

EL PASO COUNTY



COLORADO

COMMISSIONERS:
 STAN VANDERWERF (CHAIR)
 CAMI BREMER (VICE-CHAIR)

LONGINOS GONZALEZ, JR.
 HOLLY WILLIAMS
 CARRIE GEITNER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Board of County Commissioners
 Stan VanderWerf, Chair

FROM: John Green, Planner II
 Gilbert LaForce, PE Engineer III
 Craig Dossey, Executive Director

RE: Project File #: CS-21-001
 Project Name: Waterview North Commercial
 Parcel No.: 55000-00-438 and 55000-00-439

OWNERS:	REPRESENTATIVE:
CPR Entitlements, LLC 31 North Tejon Street, Suite 500 Colorado Springs, CO 80903	Dakota Springs Engineering, LLC 31 North Tejon Street, Suite 518 Colorado Springs, CO 80909

Commissioner District: 4

Planning Commission Hearing Date:	11/18/2021
Board of County Commissioners Hearing Date:	12/07/2021

EXECUTIVE SUMMARY

A request by CPR Entitlements, LLC, for approval of a map amendment (rezoning) of a 22.07-acre portion of two parcels from A-5 (Agricultural) to CS (Commercial Service). The two (2) parcels, totaling 82 acres, are located at the northwest corner of the Bradley Road and South Powers Boulevard intersection and are within Sections 8 and 9, Township 15 South, Range 65 West of the 6th P.M. The property is within the CAD-O (Commercial Airport Overlay District) zoning overlay and within both the Accident Potential Zone (APZ) I and Accident Potential Zone (APZ) II airport subzones.



A. REQUEST/WAIVERS/DEVIATIONS/ AUTHORIZATION

Request: A request by CPR Entitlements, LLC, for approval of a map amendment (rezoning) of a 22.07-acre portion of two parcels from A-5 (Agricultural) to CS (Commercial Service).

Waiver(s)/Deviation(s): There are no waivers associated with the map amendment (rezoning) request.

Authorization to Sign: There are no documents associated with this application that require signing.

B. Planning Commission Summary

Request Heard: As a Consent item at the November 18, 2021 hearing.

Recommendation: Approval based on recommended conditions and notations.

Waiver Recommendation: N/A

Vote: 9 - 0

Vote Rationale: N/A

Summary of Hearing: The applicant was represented at the hearing. The PC Draft minutes are attached.

Legal Notice: Advertised in the Shopper’s Press on November 17, 2021.

C. APPROVAL CRITERIA

In approving a map amendment (rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5, Map Amendment (Rezoning), of the El Paso County Land Development Code (2021):

- 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 the character of the neighborhood since the land was last zoned;
- 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;
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

D. LOCATION

North:	City of Colorado Springs	Colorado Springs Airport
South:	CS (Commercial Service)	Vacant
East:	A-5 (Agricultural)	Vacant
West:	A-5 (Agricultural)	Vacant

E. BACKGROUND

The area proposed to be included within the map amendment (rezoning) was zoned A-2 (Agricultural) on May 10, 1942, when zoning was first initiated for this area of unincorporated El Paso County (BoCC Resolution No. 669212). Due to nomenclature changes to the Code, the A-2 zoning district was renamed as the A-5 (Agricultural) zoning district.

On May 10, 2001, the Waterview Sketch Plan (PCD File No. SKP-00-002) was approved by the Board of County Commissioners (BoCC Resolution No. 01-191). That Plan identified two (2) phases of development totaling approximately 621.59 acres, which included a maximum of 680 single-family detached dwellings, 330 multifamily dwelling units, 404.14 acres of commercial area, 40.56 acres of open space, and 118.29 acres of right-of-way.

On October 28, 2014, the Board of County Commissioners approved a sketch plan amendment to the previously approved Plan (PCD File No. SKP-13-001). The amendment altered the configuration of land uses within the sketch plan area to allow 107.3 acres of commercial uses, 184.3 acres of single-family residential uses, 39.9 acres of multifamily residential uses, 107.4 acres of open space, and 81.4 acres of industrial uses. On April 2, 2018, an amendment to the sketch plan (PCD File No. SKP-16-002) was approved administratively to allow for an additional 80 single-family residential lots. On October 24, 2018, another sketch plan amendment was administratively approved (PCD File No. SKP-18-002) allowing a one (1) acre increase in the amount of commercial acreage within the Plan.

On July 15, 2021, the Board of County Commissioners approved a sketch plan amendment (PCD File No. SKP-20-002) to the previously approved plan. The amendment allowed for a reduction of the total area proposed for commercial uses from 38.2 acres to 22.1 acres and the total area proposed for industrial uses from 78.9 acres to 26 acres to accommodate 1,260 additional single-family and multifamily residential units. The area included in the proposed map amendment (rezoning) is designated for commercial uses in the sketch plan.

F. ANALYSIS

1. Land Development Code Analysis

The two (2) parcels, totaling 22.07 acres, included in the proposed map amendment (rezoning) are currently zoned A-5 (Agricultural). The map amendment (rezoning) area is adjacent to properties within unincorporated El Paso County zoned A-5 and CS, and properties located within the incorporated boundaries of the City of Colorado Springs.

The Colorado Centre development is located approximately one (1) mile to the east of the subject parcels and has been developed with single-family detached dwellings on lot sizes ranging from 5,000 to 10,000 square feet in size. Additionally, the Sunrise Ridge Subdivision is located approximately two (2) miles south of the subject property and consists of detached single-family dwellings on lots ranging in size from 7,300 square feet to 13,000 square feet. Both of the above referenced residential developments are located in an area of the County that lacks basic commercial services, such as fueling stations, restaurants, and grocery stores. The lack of supporting commercial services in the area combined with the existing and proposed density of residential development in the area would suggest that the proposed commercial map amendment is appropriate for the area and would be beneficial to the existing and future residents of El Paso County.

On July 15, 2021, the Board of County Commissioners approved a sketch plan amendment to the previously approved plan (PCD File No. SKP-20-002). That amendment allowed for the reduction of the proposed commercial area from 38.2 acres to 22.1 acres and the industrial area from 78.9 acres to 26 acres to accommodate 1,260 additional single-family and multi-family residential units. The area included in the proposed map amendment (rezoning) is depicted in the sketch plan as being commercial development. There is no restaurant or gas station within one (1) mile of the proposed map amendment. As such, those new residents to the area are forced to travel a greater distance into the City of Colorado Springs to obtain basic commercial services. If the proposed map amendment is approved, the subject property could be used for commercial development that would support the existing and proposed residential developments in the area.

The proposed map amendment (rezoning) is consistent with the character of the surrounding developed neighborhood. Specifically, there are several commercial and industrial developments in the area that are consistent with the proposed zoning. To the south, across Bradley Road, are located two parcels zoned CS (Commercial Services). The subject property is located immediately adjacent to the south of the Colorado Springs Airport and in close proximity to the new

Amazon Fulfillment Center (1/2 mile west of the subject property). Both of the facilities are major employers in the region and are accessed from the area of the propose map amendment (rezoning) via Bradley Road and Powers Boulevard. Additionally, the subject property is located approximately one-half (1/2) mile west of a node of industrial and commercial zoning located at the intersection of Bradley Road and Foreign Trade Zone Boulevard. The commercially zoned properties are currently vacant. The industrial-zoned portion consists of vacant property, a transportation center offices, and a warehouse facility. The presence of existing commercial and industrial zoning in the area indicates that the proposed map amendment (rezoning) is consistent with existing and potential land uses in the area.

The property is also within the CAD-O (Commercial Airport Overlay District) zoning overlay. The CAD-O was adopted by the Board of County Commissioners pursuant to C.R.S §30-28-113 et seq. and 41-4-101 et seq. The purpose of the CAD-O district is to ensure compliance with the Federal Aviation Administration, to ensure free and unobstructed passage of all aircraft through and over airspace, and to acknowledge that private property owners have a property interest in usable airspace above the surface of their property. A referral was sent to the Colorado Springs Airport Advisory Commission (CSAAC) for review and comment. The CSAAC did not provide a response but previously responded to the sketch plan indicating that they have no concerns (see comments attached). The property located within the APZ (Accident Potential Zone) I and II. Commercial, Office, and Warehousing require approval of a special use within the APZ I. Section 4.3.1 CAD-O, Commercial Airport Overlay District, of the Land Development Code requires an Airport Activity Notice and Disclosure to be recorded against the title of the property at the time of the final plat but does not require provision of an avigation easement. More specifically, Section 4.3.1 of the Code states:

“The following are required prior to approval of any rezoning or subdivision plat:

- The request shall be referred to Airport Advisory Commission for review and comment.
- Airport Activity Notice and Disclosure shall be required to be recorded against the title of the property as a condition of approval.”

The applicant will be required to comply with the above referenced section of the Code at the final plat stage of development.

The proposed map amendment (rezoning) is in conformance with the land use depicted on the approved sketch plan as well as the commercial and industrial properties in the area. Furthermore, the commercial development will provide new and existing residential developments in the area with necessary goods and services. Should the map amendment (rezoning) be approved, the applicant proposes to proceed through the applicable subdivision processes. The subsequent subdivision will need to demonstrate compliance with the standards of the CS zoning district as well as the subdivision standards included in Chapters 7 and 8 of the Land Development Code.

2. Zoning Compliance

The applicant is requesting approval of a map amendment (rezoning) of 22.07 acres to the CS (Commercial Service) zoning district. The CS (Commercial Service) zoning district is intended to accommodate retail, wholesale or service commercial uses that serve the general public. The density and dimensional standards for the CS (Commercial Service) zoning district are as follows:

- Minimum lot size: None
- Minimum width at the front setback line: None
- Minimum setback requirement: 25 feet for front, rear, and side yard * ** ***

- Maximum lot coverage: None
- Maximum height: 45 feet

*Gasoline pumps and canopies shall be at least 15 feet from the front property line or public right-of-way, except where the landscaping regulations require a greater setback.

**The minimum setback is 25 feet from the perimeter boundary of the district, but no minimum setback is required from any internal side or rear lot line within the same district.

***Temporary uses shall be setback at least 25 feet from all property lines and 100 feet from Residential zoning districts.

****If the building is established as or converted to condominium units in accordance with Chapter 7 of this Code, the building and lot shall meet the minimum lot area and setbacks, but the individual units are not required to meet the minimum lot area, maximum lot coverage, or setback requirements.

If the map amendment (rezoning) application is approved, approval of a site development plan will be required for each commercial use prior to construction. The site development plans will need to provide a detailed depiction of the proposed use and compliance with all of the standards of the CS (Commercial Service) zoning district. The subsequent subdivision will need to demonstrate compliance with the standards of the CS zoning district as well as the subdivision standards included in Chapters 7 and 8 of the Land Development Code.

3. Master Plan Analysis

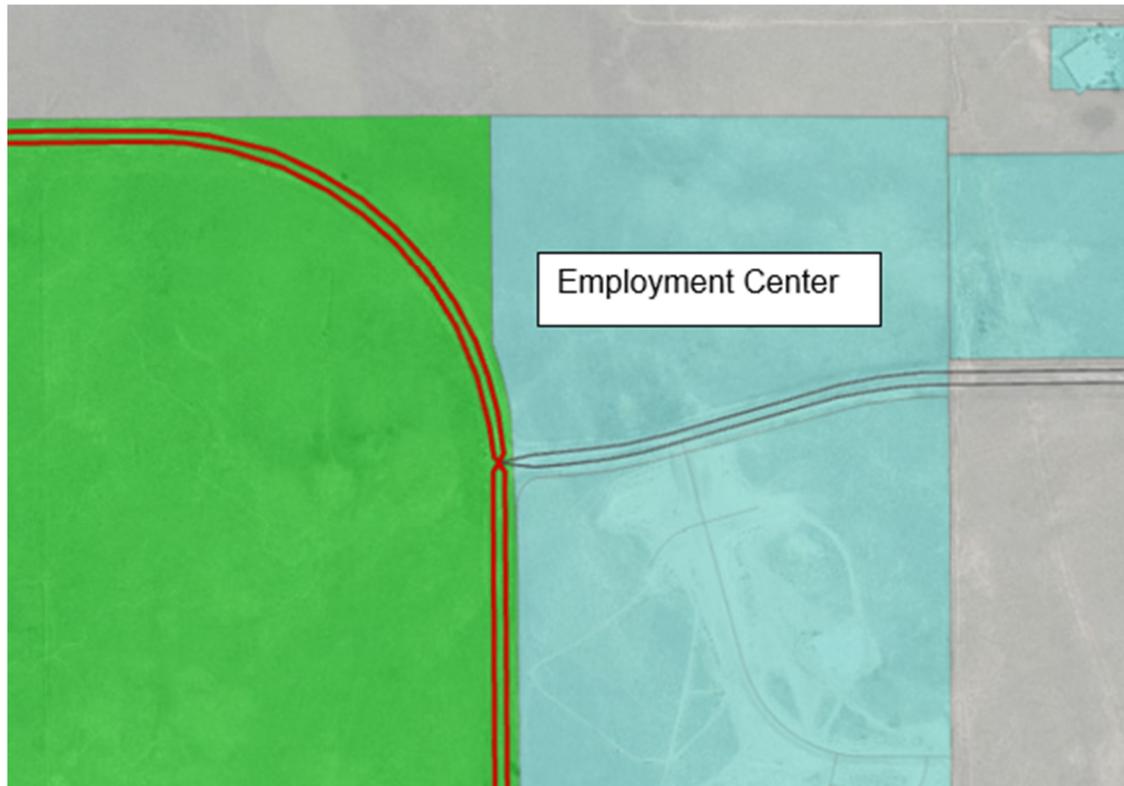
a. Your El Paso Master Plan

i. Place Type: Employment Center

Place Type Character:

“Employment Centers comprise land for industrial, office, business park, manufacturing, distribution, warehousing, and other similar business uses. The priority function of this placetype is to provide space for large-scale employers to establish and expand in El Paso County. They are typically located on or directly adjacent to Interstate 25 and/or other regional corridors to ensure business and employee access.

Proximity to other transportation hubs, such as Meadow Lake Airport, and rail lines is also appropriate for an Employment Center. Uses in this placetype often require large swaths of land and opportunity to expand and grow to meet future needs and demands. Transitional uses, buffering, and screening should be used to mitigate any potential negative impacts to nearby residential and rural areas. Some Employment Centers are located in Foreign Trade, Commercial Aeronautical, and Opportunity Zones to help incentivize development.”



Recommended Land Uses:

Primary

- Light Industrial/Business Park
- Heavy Industrial
- Office

Supporting

- Commercial Retail
- Commercial Service
- Restaurant

Analysis:

The parcels are designated as being within the Employment Center placetype. The Employment Center placetype is the County's primary location for large-scale, nonretail businesses that provide significant employment and economic development opportunities.

The relevant goals and objectives are as follows:

Goal 1.1: Ensure compatibility with established character and infrastructure capacity.

Goal 1.3 - Encourage a range of development types to support a variety of land uses.

Goal 3.3 – Encourage the development of commercial districts in underserved areas.

Goal 3.5 – Coordinate with military installations to foster new development and jobs.

Priority LU3: The New Development areas will be significantly transformed as new development takes place on lands currently largely designated as undeveloped or agricultural areas. Undeveloped portions of the County that are adjacent to a built out area should be developed to match the character of that adjacent development or to a different supporting or otherwise complementary one such as an employment hub or business park adjacent to an urban neighborhood.

As noted in the Land Development Code Analysis section of the report above, the proposed map amendment may be found to be compatible with the development pattern of the surrounding neighborhood and the goals of the placetype designation, which supports commercial and industrial land uses in Employment Centers. The proposed commercial zoning is consistent with the zoning adjacent to the subject property to the south and is also anticipated to support the existing and proposed residential uses in the neighborhood.

The Colorado Centre residential development and the Sunrise Ridge Subdivision are located in close proximity to the subject property. The subject property is located in an area of the County that lacks basic commercial services to support residential development. Additionally, the subject property is located immediately south of the Colorado Springs Airport and in close proximity to the new Amazon Fulfillment Center (1/2 mile west of the subject property). If the proposed map amendment is approved, the subject property could be used for commercial development that would support the existing and proposed residential developments in the area. As such, the proposed map

amendment (rezoning) is consistent with the primary land use recommendations in the Master Plan for Employment Centers and with the character of the surrounding neighborhood, and will complement the existing uses in the area.

ii. Area of Change Designation: New Development

“These areas will be significantly transformed as new development takes place on lands currently largely designated as undeveloped or agricultural areas. Undeveloped portions of the County that are adjacent to a built-out area will be developed to match the character of that adjacent development or to a different supporting or otherwise complementary use such as an employment hub or business park adjacent to an urban neighborhood.”

The proposed map amendment (rezoning) will match the character of surrounding commercial and industrial developments. The proposed map amendment (rezoning), and subsequent commercial development, will also provide necessary goods and services for those existing and planned residential developments in the area.



iii. Key Area Influences: Military Installations and Colorado Springs Airport/Peterson Air Force Base

The Military Installations recommends:

“Areas directly adjacent to the installations are critical to successfully planning for the County’s projected growth, economic viability, and the various operations of the individual bases. Recommendations and policies will be specific and different for each installation.”

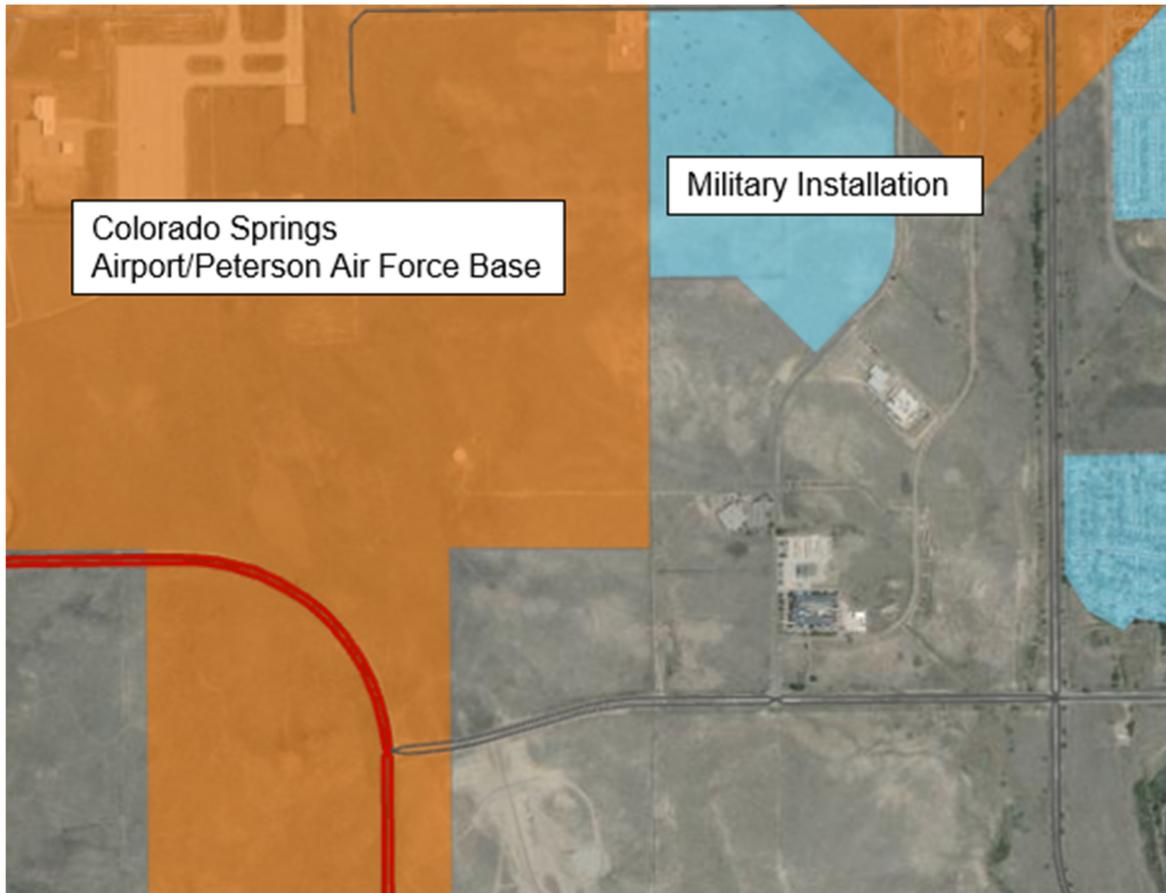
The Colorado Springs Airport/Peterson Air Force Base recommends:

“Currently, large amounts of land adjacent to the airport are primed for commercial and industrial development, in part due to the establishment of a Commercial Aeronautical Zone (CAZ).”

“The County should continue to prioritize nonresidential growth in this area to help expand the Employment Center in unincorporated El Paso County.”

“The County should also coordinate future development adjacent and within the Colorado Springs Airport Accident Potential Zone (APZ) and within the Peterson Air Force Base buffer area with the Airport and the Base to ensure growth does not negatively impact the primary functions of Peterson Air Force Base or the Airport. Coordination with Colorado Springs Airport should also be considered, as necessary.”

The proposed map amendment (rezoning) is consistent with the Key Area Influence recommendation that these areas include commercial and industrial growth to support the Colorado Springs Airport and Peterson Air Force Base. As noted above, the request is also consistent with the development pattern of the surrounding area which supports Goal LU1. The proposed map amendment will encourage commercial development in an area of the County that lacks basic commercial services. The BoCC also has determined that the proposed map amendment (rezoning) is an appropriate use for the subject parcels in approving the applicable sketch plan (PCD File No. SKP-20-002). The Colorado Springs Airport, Peterson Air Force Base, and CDOT were each sent a referral for the proposed map amendment (rezoning) and had no comments or concerns.



4. Water Master Plan Analysis

The El Paso County Water Master Plan (2018) has three main purposes, better understand present conditions of water supply and demand, identify efficiencies that can be achieved, and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

Goal 1.1 – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.

Goal 1.2 – Integrate water and land use planning

Goal 6.0.11- Continue to limit urban level development to those areas served by centralized services

The subject parcels are in Region 7 of the El Paso County Water Master Plan. Region 7 has a current central water supply of 15,376-acre feet per year and a current

demand of 10,141-acre feet per year. The 2040 water supply is projected to be 25,241-acre feet per year and the projected demand is 15,846-acre feet. The 2060 water supply is projected to be 27,840-acre feet per year, whereas the demand is anticipated to be 26,959-acre feet per year; therefore, there is projected to be a surplus supply of water for central water providers in this region of the County.

A finding of water sufficiency regarding quantity, dependability, and quality is not being requested, nor is it required, with the proposed map amendment (rezoning), but would occur later at the subdivision stage of development. The subject parcels will be served by the Widefield Water and Sanitation District. The future anticipated application(s) for a preliminary plan(s) may including a finding of water sufficiency. However, if the finding is not included with the preliminary plan(s), then a finding must be made each subsequent final plat application.

5. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a high wildlife impact potential. The El Paso County Community Service Department, Environmental Services Division, was sent a referral for this proposal and their comments are attached to this report.

The Master Plan for Mineral Extraction (1996) identifies valley fill in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified in the review of the proposed map amendment (rezoning).

2. Wildlife

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a high wildlife impact potential.

3. Floodplain

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0768G, which has an effective date of December 07, 2018, indicates the subject parcel is located within Zone X, areas outside of the 500-year floodplain.

4. Drainage and Erosion

The area of the proposed map amendment (rezoning) is located within the West Fork Jimmy Camp Creek and Jimmy Camp Creek drainage basins. These drainage basins are included in the El Paso County drainage basin fee program. The drainage fee shall be calculated as part of subsequently required final drainage report(s) and must be paid at the time of final plat recordation.

A preliminary drainage report is required with each preliminary plan. The preliminary drainage report provides hydrologic analysis to identify and mitigate drainage impacts to the surrounding properties by providing water quality and flood control detention. A grading and erosion control plan is not required with the rezoning requests.

5. Transportation

The development is subject to the El Paso County Road Impact Fee program (Resolution No. 19-471).

Transportation improvements necessary due to site development will be further defined with each subsequent preliminary plan, final plat, and site development plan. A traffic impact analysis (TIS) was received with the map amendment (rezoning) request addressing the anticipated traffic generation of the proposed project, impacts, and anticipated necessary improvements. The impacts of the traffic generated by the proposed development will require offsite mitigation by the developer (if not previously provided by others) as summarized in Table 5 of the TIS, and as identified during review of future subdivision applications.

Mitigation of offsite impacts may include either construction or financial contribution toward improvements including, but not limited to, the following:

1. Traffic signal installation at the Bradley Road and Legacy Hill Drive intersection;
2. Intersection improvements at the Bradley Road and Legacy Hill Drive intersection;
3. Intersection improvements at the Powers Boulevard and Bradley Road intersection; and
4. Other offsite issues to be further defined at the subdivision stages of development.

H. SERVICES

1. Water

The applicant has indicated that future service will be provided by Widefield Water and Sanitation District.

2. Sanitation

The applicant has indicated that future wastewater service will be provided by Widefield Water and Sanitation District.

3. Emergency Services

The property is within the Security Fire Protection District. The Security Fire Protection District was sent a referral and did not provide a response.

4. Utilities

Natural gas service is provided by Colorado Springs Utilities and electrical service will be provided by Mountain View Electric Association.

5. Metropolitan Districts

The subject property is located within the Waterview II Metropolitan District service area. The District was created on August 31, 2006 (PCD File No. ID-06-002). The District has an ad valorem (property tax) mill levy of 40 mills.

6. Parks/Trails

The El Paso County Parks Master Plan (2013) identifies the South Powers Boulevard Bicycle Route running north-south along Powers Boulevard on the west side a of the property, as well as the proposed Curtis Road Bicycle route running east-west along Bradley Road through the property. Land dedication or fees in lieu of park land dedication are not required for a map amendment (rezoning) application. Fees in lieu of park land dedication are not required for commercial subdivisions.

7. Schools

Land dedication and fees in lieu of school land dedication are not required for a map amendment (rezoning) application or for commercial subdivisions.

I. APPLICABLE RESOLUTIONS

See Attached Resolution

J. STATUS OF MAJOR ISSUES

There are no major outstanding issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2021), staff recommends the following conditions and notations:

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to The Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the CS (Commercial Service) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.
3. The applicant/developer and/or property owner shall be required to participate in a fair and equitable manner in the upgrading of the surrounding roads and intersections including, but not necessarily limited to, Powers Boulevard, Bradley Road, and Legacy Hill Drive. The developer's general design and financial responsibilities regarding the Bradley Road and Legacy Hill Drive intersection configuration and improvements, as well as other offsite improvements shall be determined with each subsequent preliminary plan approval.
4. A County access permit will be required for the connection of new roads to Bradley Road or any other County roadway. A CDOT access permit will be required with improvements to the Powers Boulevard and Bradley Road intersection. The applicant shall comply with all CDOT access permit requirements.

NOTATIONS

1. If a map amendment (rezoning) application has been disapproved by the Board of County Commissioners, resubmittal of the previously denied application will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is an application 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.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified ten (10) adjoining property owners on November 3, 2021, for the Board of County Commissioners meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map

Letter of Intent

Rezone Map

November 18, 2021 Planning Commission Draft Minutes

Planning Commission Resolution

Board of County Commissioners' Resolution

El Paso County Parcel Information

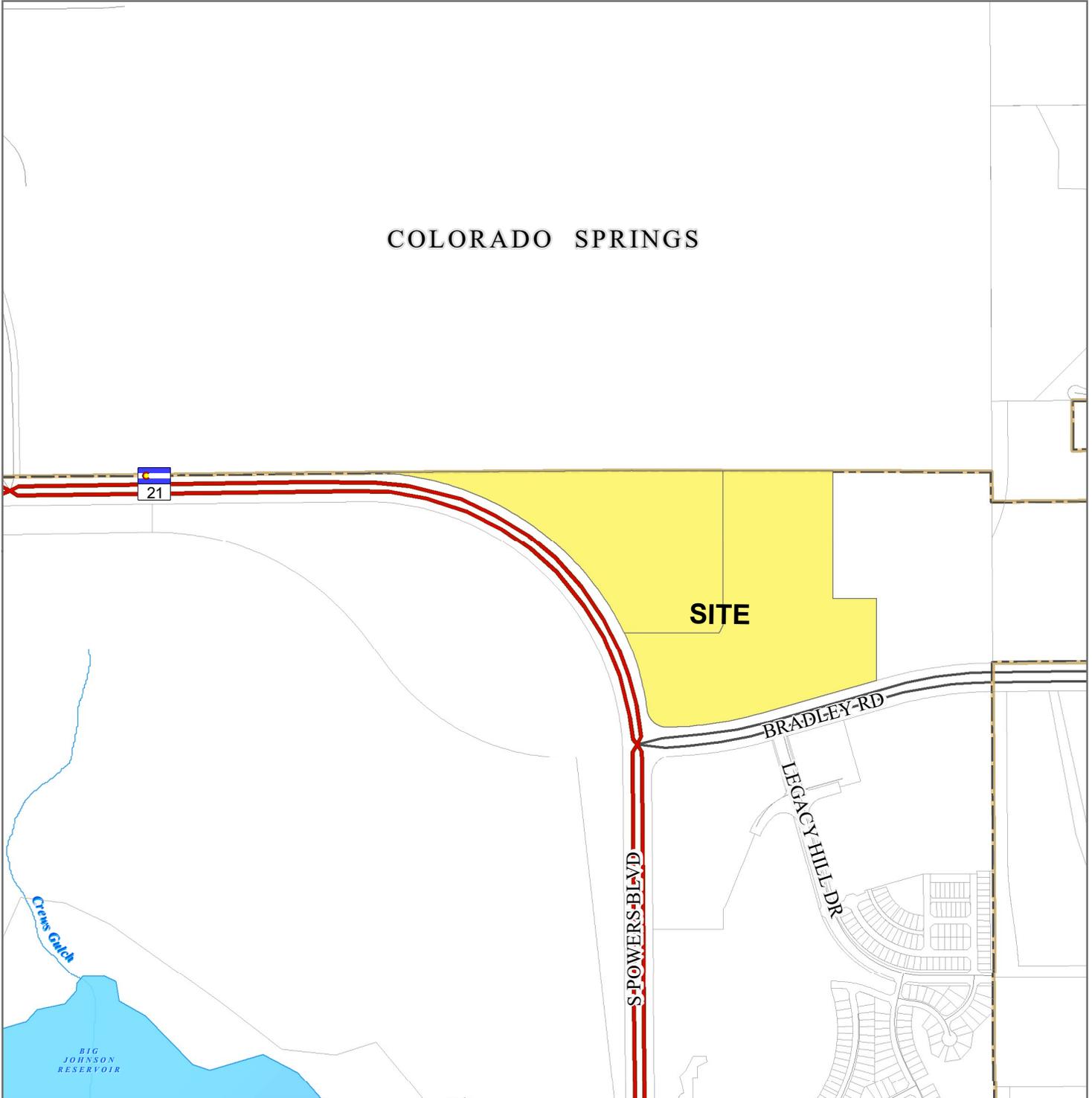
PARCE	NAME
5500000	CPR ENTITLEMENTS LLC
5500000	CPR ENTITLEMENTS LLC

File Name: CS-21-001

Zone Map No. --

Date: November 1, 2021

COLORADO SPRINGS



Please report any parcel discrepancies to:
El Paso County Assessor
1675 W. Garden of the Gods Rd.
Colorado Springs, CO 80907
19 (719) 520-6600



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Letter of Intent
Waterview 2020 Rezone Plan A-5 to CS

4/21

Owners: CPR Entitlements, LLC
31 North Tejon St., Suite 500
Colorado Springs, CO 80903
(719) 377-0224
hli.pak7@gmail.com

Applicant: CPR Entitlements, LLC
31 North Tejon St., Suite 500
Colorado Springs, CO 80903
(719) 377-0224
hli.pak7@gmail.com

Consultant: Dakota Springs Engineering
31 North Tejon St., Suite 500
Colorado Springs, CO 80903
(719) 432-6889
charlescothern@springseng.com

Tax Schedule Nos.: 5500000436, 5500000439

Site Information:

History

Waterview North is a proposed mixed-use development on 116.5 acres south of the Colorado Springs Airport and northeast of Powers Boulevard and Bradley Road. Waterview North is part of the Waterview Sketch Plan; the Waterview Sketch Plan was recently approved modifying the proposed land uses in Waterview North (Sketch Plan Parcels P-14 and P-15) from Commercial and Industrial uses only, to Commercial, Industrial and Residential uses allowed under the approved **parcel P-15**.

We are rezoning 22.1 acres of the Amended Waterview Sketch Plan Parcel P-15 from the current A-5 zoning to a land use associated with El Paso County Commercial (CS) zoning.

The legal description of the parcels is as follows:

PARCEL P-15 (COMMERCIAL USE)

A TRACT OF LAND LOCATED IN A PORTION OF SECTION 8 AND SECTION 9, BOTH IN TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF SAID SECTION 9;

THENCE S81°51'23"E ALONG THE NORTH LINE OF SAID SECTION 9, A DISTANCE OF 331.37 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING S81°51'23"E A DISTANCE OF 338.00 FEET;

THENCE S00°00'00"E DEPARTING SAID NORTH LINE, A DISTANCE OF 1195.45 FEET TO A POINT OF NON-TANGENT CURVE TO THE RIGHT;

THENCE ON SAID CURVE, HAVING A RADIUS OF 585.00 FEET, AN ARC LENGTH OF 489.15 FEET, A DELTA ANGLE OF 47°54'30", WHOSE LONG CHORD BEARS S39°36'27"E A DISTANCE OF 475.03 FEET;

THENCE S15°39'12"E A DISTANCE OF 200.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF BRADLEY ROAD AS RECORDED IN BOOK 5307 AT PAGE 1472 OF THE RECORDS OF SAID EL PASO COUNTY;

THE FOLLOWING FIVE (5) COURSES ARE ON SAID RIGHT-OF-WAY LINE AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF POWESRS BOULEVARD DESCRIBED IN SAID BOOK 5307 AT PAGE 1472 (NOW HIGHWAY 21):

- 1) THENCE S74°20'48"W A DISTANCE OF 81.85 FEET TO A POINT OF CURVE TO THE RIGHT;
- 2) THENCE ON SAID CURVE, HAVING A RADIUS OF 2759.79 FEET, AN ARC LENGTH OF 625.43 FEET, A DELTA ANGLE OF 12°59'05", WHOSE LONG CHORD BEARS S80°50'19"W A DISTANCE OF 624.10 FEET;
- 3) THENCE S87°19'53"W A DISTANCE OF 64.33 FEET TO A POINT OF CURVE TO THE RIGHT;
- 4) THENCE ON SAID CURVE, HAVING A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 216.56 FEET, A DELTA ANGLE OF 82°43'14", WHOSE LONG CHORD BEARS N 51°18'28" W A DISTANCE OF 198.24 FEET TO A POINT OF REVERSE CURVE TO THE LEFT;

5) THENCE ON SAID CURVE, HAVING A RADIUS OF 2105.00 FEET; AN ARC LENGTH OF 485.69 FEET, A DELTA ANGLE OF 13°13'11", WHOSE LONG CHORD BEARS N16°33'28"W A DISTANCE OF 484.61 FEET;

THENCE N56°26'42"E DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 545.66 FEET TO A POINT OF NON-TANGENT CURVE TO THE RIGHT;

THENCE ON SAID CURVE, HAVING A RADIUS OF 585.00 FEET, AN ARC LENGTH OF 342.60 FEET, A DELTA ANGLE OF 33°33'18", WHOSE LONG CHORD BEARS N16°46'39"W A DISTANCE OF 337.73 FEET;

THENCE N00°00'00"E A DISTANCE OF 665.89 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 961,408 SQUARE FEET OR 22.071 ACRES MORE OR LESS

Request and Reason:

To approve a Commercial CS rezone for Parcel P-15, the 22.1 acres currently zoned as A-5. This letter serves as a request to receive El Paso County approval of the proposed CS zoning for this site. Approximately ±5 acres in the proposed CS zone is being developed as the commercial/office component of a mixed use Veteran’s Village Mixed Use Project. The Project proposes a mixed-use campus that provides approximately 250 market rate apartment units on the 10.34 acres in association with an adjacent business center hub for use as business incubator space for small business growth and development with supporting office space on 5 acres in the proposed CS zone.

El Paso County Land Development Code

The proposed Zoning Request is in conformance with the El Paso County Land Development Code based on the following Code analysis:

Rezoning Approval: Section 5.3.5(B)

This request meets the criteria for approval outlined in Section 5.3.5 of the El Paso County Land Development Code by the following:

- **The application is in general conformance with the County Master Plan and previous county approvals;** in this case Sketch Planned Industrial and Commercial uses.
- **The proposed Land Use and Zone District is compatible with the existing and permitted land uses in the area,** and with the mix of industrial, and urban density residential land uses included on the Amended Waterview Sketch Plan. The Sketch Plan Amendment is currently under County review. Concurrent rezone applications have been submitted for industrial (I-2), commercial (CS), multifamily(RM-30),

and single-family attached (RM-12) and detached (RS-5000) zone districts to implement the land use scenario of the Amended Waterview Sketch Plan (2020).

- **The site is suitable for the intended use.** Necessary urban and public services, available including access, stormwater facilities, public safety, recreation, utilities are or will be adequate and available to serve the site. Geologic conditions are also favorable to develop the site following accepted and adopted engineering guidelines.

EL PASO COUNTY MASTER PLAN

The County Master Plan locates the development within in the Colorado Springs Airport/Peterson Airforce Base Area on the **Key Area Map** as an area anticipating “New Development” on the **Areas of Change Map** with as a projected “Employment Center” by the **Placetypes Map**. The Plan recommends prioritization of nonresidential growth in this area to help expand Employment Center land uses and densities in this area.

The proposed zoning, which was developed in response to market demand and absorption is in general conformance with the intent, policies, goals, and recommendations of the Master Plan. Approval of the Waterview North Commercial and Industrial zoning reflects the prioritization of supporting commercial land uses. Approval of the residential zoning is supportive of the local economic consumer base needed to sustain the future land uses in the commercial zone.

The land uses and densities proposed and approved under the Amended Waterview Sketch Plan have been in review by the County prior to development and adoption of the current El Paso County Master Plan. The individual rezone applications needed to implement the uses authorized by the Sketch Plan are currently being reviewed for consistency with the newly adopted El Paso County Master Plan Land Use framework and typology recommendations. Chapter 14, Implementation states in the Land Use Applications and Master Plan Consistency narrative:

...Approval of a land use application does not necessarily require a finding that the application is fully consistent with each and every applicable component of the Master Plan. [The Planning Commission and BOCC] have the discretion to give greater weight to individual components of the Master Plan compared to other components when taking a formal action to either approve, approve with conditions, or deny an application.

Goal 1.1 - Ensure compatibility with established character and infrastructure capacity.

Proposed zoning, land uses, and densities are compatible with the approved 23.1 acres of commercial adjacent to the site, the ± 167 acre urban residential Trails at Aspen Ridge, and ±5 acres of multifamily zone located along the southern border of Bradley Road opposite of the site and within the approved Sketch Plan Area.

The development will be within an existing previously approved Sketch Plan. Access is focused on Bradley road at previously approved access points. The commercial and Industrial proposed uses are focused at the Bradley Road and Powers Boulevard

Corridors within a ¼ mile of an existing Intersection with Bradley Road. All urban residential land uses access within a ½ mile distance from Bradley Road.

Public services are being provided by Widefield Water and Sanitation District through extension of existing service lines. CSU Gas has recently increased service to this area (costs being shared by this development) and existing Mountain View electrical facilities are being extended underground through the development as construction commences. The area has been annexed into the Security Fire Protection District for taxing and service purposes. Screening and buffering will be considerations moving forward.

Goal 1.2 - Coordinate context-sensitive annexation and growth strategies with municipalities.

The area is identified in the 3-mile Land Use Map (Map 3-1 Potential Annexation Areas) of the City of Colorado Springs Annexation Guide. It is identified as eligible, not recommended. The site lies within the Waterview Metropolitan District Service Boundaries which has committed to provide water and wastewater and other municipal type services.

Goal 1.3 - Encourage a range of development types to support a variety of land uses.

The proposed zoning is planned together with zoning applications supportive of mixed land uses as depicted on the Amended Waterview Sketch Plan (PCD File No. 20-2) that is pending approval. Uses approved under the sketch plan include light industrial, commercial retail, office, multifamily, and urban density single-family attached and detached residential.

Goal 1.4 - Continue to encourage policies that ensure “development pays for itself”.

Development in the proposed Waterview North area (inclusive of commercial, light industrial, and residential zones) will be developer and district funded including:

- Developer funded site and infrastructure improvements (roads, site preparation, and wet/dry utilities)
- Applicable drainage/bridge, park, and school fees payable at individual plat recordation
- Applicable County Road Impact Fees
- Utility Service Design, Construction, and/or Service Connection (Tap) Fees

Area: Colorado Springs Airport/Peterson Air Force Base

Colorado Springs Airport is the second largest in the State of Colorado with continually rising passenger totals and activity. Currently, large amounts of land adjacent to the airport are primed for commercial and industrial development, in part due to the establishment of a Commercial Aeronautical Zone (CAZ).

The Plan recommends prioritization of nonresidential growth in this area to help expand the Employment Center Placetype in this area to:

- implement policies, plans, programs, and partnerships in support of BOCC efforts to attract local businesses and promote development on the available land in the Area.
- provide additional job opportunities for County residents
- expand the County’s tax base, to:
 - providing more opportunities to address other County issues such as upgrades to infrastructure,
 - expansion of services,
 - and development of new roadways.
 - (See discussion on **Goal 1.4 - Continue to encourage policies that ensure “development pays for itself”**, above)
 -

Areas of Change: New Development

The plan assumes undeveloped areas Undeveloped “that are adjacent to a built out area ***will be developed to match the character of that adjacent development or to a different supporting or otherwise complementary one such as an employment hub or business park adjacent to an urban neighborhood***” . *[Emphasis Supplied]*

Proposed zoning, land uses, and densities are compatible with the approved 23.1 acres of commercial adjacent to the site, the ± 167 acre urban residential Trails at Aspen Ridge, and ±5 acres of multifamily zone located along the southern border of Bradley Road opposite of the site and within the approved Sketch Plan Area. The proposed development areas and zones have been planned to mutually support each other and upon development will create the land use scenario with employment hub/business park uses.

Placetype: Employment Center

Primary Employment Center uses include, Light Industrial/Business Park, Heavy Industrial, and Office Uses. Supporting land uses include Commercial Retail, Commercial Service, and Restaurant land uses.

The proposed commercial, light industrial, multifamily land use mix of land uses and zones is consistent and compatible with the existing land use mixes within the Waterview South Sketch Plan Area and approved zoning and subdivision applications located on the south side of Bradley Road, opposite and adjacent to this development area.

El Paso County Policy Plan

The proposed Zoning Request is in conformance with the County Policy Plan based on the following Policy analysis:

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.

Parcel P-14

This application meets this policy by maintaining land use within the parameters of the adjacent proposed land uses and restrictions. The APZ-1 Airport Overlay restricts the types of uses that can be proposed. Powers Boulevard and Bradley Road to the south and west provides a significant buffer to uses south and west of the site.

Development of the property south of Bradley Road (commercial and residential uses) have brought public utilities to the area from Widefield Water and Sanitation District, Mountain View Electric and Colorado Springs Utilities allowing for development of property north of Bradley Road (Waterview North) including the proposed Industrial use.

Access will be from Bradley Road via Powers Boulevard. Capacity of these roads is addressed in the TIS provided with the Waterview Sketch Plan Amendment.

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

This application meets this policy by taking advantage of existing urban supporting facilities provided by Widefield Water and Sanitation District. Service will be provided based on a recently approved inclusion agreement with this District. Water and Sewer service will be provided by extending water and sewer lines from south of Bradley Road. In addition, Mountain View Electric and Colorado Springs Utilities have extended services to the site.

Summarize findings of TIS pertaining to this this rezone in this Letter of Intent.

Policy 10.1.2: Carefully consider the impacts that proposed new developments will have on the viability of existing and proposed water and wastewater system

The Widefield Water and Sanitation District has indicated the ability to serve the property as well as the State Engineers Office from previous reviews. The proposed project is within the service boundary of the Widefield Water and Sanitation District; an inclusion agreement has recently been approved.

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

The Widefield Water and Sanitation District has indicated the ability to serve the property as well as the State Engineers Office from previous reviews. The proposed project is within the service boundary of the Widefield Water and Sanitation District; an inclusion agreement has recently been approved. Water and Sewer service will be provided by extending water and sewer lines from south of Bradley Road.

County Water Master Plan:

The proposed subdivision satisfies the following policies of the County Water Master Plan:

Policy 5.2.4: Encourage the locating of new development where it can take advantage of existing or proposed water supply projects that would allow shared infrastructure costs.

The proposed subdivision is located within the service area of the Widefield Water and Sanitation District (WWSD). Service will be provided based on a recently approved inclusion agreement with this District. Water and Sewer service will be provided by extending water and sewer lines from south of Bradley Road. A Will Serve Letter is provided noting the District's ability to the serve the proposed development in an efficient manor with the current infrastructure provided with extension as noted above.

Policy 5.5.1: Discourage individual wells for new subdivisions with 2.5 acre or smaller average lot sizes, especially in the near-surface aquifers, when there is a reasonable opportunity to connect to an existing central system, alternatively, or construct a new central water supply system when economies of scale to do so can be achieved.

The proposed subdivision is located within the service area of the Widefield Water and Sanitation District (WWSD). A Will Serve Letter is provided noting the District's ability to the serve the proposed development in an efficient manor with the current infrastructure.

Policy 6.0.1: Continue to require documentation of the adequacy or sufficiency of water, as appropriate for proposed development.

An appropriate Will Serve Letter is provided noting the WWSD's ability to the serve the proposed development in an efficient manor with the current infrastructure and noting their current capacity to serve.

The project is located within Region 7, Fountain Area, and is projected to be the largest growth area in El Paso County. Specifically, the Water Master Plan states:

Region 7 could experience the largest demand growth in the County by 2060. Areas projected to develop by 2040 are located south of Fountain on the north and south sides of Link Road. Areas northwest of Fountain along the east and west sides of Marksheffel Road are also expected to grow by then, as well as the area south of Fountain on the west side of I-25. Directly west of Fountain, areas north and south of Squirrel Creek Road are expected to grow by 2060. One large development is expected south of Fountain by 2060, along the west side of I-25. Another is expected in the northeast corner of Region 7, along both sides of Bradley Road.

Full Build out of the Widefield Water and Sanitation District is expected in the 2040 to 2060 time frame. The Water Resources Report indicates that the District has sufficient water supply to meet the expected need to full build out. Region 7 has a current water supply of 15,376 acre-feet per year and a current demand of 10,141 acre-feet per year. The 2040 water supply is project to be 25,241 acre-feet per year and the demand is projected to be 15,846 acre-feet. As stated in the water resources report, this development is projected to need 437 acre-feet of water per year.

The District currently incorporates a 15% reserve into future planning. Based on the needs, current supply and reserve the District has sufficient water to meet the needs expected now and into the future.

A Will Serve letter has been provided by WWSD, the water system that serves Waterview North and all of WWSD is classified as a Public Water System and meets all CDPHE applicable requirements.

The water system uses a combination of groundwater and renewable sources and is part of the southern delivery system. There are multiple pressure zones within the WWSD system served by both gravity and pumped systems. Waterview North is in the highest pumped pressure zone.

Existing and Proposed Facilities:

The site currently is vacant. Proposed services in the development include the following:

- Water/Sewer-Widefield Water and Sanitation District
- Electric Service-Mountain View Electric and City of Colorado Springs
- Natural Gas Service – City of Colorado Springs
- Telephone Service – Century Link
- Fire Protection – Security Fire Protection District

Public services are being provided by Widefield Water and Sanitation District through extension of existing service lines. CSU Gas has recently increased service to this area (costs being shared by this development) and existing Mountain View electrical facilities are being extended underground through the development as construction commences. The area has been annexed into the Security Fire Protection District for taxing and service purposes. Screening and buffering will be considerations moving forward.

The applicant anticipates county approval of Water Quality and Sufficiency at Preliminary Plan approval.

Offsite Improvements

Extension of Water and Sewer lines from the development currently underway south of Bradley Road.

Impact Identification:

Wildlife

Preexisting wildlife habitats and migration routes are noted for the usual prairie animals. This site has existing Bradley Road to the south and Powers Boulevard to the west. Wildlife impact to the area has already occurred due to these existing roads. A wildlife study was commissioned and completed and has been submitted as part of the Preliminary Plan submittal and can be reviewed as part of that land use application.

Colorado Springs Airport

The applicant has met with Colorado Springs Airport staff to discuss the Waterview Sketch Plan Amendment particularly concerning the east half of the application. The primary discussion point concerning the application had to do with the Airports plans to upgrade their landing lights for the east runway; the east runway is roughly in line with Powers Boulevard and due north of the proposed Industrial use. The new lighting system will be more powerful than the existing system and the airport is concerned that the strobe function of the lighting system could be detected in the development.

The airport indicated that the following steps could be taken to mitigate any effects from the strobe runway lighting:

1. Installation of landscaping (evergreen) and/or other barriers (berming/fencing) perpendicular to the runway.
2. Orientation of housing to account for runway lights.
3. Addition of plat notes indicating proximity to the airport.

The applicant notes the following in coordination with airport concerns.

1. The proposed land use should not be significantly affected by the runway lighting.
2. The applicant will continue to consider the airport concerns as development progresses.
3. The following language, suggested by the Airport Staff, will be incorporated on the plat in coordination with El Paso County review and approval:

The development and its occupants may be impacted by air illumination or approach lighting systems that use medium and high-intensity lights to guide aircraft to the runway centerline used for navigation or flight in air.

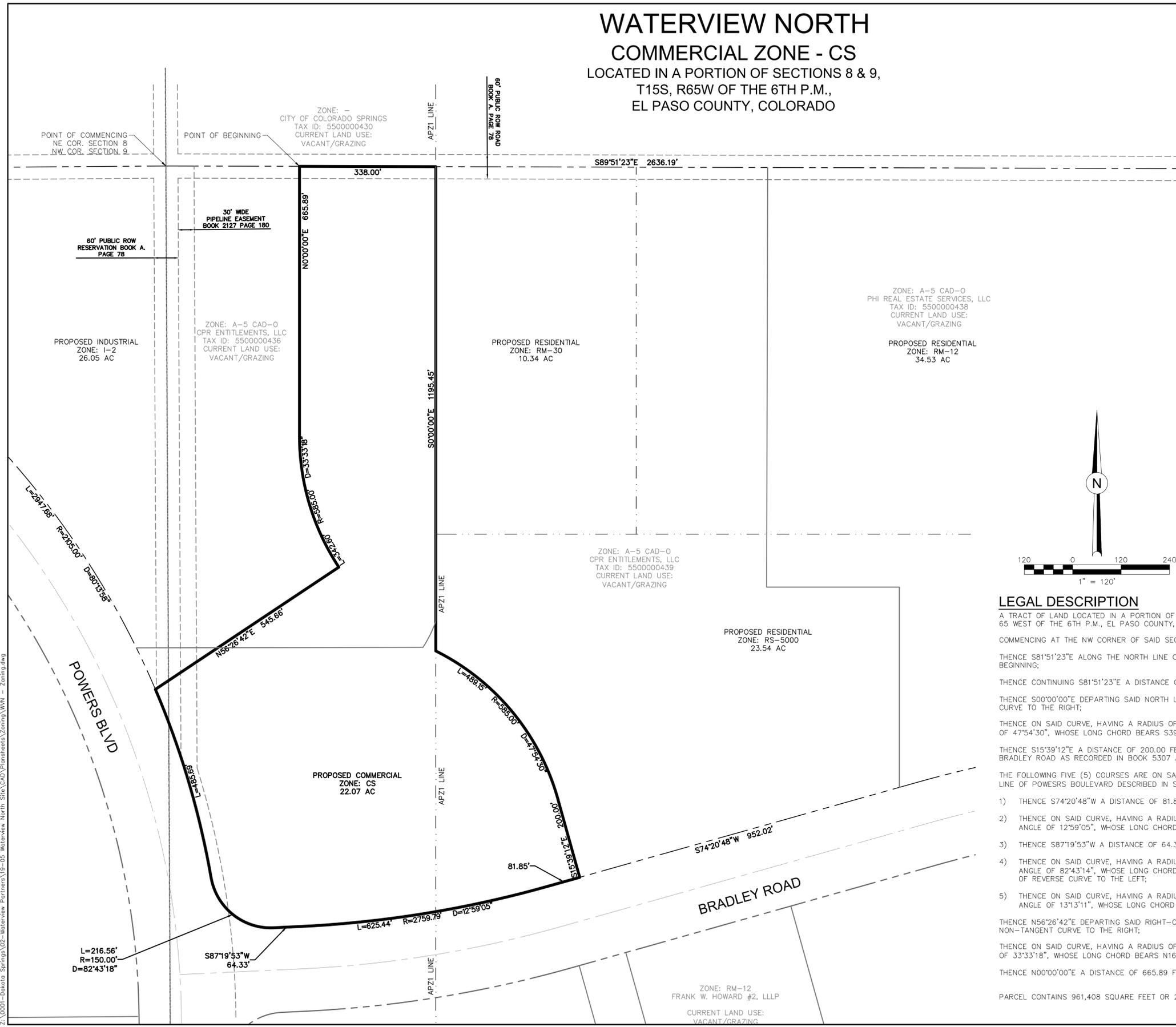
In addition to the above the applicant would like to state the following concerning mitigation of the runway lighting:

While Industrial Land Use seems like the least likely land use to be negatively affected by any activity or lighting from the Colorado Springs Airport, the limited Commercial Land Use permitted within the APZ-1 Airport Overlay are not likely to be negatively affected either.

WATERVIEW NORTH

COMMERCIAL ZONE - CS

LOCATED IN A PORTION OF SECTIONS 8 & 9,
T15S, R65W OF THE 6TH P.M.,
EL PASO COUNTY, COLORADO



LEGEND

WATERVIEW NORTH BOUNDARY	---
EXISTING PARCEL LINE	---
EXISTING RIGHT OF WAY	---
EXISTING PROPERTY EASEMENTS	---
EXISTING PROPERTY SECTION LINE	---
PROPOSED ZONE BOUNDARY	---

SITE DATA

NAME OF SUBDIVISION: WATERVIEW NORTH
 EXISTING ZONING: A-5
 PROPOSED ZONING: CS, I-2, RM-12, RM-30, RS-5000
 PROPOSED USE: RELATIVE TO PROPOSED ZONES
 AREA: 116.53 AC. (22.07 AC CS, 26.05 AC I-2, 34.53 AC RM-12, 10.34 AC RM-30, 23.54 AC RS-5000)
 MAXIMUM NO. OF RESIDENTIAL UNITS: 850

NOTE:
 ALL USE AND SETBACK INFORMATION PER SPECIFIC ZONE REQUIREMENTS.

SUBDIVIDER/PETITIONER

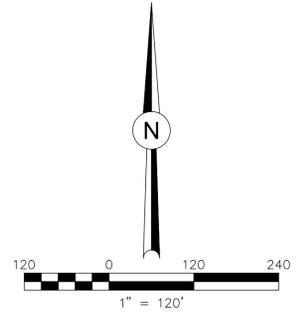
CPR ENTITLEMENTS, LLC
 31 N. TEJON ST., SUITE 500
 COLORADO SPRINGS, CO 80903
 719-377-0244

PLAN PREPARED BY

DAKOTA SPRINGS ENGINEERING, LLC
 31 N. TEJON ST., SUITE 500
 COLORADO SPRINGS, CO 80903
 (719) 227-7388

LAND OWNERS

CPR ENTITLEMENTS, LLC
 31 N. TEJON ST., SUITE 500
 COLORADO SPRINGS, CO 80903
 719-377-0244



LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN A PORTION OF SECTION 8 AND SECTION 9, BOTH IN TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

- COMMENCING AT THE NW CORNER OF SAID SECTION 9;
- THENCE S81°51'23"E ALONG THE NORTH LINE OF SAID SECTION 9, A DISTANCE OF 331.37 FEET TO THE POINT OF BEGINNING;
 - THENCE CONTINUING S81°51'23"E A DISTANCE OF 338.00 FEET;
 - THENCE S00°00'00"E DEPARTING SAID NORTH LINE, A DISTANCE OF 1195.45 FEET TO A POINT OF NON-TANGENT CURVE TO THE RIGHT;
 - THENCE ON SAID CURVE, HAVING A RADIUS OF 585.00 FEET, AN ARC LENGTH OF 489.15 FEET, A DELTA ANGLE OF 47°54'30", WHOSE LONG CHORD BEARS S39°36'27"E A DISTANCE OF 475.03 FEET;
 - THENCE S15°39'12"E A DISTANCE OF 200.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF BRADLEY ROAD AS RECORDED IN BOOK 5307 AT PAGE 1472 OF THE RECORDS OF SAID EL PASO COUNTY;
- THE FOLLOWING FIVE (5) COURSES ARE ON SAID RIGHT-OF-WAY LINE AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF POWERS BOULEVARD DESCRIBED IN SAID BOOK 5307 AT PAGE 1472 (NOW HIGHWAY 21):
- THENCE S74°20'48"W A DISTANCE OF 81.85 FEET TO A POINT OF CURVE TO THE RIGHT;
 - THENCE ON SAID CURVE, HAVING A RADIUS OF 2759.79 FEET, AN ARC LENGTH OF 625.43 FEET, A DELTA ANGLE OF 12°59'05", WHOSE LONG CHORD BEARS S80°50'19"W A DISTANCE OF 624.10 FEET;
 - THENCE S87°19'53"W A DISTANCE OF 64.33 FEET TO A POINT OF CURVE TO THE RIGHT;
 - THENCE ON SAID CURVE, HAVING A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 216.56 FEET, A DELTA ANGLE OF 82°43'14", WHOSE LONG CHORD BEARS N 51°18'28" W A DISTANCE OF 198.24 FEET TO A POINT OF REVERSE CURVE TO THE LEFT;
 - THENCE ON SAID CURVE, HAVING A RADIUS OF 2105.00 FEET; AN ARC LENGTH OF 485.69 FEET, A DELTA ANGLE OF 13°13'11", WHOSE LONG CHORD BEARS N16°33'28"W A DISTANCE OF 484.61 FEET;
- THENCE N56°26'42"E DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 545.66 FEET TO A POINT OF NON-TANGENT CURVE TO THE RIGHT;
- THENCE ON SAID CURVE, HAVING A RADIUS OF 585.00 FEET, AN ARC LENGTH OF 342.60 FEET, A DELTA ANGLE OF 33°33'18", WHOSE LONG CHORD BEARS N16°46'39"W A DISTANCE OF 337.73 FEET;
- THENCE N00°00'00"E A DISTANCE OF 665.89 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 961,408 SQUARE FEET OR 22.071 ACRES MORE OR LESS

DESIGNED BY: JUM DATE: 03.12.21

DRAWN BY: JUM DATE: 03.22.21

CHECKED BY: DATE:

SCALE: 1" = 120'

HORIZ: N/A

VERT: N/A

STATION: FROM: TO:

WATERVIEW NORTH

COMMERCIAL ZONE - CS

REVISIONS: NO. DESCRIPTION DATE

PROJECT NUMBER: 0219-05

SHEET 1 OF 1

Z:\0001-Dakota Springs\02-Waterview Partners\19-05 Waterview North Site\CAD\Plansheets\Zoning\WN - Zoning.dwg

COMMISSIONERS:
STAN VANDERWERF (CHAIR)
CAMI BREMER (VICE-CHAIR)

LONGINOS GONZALEZ, JR.
HOLLY WILLIAMS
CARRIE GEITNER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Thursday, November 18, 2021
El Paso County Planning and Community Development Department
2880 International Circle, Colorado Springs, Colorado 80910

REGULAR HEARING
9:00 a.m.

PRESENT AND VOTING: BRIAN RISLEY, BECKY FULLER, JOAN LUCIA-TREESE, JAY CARLSON, ERIC MORAES (VIA REMOTE ACCESS), BRANDY MERRIAM, SARAH BRITAIN JACK, GRACE BLEA-NUNEZ (VIA REMOTE ACCESS), AND BRYCE SCHUETTPELZ (VIA REMOTE ACCESS)

PRESENT VIA ELECTRONIC MEANS AND VOTING: NONE

PRESENT AND NOT VOTING: NONE

ABSENT: TOM BAILEY AND TIM TROWBRIDGE

STAFF PRESENT: NINA RUIZ, ELIZABETH NIJKAMP (VIA REMOTE ACCESS), LUPE PACKMAN, GILBERT LAFORCE, CARLOS HERNANDEZ (VIA REMOTE ACCESS), JOHN GREEN, RYAN HOWSER, CHARLENE DURHAM, KYLIE BAGLEY, ELENA KREBS, AND EL PASO COUNTY ATTORNEYS LORI SEAGO AND MARY RITCHIE (VIA REMOTE ACCESS)

OTHERS SPEAKING AT THE HEARING: CHARLES COTHERN, RAY O'SULLIVAN, AMANDA HALL, DEREK HOLSCHER, STEVE CONTORNO, AND CLINT BARDEN

Report Items

1. A. Report Items -- Planning and Community Development Department – Ms. Ruiz -- The following information was discussed:

- a) The next scheduled Planning Commission meeting is for **Thursday, December 2, 2021 at 9:00 a.m.**

- b) **Ms. Ruiz** provided an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting.

B. Public Input on Items Not Listed on the Agenda – NONE

2. CONSENT ITEMS

A. Approval of the Minutes – November 2, 2021

The minutes were unanimously approved as presented. (9-0)

B. SF-21-011

GREEN

**VACATION AND REPLAT
MCGEHEE SUBDIVISION**

A request by Dale and Stephanie McGehee for approval of a vacation and replat of one platted lot to create two single-family residential lots. The 10.5-acre property is zoned RR-5 (Residential Rural) and is located approximately one-quarter (1/4) of a mile north of the Hodgen Road and Thompson Road intersection, approximately one (1) mile west of Black Forest Road and is within Section 19, Township 11, Range 65 West of the 6th P.M. (Parcel No.51190-04-002) (Commissioner District No. 1)

PC ACTION: CARLSON MOVED/LUCIA-TREESE SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2B, SF-21-011, FOR A VACATION AND REPLAT FOR MCGEHEE SUBDIVISION, UTILIZING RESOLUTION PAGE NO. 19, CITING, 21-063, WITH 11 CONDITIONS AND TWO (2) NOTATIONS, WITH A FINDING OF WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

Note for the record Ms. Fuller requested that item P-21-006 be pulled for a regular hearing and Mr. Carlson requested that item P-21-005 be pulled for a regular hearing as well. The two items were heard after the remaining Consent items were voted on, prior to resuming the regular agenda.

C. P-21-006

GREEN

**MAP AMENDMENT
WATERVIEW NORTH RM-30**

A request by CPR Entitlements, LLC, for approval of a map amendment (rezoning) of a 10.34-acre portion of a 46.31-acre parcel from A-5 (Agricultural District) to RM-30 (Multi-Dwelling). The parcel is located approximately one-eighth (1/8) of a mile northwest of the Bradley Road and South Powers Boulevard

intersection and is within Section 9, Township 15 South, Range 65 West of the 6th P.M. (Parcel No. 55000-00-439) (Commissioner District No. 4)

Ms. Fuller - Our concern is having apartment buildings in such close proximity of the airport when this isn't currently zoned for that.

Mr. Carlson – Did we approve the sketch plan?

Mr. Green – Yes, all of these map amendments were previously identified in the June approval of a sketch plan amendment that was amending the 2018 latest version of the approved sketch plan. At that time the sketch plan amendment was altering previously approved commercial and industrial area to accommodate more multifamily residential to the north of Bradley Road.

Mr. Carlson – I would like to see what input the airport had on these.

Mr. Green gave a brief overview of the project and then asked **Ms. Seago** to go over the review criteria for a map amendment (rezoning), **Mr. Green** then introduced the applicant, **Mr. Charles Cothorn**, with CPR Entitlements LLC, to give their presentation. **Mr. Cothorn's** presentation is on permanent file.

Mr. Carlson – You mentioned that the development will be affordable housing. Define that for us.

Mr. Cothorn – I'm not building the final product, but basically their business plan is focused on veterans and incubating businesses. Because of that program they include grants from the Federal Government to help make these affordable products. I can't give you the numbers. **Mr. Carlson** – That's my trouble with these things. In the language of wanting us to approve it, the words "affordable housing" is used but nobody can define affordable house or guarantee that is what it is going to be. My other problem is when we look at the dimension on the east side of the project, it is 1400 square feet. The end of the runway is not that far from there. The planes will be coming right over this property, I'm flabbergasted at this, I am wondering who's going to want to live here with an airplane coming over 200 feet above your roof all day.

Mr. Cothorn – I know that on the south side they are building houses and selling them quickly. People want to live close to town, this area is the number one zip code in the country. I do know that Veteran Villas liked this site, and they liked the proximity to the airport and AFB and the city.

Ms. Lucia-Treese – I have a question for legal. Is it an appropriate question for us to ask who wants to live by an airport? I understand where **Mr. Carlson** is coming from. When I was stationed in Hawaii it was by an airport, it is called affordable housing for a reason. In my opinion that area is a great area for all that wants to be

developed here, especially Veteran Village. I think questioning who wants to live by an airport is not really germane to this.

Mr. Risley – Was there a specific question for our legal counsel?

Ms. Lucia-Treese – I'm just wondering if questioning who wants to live by an airport is something we should be considering?

Mr. Risley- In other words is there something in our approval criteria that speaks to that? I do believe that **Mr. Carlson** has a right to express a question whether it is germane or not. **Ms. Seago** do you want to offer any guidance?

Ms. Seago – So if we take the question literally, who wants to live by an airport, the criteria does not require the applicant to provide a list or define a class of people who want to live by an airport. If it is taken as a rhetorical device to express is multifamily housing appropriate this close to the airport, then absolutely that is within the balance of your inquiry.

Ms. Brittain Jack – My understanding is that the airport has a buffer zone correct? That you can't build anything other than business, correct?

Ms. Ruiz – The county has adopted additional layers and that is within chapter 4 of our LDC. It is called the CADO, the airport overlay. That includes the APZ 1, APZ 2. Within the APZ 1 and 2, there are limited uses. That is what **Mr. Cothorn** was talking about, where they clearly have a line indicated on their map, so they stay outside of that APC. The ADNL is for noise and you could approve residential to be allowed within that noise corridor. Typically, when that happens the applicant has to provide construction methods to mitigate sound. This is not within the ADNL is not a specific setback, no build or buffer, but there are limited uses in certain areas.

Ms. Fuller- I want to understand how the APZ zones were determined. To me this is a public policy question. I don't want my name on something that is putting someone in harm's way.

Ms. Ruiz – (Showed the Overall Rezone Map overhead. This is part of the public permanent record). APZ stands for accident potential zone. That is where the airport has identified that there could be higher case of accidents because that is where the airplanes are taking off and landing, so if something is going to go wrong most likely it will be there. Within the APZ 1 and 2 there are limited land uses. You cannot have residential within the APZ 1 and 2. There is no restriction outside of that for residential. The ADNL has to do with noise. That is a 65-decibel noise level. The airport conducted studies and asked us to adopt these additional layers. They determined that based upon the flight patterns there could be an increase to noise. The RM-12 and RM-30 properties that we are dealing with are not within those area. **Ms. Fuller** – Who determined the APZ zone? **Ms. Ruiz**- The airport. **Ms. Fuller**- Who at the airport, was it an engineer? **Ms. Ruiz**- I can't answer which

individual did. It was put in place many years ago and it consisted of many public hearings.

Mr. Carlson – If the line says APZ 1 is that also APZ 2 and the ADNL?

Mr. Cothorn indicated where the runway is located at within the different APZ zones on the “Approved Sketch Plan” on the overhead.

Ms. Ruiz – Ms. Seago can correct me if I am wrong, but I don’t believe we have the ability to further restrict land use if they were identified to be in those sub zones, because the sub zones are established.

Ms. Nunez – The APZ lines were done a long time ago, but yet the airport is expanding as you know, so is that something they look at again and update?

Ms. Ruiz – If they wanted to update those lines, they would need to go through the Board of County Commissioners for us to adopt different sub zones. If they wanted to restrict land use further, they would have to go through a process to have us update our land development code. If they wanted us to change the GIS that would have to go through the Board of County Commissioners as well. The layers depicted are based on their runways and the planes anticipated. I understand that there may be a request for the runways to change, but there is no requirement for them to update the layers any time at all.

Ms. Seago – With respect to our zoning actions I do believe you have the authority should you choose to be more restrictive than what those overlays provide. For example, if you feel a particular location is not appropriate for multifamily housing, even if it is outside the lines provided by the airport, you do have the discretion to do that. You would be harder press to be less restrictive.

Ms. Brittain Jack – So when the developer had to go through and get their approval for their different things, they had to go to the airport, correct? **Ruiz**- Correct. The airport has indicated they have no objection or concern with what is being proposed today.

Mr. Carlson- Didn’t I see in the staff report that the airport just didn’t respond?

Mr. Green- Right, for the most part they didn’t respond but they did comment in June on the sketch plan. So, they had the opportunity on both applications.

Mr. Green gave his full presentation to the Planning Commission. His report is on the permanent file. **Mr. LaForce** presented his drainage and transportation findings on behalf of **PCD Engineering**. His presentation is part of the permanent file.

Ms. Merriam – On the retaining ponds when you're doing multifamily living if the pond fails, is that a developer issue? **Mr. Laforce** – The detention pond gets sized specifically based off the type uses. We do have a pond maintenance agreement with the developer or HOA to maintain these private ponds, but the county does enter in a pond agreement that says if they aren't maintaining these ponds, then the county will go in and fix it and the developer will have to pay for it. **Ms. Merriam**- That is on a slope, right? So that would flow south? **Mr. Laforce** - The ponds will get place don the lowest spot. If there is a pond embankment, we will send that off to the state. The will double check that there is no potential hazard to downstream properties that if that embankment does fail there is no loss of life or anything like that. They will also provide additional mitigation if it is a high hazard classification. For this one it is likely that it will drain towards the road and continue on.

Ms. Nunez – Didn't the Master Plan put that area as an employment placetype? But this is increasing residential and taking from employment?

Mr. Green- You are correct, the Master Plan does identify this area as an employment center. In looking at the broader context of the neighborhood this area of the county is currently lacking in those commercial and employment services and with the amount of residential that is proposed in the area that is where that recommendation would have come from. In our review the multifamily is deemed to support those type of uses so that individuals can live close to where they work.

Ms. Blea- Nunez- Are we leaving enough space for that commercial industrial space to grow there, or are we covering it with housing?

Mr. Green – So the properties to the west of the subject parcel would be zoned for industrial and commercial uses. There are existing commercial services directly south of this property.

Ms. Brittain Jack – Did any of the neighbors have any negative comments?

Mr. Green - We did not.

IN FAVOR: NONE

IN OPPOSITION: NONE

REBUTTAL:

Ray O'Sullivan – We worked on this project for almost two and a half years processing the sketch plan amendment though with the goal to do a mixed-use project here compliant with the surrounding areas and I appreciate everything the staff has done. We went in front of the airport commission and ask that you approve our zoning consistent with the sketch plan.

DISCUSSION:

Ms. Fuller – So that is 300 apartments on that, so close to that line. I don't feel good about this, I don't agree with that.

Mr. Risley – I think this is one of those situations that is counterintuitive. You would prefer to have the densest development further away from the riskiest areas however the densest development is also close to the commercial and often times we want to see the denser development adjacent to commercial and then feather it out as you go out towards less intense uses.

Note for the record – Mr. Carlson recused himself from voting on this project due to a business relationship with Mr. O'Sullivan.

PC ACTION: BRITTAIN JACK MOVED/ LUCIA-TREESE SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2C, P-21-006, FOR A MAP AMENDMENT (REZONING) FOR WATERVIEW NORTH RM-30, UTILIZING RESOLUTION PAGE NO. 27, CITING, 21-064, WITH FOUR (4) CONDITIONS AND TWO (2) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (6-1). MS. FULLER WAS THE ONLY NAY VOTE.

D. P-21-005

GREEN

**MAP AMENDMENT (REZONING)
WATERVIEW NORTH RM-12**

A request by CPR Entitlements, LLC, and PHI Real Estate Service, LLC, for approval of a map amendment (rezoning) of a 34.57-acre portion of two parcels from A-5 (Agricultural) to RM-12 (Multi-family). The two (2) parcels, totaling 68.41 acres, are located approximately one-quarter (1/4) of a mile northwest of the Bradley Road and South Powers Boulevard intersection and are within Section 9, Township 15 South, Range 65 West of the 6th P.M. (Parcel Nos. 55000-00-438 and 55000-00-439) (Commissioner District No. 4)

Mr. Green gave a brief overview of the project and then asked **Ms. Seago** to go over the review criteria for a map amendment (rezoning), **Mr. Green** then introduced the applicant's representative **Mr. Charles Cothorn**, to give a brief presentation.

Mr. Fuller- What is the zoning to the south?

Mr. Green- That would be RS-5000.

Mr. Cothorn – I would like to reiterate what staff said, we are feathering the project, that was part of the discussion with the staff as we came up with the plan. That is what we are trying to accomplish with recommendations from staff.

**IN FAVOR: NONE
IN OPPOSITION: NONE
DISCUSSION: NONE**

Note for the record - Mr. Carlson recused himself from voting on this project due to a business relationship with the applicant.

PC ACTION: BRITTAIN JACK MOVED/LUCIA-TREESE SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2D, P-21-005, FOR A MAP AMENDMENT (REZONING) FOR WATERVIEW NORTH RM-12, UTILIZING RESOLUTION PAGE NO. 27, CITING, 21-065, WITH FOUR (4) CONDITIONS AND TWO (2) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-0).

E. I-21-001

GREEN

**MAP AMENDMENT (REZONING)
WATERVIEW NORTH INDUSTRIAL**

A request by CPR Entitlements, LLC, for approval of a map amendment (rezoning) of a 26.05-acre portion of two parcels from A-5 (Agricultural District) to I-2 (Light Industrial). The two parcels, totaling 82 acres, are located at the northwest corner of the Bradley Road and South Powers Boulevard intersection and are within Sections 8 and 9, Township 15 South, Range 65 West of the 6th P.M. (Parcel Nos. 55000-00-436 and 55000-00-439) (Commissioner District No. 4)

PC ACTION: FULLER MOVED/BRITTAIN JACK SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2E, I-21-001, FOR A MAP AMENDMENT (REZONING) FOR WATERVIEW NORTH INDUSTRIAL, UTILIZING RESOLUTION PAGE NO. 27, CITING, 21-066, WITH FOUR (4) CONDITIONS AND TWO (2) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

F. CS-21-001

GREEN

**MAP AMENDMENT (REZONING)
WATERVIEW NORTH COMMERCIAL SERVICE REZONE**

A request by CPR Entitlements, LLC, for approval of a map amendment (rezoning) of a 22.07-acre portion of two parcels from A-5 (Agricultural District) to CS (Commercial Service). The two (2) parcels, totaling 82 acres, are located at the northwest corner of the Bradley Road and South Powers Boulevard intersection and are within Sections 8 and 9, Township 15 South, Range 65 West

of the 6th P.M. (Parcel Nos. 55000-00-436 and 55000-00-439) (Commissioner District No. 4)

PC ACTION: LUCIA-TREESE MOVED/CARLSON SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2F, CS-21-001, FOR A MAP AMENDMENT (REZONING) FOR WATERVIEW NORTH COMMERCIAL SERVICE, UTILIZING RESOLUTION PAGE NO. 27, CITING, 21-067, WITH FOUR (4) CONDITIONS AND TWO (2) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

Regular Items

3. U-21-002

HOWSER

APPROVAL OF LOCATION MOUNTAIN VIEW FIBER PROJECT

A request by Mountain View Electric Association (MVEA) for an approval of location to allow for the construction of infrastructure related to a new fiber optic service for residents of El Paso County within the entirety of the MVEA service area. The project is comprised of installation of underground fiber optic lines to be contained within easements and public rights-of-way as well as the construction of structures to house equipment and maintenance materials. (Commissioner District Nos. 1-4) (Identification of the applicable parcels is on file with the El Paso County Planning and Community Development Department)

Mr. Howser gave a brief overview of the project and then asked **Ms. Seago** to go over the review criteria for an Approval of Location which is a final action, meaning the item will not be forwarded to the Board of County Commissioners. **Mr. Howser** then introduced the applicant, **Amanda Hall** on behalf of Mountain View Electric Association. **Ms. Hall's** presentation is part of the public record.

Ms. Brittain Jack – I know that the state passed legislation that local communities could not provide fiber to residents and I know the City of Colorado Springs opted out of that in 2017. Do you have to opt out of that legislation?

Ms. Hall – I'm not familiar with that legislation, but I do know that electric cooperatives across the country are being seen as the solution to provide broadband service to the rural America because our infrastructure already exists. We've taken a plan with Conexon to not stand up our own fiber subsidiary, which is the traditional approach but to lease our excess capacity.

Ms. Seago- I don't believe that MVEA would be required to take any steps to opt out of that prohibition in the statute, but I can tell you that El Paso County did. It was approved by the voters.

Mr. Howser gave his full presentation to the Planning Commission. His report is on the permanent file.

Mr. Carlson – Is the underground fiber pulled through existing conduit or are you going to need to dig again?

Mr. Contorno - It is pulled through the conduit.

Mr. Carlson - Do we need to alter the application to include the twenty buildings that might come up? So, the applicant doesn't have to come back each time.

Ms. Seago – I think the issues is that the applicant isn't certain yet where they will go. So, it is hard to approve a location when I don't know what the location is. If you are comfortable saying they can go anywhere they want in their service area, I suppose you could do that. **Mr. Carlson** – The executive summary says one building. I just want to make sure this is the final deal, and they can do what they need to do.

Ms. Hall – The fiber huts will be located right adjacent to our substations on our property, right outside the fence line. IN situations where we have substations relatively close to each other because of density we might not need a fiber hut. While we might have 23 substations located in El Paso County, we might only end up needing 19 fiber huts.

Ms. Fuller- Can we just approve it saying they can build up to 22 if it is adjacent to one of their substations?

Ms. Seago – My concern is the notice. The public has been noticed for one and not the others.

Mr. Risley – The agenda item doesn't indicate a number or location. I would agree with my fellow commissioners that if we can create a scenario here where you can build what you need to build without having to come back for any further approval, I think that would be wise of us.

Ms. Seago – I will note that the staff report that is online and available to the public indicates one small structure, though the agenda is not limiting to just one.

Ms. Ruiz – The notice that was posted doesn't include a limit on structures. In the applicants' letter of intent which reflects many structures will be proposed as part of this project. Staff's preference would be not to come back 22 times for an approval of location.

Mr. Risley – I would agree with that, but I will defer to the attorney.

Ms. Seago – Unfortunately my recommendation would be coming back for the balance of the huts.

Mr. Carlson – Can we approve the one structure, and they can come back with just a brief notice that alerts the public they can build up to 22 so they don't have to go through the whole development plan again?

Ms. Seago – I defer to planning, but I do think we need to come back once in some fashion.

Ms. Lucia-Treese – Is this be something that can be approved by Mr. Dossey?

Ms. Seago – It is not, statutorily it has to be the Planning Commission.

Ms. Ruiz – We can put this on the December 2nd Planning Commission agenda, knowing that the applicant isn't going to be able to tell us where the structures will be located. Instead, we can say that the additional huts will be up to 25 (estimated) and located within "x" amount of the lines.

Mr. Risley – I would suggest the key will be that these huts will be constructed on Mountain View property, so that there is no question about that.

Ms. Merriam – How does this broadband plan affect existing providers?

Ms. Hall- There are a few existing ISPs located in our service territory. It was very important to our board that we do not discriminate and choose pockets of our territory to serve at the speeds and price points we will be offering and not to others, healthy competition is not a bad thing. We want to make sure that every member of MVEA has access to the service that others do.

Ms. Merriam- Are you saying that you are competitive in prices and services to the existing providers that are already in that space?

Ms. Hall- Yes, if our speeds are not lower or less expensive, we are a direct competition to existing ISP's that happen to provide service in our area.

Ms. Merriam – The notice you posted didn't seem like it was in the Falcon Herald, is that correct?

Mr. Howser- The applicants' notice was included in all of the service members utility bills that the application was being submitted to the county. The county's notice was in the newspaper.

Ms. Shaffer - Every one of our members have been notified by mail and followed up by land agents.

Ms. Merriam- Do you guys move the dirt and put it back as found? **Ms. Shaffer** - Yes. **Ms. Merriam** – Is Conexon a publicly traded company? **Ms. Shaffer** – It is a privately owned company based out of Kansas City.

Ms. Fuller- I think this is awesome. Having the ability to have broadband in our rural areas is a game changer.

IN FAVOR: NONE
IN OPPOSITION: NONE

DISCUSSION:

Mr. Risley – The need for this infrastructure is critical and I personally express my gratitude. Thank you for what you are doing for rural parts of the county.

Ms. Lucia-Treese – I am a MVEA customer and when I heard about this, I got very excited. I am thrilled that you have taken on this project.

PC ACTION: LUCIA-TREESE MOVED/FULLER SECONDED TO MOVE REGULAR ITEM 3, U-21-002 APPROVAL OF LOCATION FOR MOUNTAIN VIEW FIBER PROJECT, DATE CERTAIN TO THE DECEMBER 2, 2021 PLANNING COMMISSION HEARING. MOTION PASSED UNANIMOUSLY (9-0).

Note for the record, a quick recess was called at 10:50 A.M., the hearing reconvened at 11:00 A.M., quorum is still in place.

4. U-21-001

HOWSER

**APPROVAL OF LOCATION
COLORADO SPRINGS UTILITIES NE GRAVEL STAGING AREA PROJECT**

A request by Colorado Springs Utilities for an approval of location to allow for a gravel staging area to provide materials to support Colorado Springs Utilities infrastructure projects. The property is zoned RR-5 (Rural Residential) and is located approximately 900 feet west of the North Carefree Circle and Marksheffel Road intersection and is within Section 29, Township 13 South, Range 65 West of the 6th P.M. (Parcel No. 53294-00-005) (Commissioner District No. 2)

Mr. Howser gave a brief overview of the project and then asked **Ms. Seago** to go over the review criteria for an Approval of Location, **Mr. Howser** then introduced the applicant's representative, **Derek Holscherr**. **Mr. Holscherr's** presentation is part of the permanent record.

Mr. Carlson – Does that elevation change take place on your property or the adjacent property?

Mr. Holscherr – The grade starts sloping down to the west of that property line. We will be grading the site from west to east as well to that four foot. **Mr. Carlson** – So you're going to lower the elevation of the dirt? **Mr. Holscherr** – Correct.

Ms. Brittain Jack – Why would the City of Colorado Springs not annex this piece of land? Is the propane plant in the City? **Mr. Holscherr** – The propane plant is in the county as well.

Mr. Howser – This particular property is not contiguous to the City boundary, but the City of Colorado Springs was sent a request for comment and they didn't have any comments at this time.

Ms. Merriam – Since you will have different materials and there are huge winds and you're so close to residential, how will you mitigate that materials flying around?

Mr. Holscherr – The piles within the staging yard will never be higher than the fence. The slats will hopefully provide some shelter from the wind. They were considered in the wind load calculations for the fence, so it is believed at this time that the slats will withstand any significant wind events. Also, with the type of materials planned to be there, we are not anticipating any leaving the site.

Ms. Fuller – Is this a permanent use you are planning to have?

Mr. Holscherr – For the foreseeable future, yes.

Mr. Carlson – The application says approval of location, is there a reason we're not rezoning this to allow them what they want to do? Does the City get a break?

Mr. Holscherr – My understanding is that the use is allowed in that zone district, so there's no need for a rezone.

Mr. Howser – If we were to entertain a rezone, we would need to rezone to an industrial district, which might not be appropriate for the area, however we have determined it to be appropriate for the location process as a public use.

Mr. Carlson – Can private parties do that?

Mr. Howser – They would need to meet the criteria in the code to be considered a public utility or a public use in order to qualify for the application.

Ms. Fuller – Is this another one of those that even if we don't approve it, they can still do it.

Ms. Seago – Yes.

Mr. Risley- So if we deny this today, it will go back to the utilities board who would bless it.

Ms. Brittain Jack – I don't understand why the city doesn't annex it and why we are approving it if it doesn't matter if we do or not.

Ms. Seago- There has to be contiguity for them to annex it and as Mr. Howser stated, there is no contiguity, and it's the City's choice whether they want to annex it or not, we can't force that issue. If the pc were to deny this and it goes back to the utility board. The Planning Commission can send a rep to the board and make your concerns known, and they can certainly take that into their consideration.

Mr. Howser gave a brief presentation to the Planning Commission. His presentation is part of the permanent record.

Ms. Fuller – Have other locations been explored?

Mr. Barden – We did explore about ten other sites and based off cost and land use this is the best option we found. We looked at using other locations within the City, but at the end of the day this site provided the best access in and out.

Ms. Fuller – what other places did you look?

Mr. Barden– We looked at an area by a substation by Woodmen and union, other areas off of Tuft, their basic use was for storm water. We then looked at purchasing the property to the south of Briargate by an existing substation and that landowner denied us because of the structure he is currently erecting. **Ms. Fuller**- So pretty much limited to only Colorado Springs property. **Mr. Barden** – Correct.

Mr. Howser – I would like to remind the Commission that the main criteria of approval is the master plan consistency with this type of application.

IN FAVOR: NONE

IN OPPOSITION: NONE

DISCUSSION:

Ms. Fuller - I am not in favor of this. I think this is a lousy thing to do to neighbors. This reminds me of the concrete batch plant where the problem was that they couldn't find a location that was convenient enough for them. I think this is an obnoxious use. I think it will significantly affect Covington Homes' ability to sell those homes at a market rate. I think this is conflict waiting to happen. I am a Colorado Springs Utilities customer; I would hope that my board would choose to be a good neighbor.

Ms. Merriam - The wind is a big deal, and I don't think the slotted fence will be efficient.

Mr. Howser- I do just want to make one point of clarity that might be worth mentioning they do have a provision that includes wetting the area to prevent dust from flying around.

PC ACTION: CARLSON MOVED/LUCIA-TREESE SECONDED FOR APPROVAL OF REGULAR ITEM NUMBER 4, U-21-001, FOR AN APPROVAL OF LOCATION FOR COLORADO SPRINGS UTILITIES NE GRAVEL STAGING AREA PROJECT, UTILIZING RESOLUTION PAGE NO. 11, CITING, 21-068, WITH FOUR (4) CONDITIONS, AND ONE (1) NOTATION (7-2). MS. FULLER AND MS. MERRIAM WERE THE NAY VOTES.

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 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.)

MAP AMENDMENT (REZONING) (RECOMMEND APPROVAL)

Commissioner Lucia-Treese moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

**RESOLUTION NO. CS-21-001
WATERVIEW NORTH COMMERCIAL**

WHEREAS, CPR Entitlements, LLC, did file an application with the El Paso County Planning and Community Development Department for an amendment of the El Paso County Zoning Map to rezone property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference from the A-5 (Agricultural) zoning district to the CS (Commercial Service) zoning district; and

WHEREAS, a public hearing was held by this Commission on November 18, 2021; and

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

1. The application was properly submitted for consideration by the Planning Commission.
2. Proper posting, publication and public notice was provided as required by law for the hearing before the Planning Commission.
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons were heard at that hearing.
4. 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 the character of the neighborhood since the land was last zoned.
5. The proposed land use or zone district is compatible with existing and permitted land uses and zone districts in all directions.

6. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district
7. 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.
8. For the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the petition of CPR Entitlements, LLC, for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the A-5 (Agricultural) zoning district to the CS (Commercial Service) zoning district be approved by the Board of County Commissioners:

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

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the CS (Commercial Service) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.
3. The applicant/developer and/or property owner shall be required to participate in a fair and equitable manner in the upgrading of the surrounding roads and intersections including, but not necessarily limited to, Powers Boulevard, Bradley Road, and Legacy Hill Drive. The developer's general design and financial responsibilities regarding the Bradley Road and Legacy Hill Drive intersection configuration and improvements, as well as other offsite improvements shall be determined with each subsequent preliminary plan approval.
4. A County access permit will be required for the connection of new roads to Bradley Road or any other County roadway. A CDOT access permit will be required with

improvements to the Powers Boulevard and Bradley Road intersection. The applicant shall comply with all CDOT access permit requirements.

NOTATIONS

1. If a map amendment (rezoning) application has been disapproved by the Board of County Commissioners, resubmittal of the previously denied application will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is an application 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.

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 Carlson seconded the adoption of the foregoing Resolution.

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

Commissioner Risley	aye
Commissioner Schuettpelz	aye
Commissioner Merriam	aye
Commissioner Lucia-Treese	aye
Commissioner Fuller	aye
Commissioner Brittain Jack	aye
Commissioner Blea-Nunez	aye
Commissioner Carlson	aye
Commissioner Moraes	aye

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

Dated: November 18, 2021

Brian Risley, Chair

EXHIBIT A

LEGAL DESCRIPTION (CS ZONE)

A TRACT OF LAND LOCATED IN A PORTION OF SECTION 8 AND SECTION 9, BOTH IN TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF SAID SECTION 9;

THENCE S81°51'23"E ALONG THE NORTH LINE OF SAID SECTION 9, A DISTANCE OF 331.37 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING S81°51'23"E A DISTANCE OF 338.00 FEET;

THENCE S00°00'00"E DEPARTING SAID NORTH LINE, A DISTANCE OF 1195.45 FEET TO A POINT OF NON-TANGENT CURVE TO THE RIGHT;

THENCE ON SAID CURVE, HAVING A RADIUS OF 585.00 FEET, AN ARC LENGTH OF 489.15 FEET, A DELTA ANGLE OF 47°54'30", WHOSE LONG CHORD BEARS S39°36'27"E A DISTANCE OF 475.03 FEET;

THENCE S15°39'12"E A DISTANCE OF 200.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF BRADLEY ROAD AS RECORDED IN BOOK 5307 AT PAGE 1472 OF THE RECORDS OF SAID EL PASO COUNTY;

THE FOLLOWING FIVE (5) COURSES ARE ON SAID RIGHT-OF-WAY LINE AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF POWESRS BOULEVARD DESCRIBED IN SAID BOOK 5307 AT PAGE 1472 (NOW HIGHWAY 21):

- 1) THENCE S74°20'48"W A DISTANCE OF 81.85 FEET TO A POINT OF CURVE TO THE RIGHT;
- 2) THENCE ON SAID CURVE, HAVING A RADIUS OF 2759.79 FEET, AN ARC LENGTH OF 625.43 FEET, A DELTA ANGLE OF 12°59'05", WHOSE LONG CHORD BEARS S80°50'19"W A DISTANCE OF 624.10 FEET;
- 3) THENCE S87°19'53"W A DISTANCE OF 64.33 FEET TO A POINT OF CURVE TO THE RIGHT;
- 4) THENCE ON SAID CURVE, HAVING A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 216.56 FEET, A DELTA ANGLE OF 82°43'14", WHOSE LONG CHORD BEARS N 51°18'28" W A DISTANCE OF 198.24 FEET TO A POINT OF REVERSE CURVE TO THE LEFT;
- 5) THENCE ON SAID CURVE, HAVING A RADIUS OF 2105.00 FEET; AN ARC LENGTH OF 485.69 FEET, A DELTA ANGLE OF 13°13'11", WHOSE LONG CHORD BEARS N16°33'28"W A DISTANCE OF 484.61 FEET;

THENCE N56°26'42"E DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 545.66 FEET TO A POINT OF NON-TANGENT CURVE TO THE RIGHT;

THENCE ON SAID CURVE, HAVING A RADIUS OF 585.00 FEET, AN ARC LENGTH OF 342.60 FEET, A DELTA ANGLE OF 33°33'18", WHOSE LONG CHORD BEARS N16°46'39"W A DISTANCE OF 337.73 FEET;

THENCE N00°00'00"E A DISTANCE OF 665.89 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 961,408 SQUARE FEET OR 22.071 ACRES MORE OR LESS

RESOLUTION NO. 21-

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

**APPROVAL OF THE WATERVIEW NORTH COMMERCIAL MAP
AMENDMENT (REZONING)(CS-21-001)**

WHEREAS, CPR Entitlements, LLC, did file an application with the El Paso County Planning and Community Development Department for an amendment to the El Paso County Zoning Map to rezone for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the A-5 (Agricultural) zoning district to the CS (Commercial Service) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on November 18, 2021, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on December 7, 2021; and

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

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

4. The proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.
5. The proposed land use will be compatible with existing and permitted land uses in the area.
6. 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.
7. For the above-stated and other reasons, the proposed Amendment to the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.
8. Changing conditions clearly require amendment to the Zoning Resolutions.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the petition of CPR Entitlements, LLC, to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from the A-5 (Agricultural) zoning district to the CS(Commercial Service) zoning district;

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

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the CS (Commercial Service) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

3. The applicant/developer and/or property owner shall be required to participate in a fair and equitable manner in the upgrading of the surrounding roads and intersections including, but not necessarily limited to, Powers Boulevard, Bradley Road, and Legacy Hill Drive. The developer's general design and financial responsibilities regarding the Bradley Road and Legacy Hill Drive intersection configuration and improvements, as well as other offsite improvements shall be determined with each subsequent preliminary plan approval.

4. A County access permit will be required for the connection of new roads to Bradley Road or any other County roadway. A CDOT access permit will be required with improvements to the Powers Boulevard and Bradley Road intersection. The applicant shall comply with all CDOT access permit requirements.

NOTATIONS

1. If a map amendment (rezoning) application has been disapproved by the Board of County Commissioners, resubmittal of the previously denied application will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is an application 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.

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

DONE THIS 7th day of December, 2021 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
County Clerk & Recorder

By: _____
Chair

EXHIBIT A

LEGAL DESCRIPTION (CS ZONE)

A TRACT OF LAND LOCATED IN A PORTION OF SECTION 8 AND SECTION 9, BOTH IN TOWNSHIP 15 SOUTH, RANGE 65 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF SAID SECTION 9;

THENCE S81°51'23"E ALONG THE NORTH LINE OF SAID SECTION 9, A DISTANCE OF 331.37 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING S81°51'23"E A DISTANCE OF 338.00 FEET;

THENCE S00°00'00"E DEPARTING SAID NORTH LINE, A DISTANCE OF 1195.45 FEET TO A POINT OF NON-TANGENT CURVE TO THE RIGHT;

THENCE ON SAID CURVE, HAVING A RADIUS OF 585.00 FEET, AN ARC LENGTH OF 489.15 FEET, A DELTA ANGLE OF 47°54'30", WHOSE LONG CHORD BEARS S39°36'27"E A DISTANCE OF 475.03 FEET;

THENCE S15°39'12"E A DISTANCE OF 200.00 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF BRADLEY ROAD AS RECORDED IN BOOK 5307 AT PAGE 1472 OF THE RECORDS OF SAID EL PASO COUNTY;

THE FOLLOWING FIVE (5) COURSES ARE ON SAID RIGHT-OF-WAY LINE AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF POWESRS BOULEVARD DESCRIBED IN SAID BOOK 5307 AT PAGE 1472 (NOW HIGHWAY 21):

- 1) THENCE S74°20'48"W A DISTANCE OF 81.85 FEET TO A POINT OF CURVE TO THE RIGHT;
- 2) THENCE ON SAID CURVE, HAVING A RADIUS OF 2759.79 FEET, AN ARC LENGTH OF 625.43 FEET, A DELTA ANGLE OF 12°59'05", WHOSE LONG CHORD BEARS S80°50'19"W A DISTANCE OF 624.10 FEET;
- 3) THENCE S87°19'53"W A DISTANCE OF 64.33 FEET TO A POINT OF CURVE TO THE RIGHT;
- 4) THENCE ON SAID CURVE, HAVING A RADIUS OF 150.00 FEET, AN ARC LENGTH OF 216.56 FEET, A DELTA ANGLE OF 82°43'14", WHOSE LONG CHORD BEARS N 51°18'28" W A DISTANCE OF 198.24 FEET TO A POINT OF REVERSE CURVE TO THE LEFT;
- 5) THENCE ON SAID CURVE, HAVING A RADIUS OF 2105.00 FEET; AN ARC LENGTH OF 485.69 FEET, A DELTA ANGLE OF 13°13'11", WHOSE LONG CHORD BEARS N16°33'28"W A DISTANCE OF 484.61 FEET;

THENCE N56°26'42"E DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE OF 545.66 FEET TO A POINT OF NON-TANGENT CURVE TO THE RIGHT;

THENCE ON SAID CURVE, HAVING A RADIUS OF 585.00 FEET, AN ARC LENGTH OF 342.60 FEET, A DELTA ANGLE OF 33°33'18", WHOSE LONG CHORD BEARS N16°46'39"W A DISTANCE OF 337.73 FEET;

THENCE N00°00'00"E A DISTANCE OF 665.89 FEET TO THE POINT OF BEGINNING.

PARCEL CONTAINS 961,408 SQUARE FEET OR 22.071 ACRES MORE OR LESS