputy Director, Planning and Community Development)

**Mr. Emmons** – This is a second reading. We are not going to rehash everything we did on December 4. I gave you an extensive foundation the last time. There are a couple of statutes that are necessary to be in the record again.

This is a legislative proceeding. Legislative hearings are prospective in nature – future applicability, general application, and not normally restricted to an identifiable person or specific property. This is not quasi-judicial, which is determination of rights, duties and obligations of specific individuals. Planning includes the master plan or comprehensive plan element, and “master plans are the broadest exercise of the planning function, and are adopted to “accomplish the harmonious development of the County in terms of the general welfare of the inhabitants and the efficient and economic use of its land.” Conder, 927 P.2d at 1351. A master plan is just what it claims to be, a planning tool.

El Paso County, zoning and subdivision regulations are guided by the Master Plan, but are not controlled by the Master Plan. By contrast, zoning is the regulation of land in terms of intensity and type of land use, and subdivision is the regulation of the division of land.

The Master Plan is defined in the El Paso County Land Development Code (“LDC”) as a planning tool, is separate and distinct from zoning and subdivision regulations, and is not defined as being included in the LDC.

The master plan of a county...shall be an advisory document to guide land development decisions.

The Colorado state legislature specifically defined the roles of the County Planning Commission and the board of County Commissioners in the land use process. “It is the duty of a county planning commission to make and adopt a

master plan for the physical development of the unincorporated territory of the county.” C.R.S. §30-25-106(1) The Planning Commission – not the Board of County Commissioners – is authorized for the planning function – to make and adopt the Master Plan.

When a county planning commission decides to adopt a master plan, the commission shall conduct public hearings, after notice of such public hearing has been published in a newspaper of general circulation in the county in a manner sufficient to notify the public of the time, place, and nature of the public hearing, prior to final adoption of a master plan in order to encourage public participation in and awareness of the development of such plan and shall accept and consider oral and written public comments throughout the process of developing the plan §30-28-106(1), C.R.S. A county... Planning commission may adopt the county ... master plan as a whole by a single resolution or ... may adopt parts thereof... The commission may amend, extend, or add to the plan or carry any part of it into greater detail from time to time. The adoption of the plan or any part, amendment, extension, or addition shall be by resolution carried by the affirmative votes of not less than a majority of the entire membership of the commission.” §30-28-108, C.R.S. “The county planning shall certify a copy of its master plan, or any adopted part of the amendment thereof or addition thereto, to the board of county commissioners of the county.” §30-28-109, C.R.S.

Again, we don't want to rehash comments from the December 4 hearing. When you get to the point to make a motion, I'm happy to step back in and help to assist in that motion. **Mr. Gebhart** will present to you the proposed resolution for your consideration.

**Mr. Gebhart** went over the changes incorporated from the last hearing as well as the history of how the Water Master Plan came to fruition. There were also textural items in the plan that needed to be revised, such as members, terminology, page orientation, etc.

**Mr. Curry** – I understood completely the less water per capita, but consistency with overall goal and protecting our aquifers and utilizing renewable sources, then some of the phraseology in the previous draft were that we were encouraging the behavior of building in a fashion that developed not just 1 of 10 acres but all 10 acres. I'm happy with the changes made to the plan now.

**Mr. Dossey** – Get out in front of the development is important. If they are going to do higher densities, then we would be encouraging renewable sources. Its not high density at the expense of other existing residences not getting water; it's about higher densities needing to be done with renewable sources in mind. We are at the first step, which is to identify the water resources and then take policies that will guide what resources are available. It's about respecting those that are here and ensuring the supply for them as well.

**Mr. Egbert** – If we have 100,000 people coming here, we'd rather see them live in higher densities. We can reuse water more easily where it's difficult if they are more spread out. It's a master plan issue, not a water plan issue.

**IN OBSERVATION – Mr. Terry Stokka** – First of all, it is puzzling why the legal advertisement is in Fountain Valley News and not another media source. **Mr. Emmons** – the Board of County Commissioners make the decision each year as to what means of media the legal notices are published. That is widely known to be the source for both the Planning Commission and the Board of County Commissioners.

**Mr. Stokka** – The Ranch, Sterling Ranch, and another will have 7,000 homes within those three developments. We should not permit higher densities if renewable water is available. Develop and implement well monitoring in the County. If it's a plan, it needs to say what we need to do to be more directive. We should not allow development that relies on non-renewable water. Do not change the 300-year rule. It should not be weakened. One of the goals was to protect water rights. Cherokee Metro District have 10 well sites on boundary lines. That is not protecting property rights. We need to empower County Commissioners to deny urban density development. Denver Basin water is a finite resource.

#### **IN FAVOR -- NONE**

#### **IN OPPOSITION**

**Ms. Judy Von Ahlefeldt** – We are long term residents of Black Forest area. I've been involved in the County since 1972. The Black Forest Preservation Plan has had advocates since the early 70s. Regarding the public process, the Open House was in October and it was not done in advance. Mr. Gebhart sent out comments last Thursday. That didn't give us much time to comment. Today's discussion was very productive. I think there needs to be more discussion like this before this plan is adopted. I don't understand the rush. The assumptions for reuse are not accurate. (Ms. Von Ahlefeldt read her letter into the record.) Her letter is on permanent file.

#### **DISCUSSION**

**Mr. Creely** – Is there good opportunity to get a mulligan on this and have an opportunity to revise it? **Mr. Dossey** – Any master planning effort should carry with it the expectation of revising the wording. My goal is to continue to re-evaluate and revise these goals. Our newest small area plan is over 10 years old. We have failed in updating some plans in the County. I think we have failed by not modifying the County's plans. This is a starting point so that in 5 or 10 years, the staff and the Planning Commission have something to compare to. The same goes for the overall County Master Plan. It's a place to start. There are budget

constraints to updating plans, but we can look for any excuse to not update those plans. Every time we write a staff report, we will use this plan, and we see the applicability and how those are applied by staff and whether changes need to be considered.

**Ms. Lucia-Treese** – This is step one, not 55. I would like to respond to the comment about failed metropolitan districts. Metro districts can fail, but Title 32 of CRS clearly defines the responsibilities they have to have in place. When someone moves into a metro district within their real estate transaction, they understand what it is at that point. They understand the no-levy process and have all the necessary information regarding living in a metro district.

**Mr. Dossey** – Good planning says that you establish the policies first and then you develop the regulations that allow us to accomplish those policies.

Mr. Curry – There's a notation that the staff can make the necessary textual changes, do we need to add anything to expect a report on those changes so that we meet a statutory requirement of our involvement or have we met our requirement? **Mr. Emmons** – I would advocate for the latter. In complex land use matters, we had language like this in the approval. We needed the ability to make modifications; so the intent of the language we've crafted here takes care of non-essential revisions.

**Mr. Emmons** – the proposed resolution is crafted based on assumption of approval. If the decision is to deny, we will need to craft one and take your results and bring it back to you in January. If the desire is to approve, my recommendation is to move for approve of the Water Master Plan as an amendment to the County Master Plan pursuant to the proposed resolution as presented. There is a specific revision that the intent of the Planning Commission in approving that the Water Master Plan is an advisory plan not regulatory.

**Ms. Friedman** – People who live on properties with individual wells do not seem to have a presence the same way the water providers do. There's not really an organization to structure our concerns. I would suggest to interested people in the community to develop something so that we have access to some of these things out there. This plan leaves a bit in the air so to say.

**Mr. Risley** – I believe that NEPCO and CONO both had input and that might be a place to start to get others involved on the topic you just raised.

**Mr. Curry** – The master plan is one of the purviews of the Planning Commission. I had serious concerns last time regarding the 300-year rule and densities. I have fewer concerns now, but I am very satisfied with the incorporated changes. My concerns and comments were taken into account. It's a guidance advisory document. I will be prepared to make a motion and vote in favor.

**Mr. Risley** – Doing difficult things is never easy; doing good hard work is never easy. This is a worthwhile endeavor. This is long overdue and I'd like to commend staff on a job well done. Nothing is ever perfect, but I think it's a good step in the right direction.

**PC ACTION:** CURRY MOVED/LUCIA-TREESE SECONDED TO APPROVE REGULAR ITEM NO. 3, MP-18-001 FOR THE EL PASO COUNTY WATER MASTER PLAN UTILIZING RESOLUTION PAGE 3 (MORE PARTICULARY DESCRIBED ON PAGE 18-071). THE MOTION WAS APPROVED UNANIMOUSLY (6-0).

4. LDC-17-009

MADDEN/RUIZ

**EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT  
ANIMALS AND AGRICULTURE STRUCTURES**

A request by the El Paso County Planning and Community Development Department to amend Chapters 1 and 5 of the El Paso County Land Development Code (2018) as it relates to agricultural structures, animal keeping, livestock, kennels, and greenhouses. The proposed amendments, in their entirety, are on file with the El Paso County Planning and Community Development Department.

**Ms. Nina Ruiz** gave her presentation to the Planning Commission after Mr. Emmons reviewed the review criteria.

**Mr. Risley** – Was the consideration of electric and plumbing being a requirement considered? **Ms. Ruiz** – yes, we did consider precluding electric and plumbing but after researching we discovered that many agricultural uses have the need to these utilities- such as heat for the animals or a place to clean up after caring for the animals. We thought this would be far too limiting and would prevent people with truly agricultural uses and needs from obtaining the agricultural exemption. **Mr. Dossey** – Regional Building will allow electrical and plumbing in an ag structure.

**Mr. Risley** – Would site plans be required? **Ms. Ruiz** – Yes they would. These structures are different and do not have to go through the building permit process. Our department will require an agricultural exemption application, which includes a site plan, and we do verify the proposed use(s) and that it meets all the setbacks, etc.

**Mr. Curry** – In my opinion, specifically, noise can be objectionably measured, but the challenge that we don't want any subjective rules in the code is a big one. If you look at the animal waste, that's subjective; hens and a reasonable number is subjective. There are a number of those throughout the Code. At least having

them gives you some basis to build an administrative or legal argument. By rights, you should remove all subjective items if you want to remove items because you believe them to be subjective. I would recommend you keep them and keep that basis. **Ms. Ruiz** – Noise and smell are not measurable/quantifiable. Our department does not have a machine to measure noise, but the Sheriff's Department does. I am not aware of a mechanism to measure smells. In order to send someone a notice of violation we need proof that a violation exist. We have to have some instances that are subjectivity, but we should remove them in every instance possible. It's easier to have something tangible to prove such as pictures of excessive piles of waste. Whereas with noise or smell, we as a staff don't have any way to measure noise or smell. **Mr. Dossey** – With regard to a reasonable number of chickens, the Board took on that issue. They looked at animal densities. They came up with the language in the Code after hours of testimony and maybe we appreciate that there needs to be some subjectivity to the Code. The issue of smell is very problematic. What is offensive to one person may not be offensive to someone else. Maintaining the waste is more important than the smell. If we take something to court, we need something to take on our behalf. You can't take a smell. With regard to noise, the Sheriff's Office is tasked with enforcing the noise ordinance, not our office.

**Mr. Curry** – What if I have alpacas in my yard for my own personal use and my neighbor has a business where they have people com ride their alpacas, is that a commercial business? **Ms. Ruiz** – If there is a commercial component, and not just the keeping of the animals, it would be a commercial use and not just personal use. **Mr. Dossey** – It's challenging to prove commercial uses sometimes.

**IN FAVOR – NONE**

**IN OPPOSITION – NONE**

**DISCUSSION –**

**Ms. Judy von Ahlefeldt** – Does this have anything to do with rescue animals and how that is handled? **Ms. Ruiz** – the definition of a kennel does include language about shelters, etc. but an animal refuge is a separate use in Table 5-1.

**PC ACTION: CURRY MOVED/LUCIA-TREESE SECONDED TO APPROVE REGULAR ITEM NO. 4, LDC-17-009 FOR AN EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT REGARDING ANIMALS AND AGRICULTURE STRUCTURES UTILIZING RESOLUTION PAGE 7 (MORE PARTICULARY DESCRIBED ON PAGE 18-072) WITH THE REVIISIONS FROM MR. CURRY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY (7-0).**

**EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT  
SMALL CELL AND CMRS FACILITIES**

A request by the El Paso County Planning and Community Development Department to amend Chapters 1, 5, and 6 of the El Paso County Land Development Code (2018) as it relates to Small Cell and Commercial Mobile Radio Service Facilities (CMRS). Staff is also requesting the Board of County Commissioners adopt the revised CMRS Facility Removal Agreement. The proposed amendments, in their entirety, are on file with the El Paso County Planning and Community Development Department.

**THIS ITEM HAS BEEN WITHDRAWN AND WILL BE PLACED ON A FUTURE HEARING AGENDA. NO PC ACTION REQUIRED.**

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at [www.elpasoco.com](http://www.elpasoco.com) to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/ Planner processing the request.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.

REZONING (MAP AMENDMENT) (APPROVED)

Commissioner Creely moved that the following Resolution be adopted:

**BEFORE THE PLANNING COMMISSION**

**OF THE COUNTY OF EL PASO**

**STATE OF COLORADO**

**RESOLUTION NO. WSEO-18-001**

WHEREAS, Colorado Springs Utilities and Palmer Solar, LLC did file a petition with the Planning and Community Development Department of El Paso County to rezone the herein described property in El Paso County from the RR-5 (Residential Rural) zone districts to the WSEO (Wind/Solar Energy Overlay) zone district; and

WHEREAS, a public hearing was held by this Commission on December 18, 2018; and

WHEREAS, based on the evidence, testimony, exhibits, study of the master plan for the unincorporated area of the county, comments of the El Paso County Planning and Community Development Department, comments of public officials and agencies, and comments from all interested parties, this Commission finds as follows:

1. That proper posting, publication and public notice was provided as required by law for the hearing before the Planning Commission.
2. That the hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested parties were heard at that hearing.
3. That the proposed zoning is in compliance with the recommendations set forth in the master plan for the unincorporated area of the county.
4. That the proposed land use will be compatible with existing and permitted land uses in all directions.
5. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
6. That changing conditions clearly require amendment to the Zoning Resolutions.

7. That for the above-stated and other reasons, the proposed zoning 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 petition of Palmer-Williams Creek Solar Array – Wind and/or Solar Energy Generation Plan Overlay District Rezone for a zone change from the RR-5 (Residential Rural) zone districts to the WSEO (Wind/Solar Energy Overlay) zone district for the following described unincorporated area of El Paso County be approved:

See Exhibit A

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

### **CONDITIONS OF APPROVAL**

1. Prior to excavation or construction, approval of a site development plan by El Paso County for the solar array facility is required. Site development plan applications shall include, but are not limited to the following information:
  - a. Site development plan drawings;
  - b. Final drainage report;
  - c. Stormwater Management Plan (SWMP)
  - d. Erosion and Stormwater Quality Control Permit (ESQCP);
  - e. Any permits required by the Colorado Department of Public Health and Environment, if needed
  - f. Detailed reseeding plan;
  - g. Lighting plans and detailed specifications, including plans and specifications for temporary lighting, as applicable;
  - h. Sign plans, if signage is proposed;
  - i. Elevations of any above ground structures;
  - j. Emergency response plan, to be prepared in coordination with and acceptable to the El Paso County Office of Emergency Management;
  - k. Noxious weed management plan, to be prepared in coordination with and acceptable to El Paso County Environmental Services; and
  - l. Colorado Department of Health and Environment (CDPHE)-accepted surface and groundwater quality monitoring plans, if required;
2. The applicant shall provide copies of all required State and County air quality permits prior to approval of a site development plan application.
3. The applicant shall comply with all applicable local, State, and Federal laws and regulations regarding the use, disposal, storage, and transportation of solid and/or hazardous materials on and off site.

4. A County Erosion and Stormwater Quality Control Permit (ESQCP) shall be obtained prior to construction. All disturbed areas shall be promptly stabilized and re-vegetated in accordance with Best Management Practices (BMPs) as outlined in the Drainage Criteria Manual, Volume II.
5. The Board of County Commissioners, at a public hearing, shall have the authority to require the shutdown, removal, and/or relocation of any glare-causing component or components if the Board finds that any such component or components is/are creating a health and/or safety risk. Such shutdown, removal, and/or relocation requirement by the Board shall be based upon documented inspection of the facility by a County official.
6. The hours of operation during the construction and long term maintenance of the project shall be limited to seasonal day time hours unless otherwise authorized by the Planning and Community Development Department Director prior to the proposed construction and/or maintenance. Requests to conduct nighttime construction activities shall be submitted to the Planning and Community Development Department Director at least two business days prior to the time of the proposed construction. Any failure to respond to the requests by the Planning and Community Development Department Director within two business days shall be interpreted as an approval of the request.
7. Site lighting, including temporary lighting, will be limited to that characterized in the Project Lighting Memo and Lighting Plan. The detailed specifications shall be provided at the site development plan stage. All light fixtures shall be directional and positioned so that the light sources are concealed and fully shielded from adjacent properties and roadways, unless otherwise specifically authorized under the regulations of the Occupational Safety and Health Administration (OSHA) of the United States Environmental Protection Agency.
8. The Board of County Commissioners may elect at an open and public hearing, following full published notice, to approve a rezoning of the properties included within the WSE-O boundary for the purpose of removing the overlay zoning if the applicant has not begun construction within two (2) years of the date of Board of County Commissioners approval.
9. Any approval of the WSE-O rezoning request is only valid with the additional approval of the concurrently reviewed 1041 permit. Failure to receive approval of the 1041 permit shall render approval of the WSE-O rezoning null and void.
10. At least six (6) months prior to the initiation of decommissioning activities, Developer shall prepare a Project Decommissioning and Site Restoration Plan (PDSRP)

prepared in sufficient detail to identify, evaluate, and resolve all major deconstruction, environmental, hauling, and public health and safety issues reasonably anticipated by the developer on the date thereof and submit the same to the County for review and approval. The PDSRP shall describe the process that will be used to evaluate the options and select the measures that will be taken to restore, reclaim, or preserve the project site and to otherwise ensure the protection of the public against risks or dangers resulting from the project decommissioning. The PDSRP shall address provision for funding or bonding arrangements to meet the project site restoration or management costs and it shall include an estimate of market value of the equipment and salvage value of all other equipment and materials that do not have value at resale.

11. Developer shall provide notice to the Planning and Community Development Department of the date of initial delivery of power to the existing utility distribution system within 30 days following such date.
12. Developer, its successors or assigns, as the case may be, shall provide financial assurances sufficient for decommissioning costs in the form of a performance bond, guaranty or letter of credit, or cash to ensure the availability of funds for such costs to El Paso County no later than the beginning of year twenty (20) following the date of initial delivery of power. An updated engineering estimate of the amount of the decommissioning costs shall be provided by the developer to the County at least sixty (60) days and no sooner than ninety days prior to providing financial assurances to the County. If decommissioning should occur prior to year 20, an updated engineering estimate of the amount of the decommissioning costs shall be provided by the developer to the County at least 60 days and no sooner than 90 days prior to the start of decommissioning activities.
13. Any expansion, enlargement, or modification of the WSE-O Plan shall be subject to the provisions of Sections 4.3.5.E and F, as amended, of the El Paso County Land Development Code.
14. The approval is limited to the WSE-O plan as depicted. An amendment to the WSE-O Plan shall be required prior to development of any additional phases (No future phases are proposed at this time).
15. Development of the project shall be conducted in accordance with the regulations of El Paso County, conditions of approval and notations of the Board of County Commissioners and the accompanying documents/reports in the Planning and Community Development Department file for the rezoning application (WSEO-18-001).

**NOTATIONS**

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
  
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

**WAIVER**

The applicant is requesting approval of a waiver of the application of Section 4.3.5.D.2 of the Land Development Code. Section 4.3.5.D.2 of the Land Development Code states that, "A development impact mitigation agreement shall be required with all wind and/or solar energy generation plan overlay district applications." Staff is not requiring impact mitigation with this application due to the minimal impacts, if any, anticipated with the project.

AND BE IT FURTHER RESOLVED that this Resolution and the recommendations contained herein be forwarded to the 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 Dillon       | aye |
| Commissioner Lucia-Treese | aye |
| Commissioner Friedman     | aye |
| Commissioner Curry        | aye |
| Commissioner Friedman     | aye |
| Commissioner Creely       | aye |
| Commissioner Blea-Nunez   | aye |
| Commissioner Risley       | aye |

The Resolution was adopted by a unanimous vote of 9 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DATED: December 18, 2018

## EXHIBIT A

A parcel of land located within Sections 22, 25, 26, 27, 28, & 35, Township 16 South, Range 65 West of the 6th Principal Meridian, County of El Paso, State of Colorado, and being more particularly described as follows:

COMMENCING at the Southeast corner of said Section 26, monumented by a 3" aluminum cap, stamped "RLS 10377," 0.5 feet above grade; thence along the East line of said Section 35, S00°45'31"E, (Basis of bearings is the West line of the Northwest 1/4 of Section 27, Township 16 South, Range 65 West of the 6th P.M., being monumented at the North end by a found 2-1/2" aluminum cap stamped "PLS 22095", flush with grade, and at the South end by a found 2-1/2" aluminum cap stamped "PLS 22095", flush with grade, and measured to bear S00°50'46"E, a distance of 2643.10 feet), a distance of 2641.45 feet, to the East 1/4 Corner of said Section 35, monumented by a 3-1/2" aluminum cap, stamped "RLS 10377," 0.5 feet above grade; thence along the South line of the Northeast 1/4 of said Section 35, S88°52'48"W, a distance of 480.69 feet; thence leaving said South line, N00°08'07"W, a distance of 1.72 feet, to the POINT OF BEGINNING; thence S88°50'09"W, a distance of 2239.08 feet; thence N06°59'54"W, a distance of 498.04 feet; thence N00°00'00"W, a distance of 1866.19 feet; thence N50°38'54"E, a distance of 475.76 feet; thence N15°31'27"E, a distance of 960.74 feet; thence N01°47'38"W, a distance of 1073.26 feet; thence N51°14'18"W, a distance of 1264.57 feet, thence N00°31'16"W, a distance of 122.37 feet; thence S89°12'01"W, a distance of 5600.78 feet; thence S32°26'06"W, a distance of 226.78 feet; thence S17°21'20"W, a distance of 138.27 feet; thence S36°31'20"W, a distance of 1212.24 feet; thence S42°41'59"W, a distance of 504.07 feet; thence S88°57'14"W, a distance of 371.36 feet; thence N00°55'13"W, a distance of 186.30 feet; thence S89°04'47"W, a distance of 768.24 feet; thence N08°32'57"W, a distance of 2499.55 feet; thence N35°16'33"W, a distance of 416.95 feet; thence N00°59'57"W, a distance of 886.83 feet; thence N90°00'00"E, a distance of 1062.83 feet; thence N78°55'28"E, a distance of 126.03 feet; thence N01°18'23"W, a distance of 1084.07 feet; thence N10°46'45"E, a distance of 780.90 feet; thence N00°00'00"W, a distance of 694.08 feet; thence N90°00'00"E, a distance of 736.94 feet; thence S48°17'37"E, a distance of 66.52 feet; thence S68°00'13"E, a distance of 316.80 feet; thence S45°52'59"E, a distance of 418.47 feet; thence S07°18'06"E, a distance of 1436.17 feet; thence S29°49'05"W, a distance of 683.40 feet; thence S56°06'29"W, a distance of 141.04 feet; thence S00°00'00"E, a distance of 141.02 feet; thence S05°11'54"E, a distance of 814.71 feet; thence S70°20'03"E, a distance of 2182.44 feet; thence S00°00'00"E, a distance of 432.68 feet; thence N89°12'01"E, a distance of 4051.24 feet; thence N00°31'16"W, a distance of 230.97 feet; thence N89°22'23"E, a distance of 460.00 feet; thence N00°37'37"W, a distance of 675.42 feet; thence N89°12'01"E, a distance of 2770.07 feet; thence S00°46'02"E, a distance of 1386.57 feet; thence S88°50'18"W, a distance of 554.58 feet; thence S00°08'07"E, a distance of 5281.58 feet to the POINT OF BEGINNING.

Containing 30,970,372 Square Feet or 710.982 acres, more or less.

RESOLUTION NO. 19-

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

APPROVE PALMER-WILLIAMS CREEK SOLAR ARRAY WIND AND/OR SOLAR ENERGY GENERATION PLAN OVERLAY DISTRICT REZONE (WSEO-18-001)

WHEREAS, Colorado Springs Utilities and Palmer Solar, LLC did file a petition with the Planning and Community Development Department of El Paso County to rezone the herein described property in El Paso County from the RR-5 (Residential Rural) zone district to the WSEO (Wind/Solar Energy Overlay) zone district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on December 18, 2018, upon which date the Planning Commission did by formal resolution recommend approval of the subject Zone change petition with; and

WHEREAS, a public hearing was held by this Board on January 22, 2019; and

WHEREAS, based on the evidence, testimony, exhibits, study of the master plan for the unincorporated area of the county, recommendations of the El Paso County Planning Commission, comments of the El Paso County Development Services Department, comments of public officials and agencies, and comments from all interested parties, this Board finds as follows:

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.

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 parties were heard at those hearings.

The proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.

The proposed land use will be compatible with existing and permitted land uses in the area.

The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.

For the above-stated and other reasons, the proposed Zoning 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 petition of Palmer-Williams Creek Solar Array – Wind and/or Solar Energy Generation Plan Overlay District Rezone for a zone change from the RR-5 (Residential Rural) zone district to the WSEO (Wind/Solar Energy Overlay) zone district for the following described unincorporated area of El Paso County be approved as described in Exhibit A, which is attached hereto and incorporated by reference;

BE IT FURTHER RESOLVED the following conditions/notation shall be placed upon this approval:

#### **CONDITIONS OF APPROVAL**

1. Prior to excavation or construction, approval of a site development plan by El Paso County for the solar array facility is required. Site development plan applications shall include, but are not limited to the following information:
  - a. Site development plan drawings;
  - b. Final drainage report;
  - c. Stormwater Management Plan (SWMP)
  - d. Erosion and Stormwater Quality Control Permit (ESQCP);
  - e. Any permits required by the Colorado Department of Public Health and Environment, if needed
  - f. Detailed reseeding plan;
  - g. Lighting plans and detailed specifications, including plans and specifications for temporary lighting, as applicable;
  - h. Sign plans, if signage is proposed;
  - i. Elevations of any above ground structures;
  - j. Emergency response plan, to be prepared in coordination with and acceptable to the El Paso County Office of Emergency Management;
  - k. Noxious weed management plan, to be prepared in coordination with and acceptable to El Paso County Environmental Services; and
  - l. Colorado Department of Health and Environment (CDPHE)-accepted surface and groundwater quality monitoring plans, if required;
  
2. The applicant shall provide copies of all required State and County air quality permits prior to approval of a site development plan application.

3. The applicant shall comply with all applicable local, State, and Federal laws and regulations regarding the use, disposal, storage, and transportation of solid and/or hazardous materials on and off site.
4. A County Erosion and Stormwater Quality Control Permit (ESQCP) shall be obtained prior to construction. All disturbed areas shall be promptly stabilized and re-vegetated in accordance with Best Management Practices (BMPs) as outlined in the Drainage Criteria Manual, Volume II.
5. The Board of County Commissioners, at a public hearing, shall have the authority to require the shutdown, removal, and/or relocation of any glare-causing component or components if the Board finds that any such component or components is/are creating a health and/or safety risk. Such shutdown, removal, and/or relocation requirement by the Board shall be based upon documented inspection of the facility by a County official.
6. The hours of operation during the construction and long term maintenance of the project shall be limited to seasonal day time hours unless otherwise authorized by the Planning and Community Development Department Director prior to the proposed construction and/or maintenance. Requests to conduct nighttime construction activities shall be submitted to the Planning and Community Development Department Director at least two business days prior to the time of the proposed construction. Any failure to respond to the requests by the Planning and Community Development Department Director within two business days shall be interpreted as an approval of the request.
7. Site lighting, including temporary lighting, will be limited to that characterized in the Project Lighting Memo and Lighting Plan. The detailed specifications shall be provided at the site development plan stage. All light fixtures shall be directional and positioned so that the light sources are concealed and fully shielded from adjacent properties and roadways, unless otherwise specifically authorized under the regulations of the Occupational Safety and Health Administration (OSHA) of the United States Environmental Protection Agency.

8. The Board of County Commissioners may elect at an open and public hearing, following full published notice, to approve a rezoning of the properties included within the WSE-O boundary for the purpose of removing the overlay zoning if the applicant has not begun construction within two (2) years of the date of Board of County Commissioners approval.
9. Any approval of the WSE-O rezoning request is only valid with the additional approval of the concurrently reviewed 1041 permit. Failure to receive approval of the 1041 permit shall render approval of the WSE-O rezoning null and void.
10. At least six (6) months prior to the initiation of decommissioning activities, Developer shall prepare a Project Decommissioning and Site Restoration Plan (PDSRP) prepared in sufficient detail to identify, evaluate, and resolve all major deconstruction, environmental, hauling, and public health and safety issues reasonably anticipated by the developer on the date thereof and submit the same to the County for review and approval. The PDSRP shall describe the process that will be used to evaluate the options and select the measures that will be taken to restore, reclaim, or preserve the project site and to otherwise ensure the protection of the public against risks or dangers resulting from the project decommissioning. The PDSRP shall address provision for funding or bonding arrangements to meet the project site restoration or management costs and it shall include an estimate of market value of the equipment and salvage value of all other equipment and materials that do not have value at resale.
11. Developer shall provide notice to the Planning and Community Development Department of the date of initial delivery of power to the existing utility distribution system within 30 days following such date.
12. Developer, its successors or assigns, as the case may be, shall provide financial assurances sufficient for decommissioning costs in the form of a performance bond, guaranty or letter of credit, or cash to ensure the availability of funds for such costs to El Paso County no later than the beginning of year twenty (20) following the date of initial delivery of power. An updated engineering estimate of the amount of the decommissioning costs shall be provided by the developer to the County at least sixty (60) days and no sooner than ninety days prior to

providing financial assurances to the County. If decommissioning should occur prior to year 20, an updated engineering estimate of the amount of the decommissioning costs shall be provided by the developer to the County at least 60 days and no sooner than 90 days prior to the start of decommissioning activities.

13. Any expansion, enlargement, or modification of the WSE-O Plan shall be subject to the provisions of Sections 4.3.5.E and F, as amended, of the El Paso County Land Development Code.
14. The approval is limited to the WSE-O plan as depicted. An amendment to the WSE-O Plan shall be required prior to development of any additional phases (No future phases are proposed at this time).
15. Development of the project shall be conducted in accordance with the regulations of El Paso County, conditions of approval and notations of the Board of County Commissioners and the accompanying documents/reports in the Planning and Community Development Department file for the rezoning application (WSEO-18-001).

#### **NOTATIONS**

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

**WAIVER**

The applicant is requesting approval of a waiver of the application of Section 4.3.5.D.2 of the Land Development Code. Section 4.3.5.D.2 of the Land Development Code states that, "A development impact mitigation agreement shall be required with all wind and/or solar energy generation plan overlay district applications." Staff is not requiring impact mitigation with this application due to the minimal impacts, if any, anticipated with the project.

Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

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

DONE THIS 22<sup>nd</sup> day of January 2019, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
County Clerk & Recorder

**EXHIBIT A**

A parcel of land located within Sections 22, 25, 26, 27, 28, & 35, Township 16 South, Range 65 West of the 6th Principal Meridian, County of El Paso, State of Colorado, and being more particularly described as follows:

COMMENCING at the Southeast corner of said Section 26, monumented by a 3" aluminum cap, stamped "RLS 10377," 0.5 feet above grade; thence along the East line of said Section 35, S00°45'31"E, (Basis of bearings is the West line of the Northwest 1/4 of Section 27, Township 16 South, Range 65 West of the 6th P.M., being monumented at the North end by a found 2-1/2" aluminum cap stamped "PLS 22095", flush with grade, and at the South end by a found 2-1/2" aluminum cap stamped "PLS 22095", flush with grade, and measured to bear S00°50'46"E, a distance of 2643.10 feet), a distance of 2641.45 feet, to the East 1/4 Corner of said Section 35, monumented by a 3-1/2" aluminum cap, stamped "RLS 10377," 0.5 feet above grade; thence along the South line of the Northeast 1/4 of said Section 35, S88°52'48"W, a distance of 480.69 feet; thence leaving said South line, N00°08'07"W, a distance of 1.72 feet, to the POINT OF BEGINNING; thence S88°50'09"W, a distance of 2239.08 feet; thence N06°59'54"W, a distance of 498.04 feet; thence N00°00'00"W, a distance of 1866.19 feet; thence N50°38'54"E, a distance of 475.76 feet; thence N15°31'27"E, a distance of 960.74 feet; thence N01°47'38"W, a distance of 1073.26 feet; thence N51°14'18"W, a distance of 1264.57 feet, thence N00°31'16"W, a distance of 122.37 feet; thence S89°12'01"W, a distance of 5600.78 feet; thence S32°26'06"W, a distance of 226.78 feet; thence S17°21'20"W, a distance of 138.27 feet; thence S36°31'20"W, a distance of 1212.24 feet; thence S42°41'59"W, a distance of 504.07 feet; thence S88°57'14"W, a distance of 371.36 feet; thence N00°55'13"W, a distance of 186.30 feet; thence S89°04'47"W, a distance of 768.24 feet; thence N08°32'57"W, a distance of 2499.55 feet; thence N35°16'33"W, a distance of 416.95 feet; thence N00°59'57"W, a distance of 886.83 feet; thence N90°00'00"E, a distance of 1062.83 feet; thence N78°55'28"E, a distance of 126.03 feet; thence N01°18'23"W, a distance of 1084.07 feet; thence N10°46'45"E, a distance of 780.90 feet; thence N00°00'00"W, a distance of 694.08 feet; thence N90°00'00"E, a distance of 736.94 feet; thence S48°17'37"E, a distance of 66.52 feet; thence S68°00'13"E, a distance of 316.80 feet; thence S45°52'59"E, a distance of 418.47 feet; thence S07°18'06"E, a distance of 1436.17 feet; thence S29°49'05"W, a distance of 683.40 feet; thence S56°06'29"W, a distance of 141.04 feet; thence S00°00'00"E, a distance of 141.02 feet; thence S05°11'54"E, a distance of 814.71 feet; thence S70°20'03"E, a distance of 2182.44 feet; thence S00°00'00"E, a distance of 432.68 feet; thence N89°12'01"E, a distance of 4051.24 feet; thence N00°31'16"W, a distance of 230.97 feet; thence N89°22'23"E, a distance of 460.00 feet; thence N00°37'37"W, a distance of 675.42 feet; thence N89°12'01"E, a distance of 2770.07 feet; thence S00°46'02"E, a distance of 1386.57 feet; thence

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S88°50'18"W, a distance of 554.58 feet; thence S00°08'07"E, a distance of 5281.58 feet to the POINT OF BEGINNING.

Containing 30,970,372 Square Feet or 710.982 acres, more or less.