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COLORADO

HOLLY WILLIAMS
STAN VANDERWERF
LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Thomas Bailey, Chair

FROM: Ashlyn Mathy, Planner I
Carlos Hernandez, Engineer I
Meggan Herington, AICP, Executive Director

RE: Project File Number: VR-23-006
Project Name: Powers Centre Filing No. 3A
Parcel Number: 5406304050

OWNER:	REPRESENTATIVE:
Michael J Nisenbaum MJN MGMT INC 24243 Bella Ct Newhall, CA 91321 mike@mjnmgmt.net (661) 312-4820	Oliver Watts Consulting Ollie Watts (olliewatts@aol.com) (719) 593-0173

Commissioner District: 2

Planning Commission Hearing Date:	9/7/2023
Board of County Commissioners Hearing Date:	9/28/2023

EXECUTIVE SUMMARY

A request by Oliver Watts Consulting for approval to Vacate and Replat one (1) commercial lot into three (3) commercial lots. The 5.55-acre property is zoned CR (Commercial Regional) and is within the CAD-O (Commercial Airport Overlay District) is the property is located at the intersection of North Powers Boulevard and Palmer Park Boulevard. The property is improved with three buildings and associated parking. The replat will enable each business owner to own their building and the property on which it is located. No new construction is anticipated at this time.

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A. WAIVERS/DEVIATIONS/AUTHORIZATION

Waiver(s)/Deviation(s): None associated with this project.

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

B. APPROVAL CRITERIA

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

- The replat complies with the Code, and the original conditions of approval associated with the recorded plat;
- No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
- The replat is in keeping with the purpose and intent of the Code;
- The replat conforms to the required findings for a minor or major subdivision, whichever is applicable;
- Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM;
- The approval will not adversely affect the public health, safety, and welfare; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the replat has been resolved.

C. LOCATION

North:	CC (Commercial Community)	Merchandising
South:	CC (Commercial Community)	Warehouse/Storage
East:	I-2 (Limited Industrial)	Vacant/Commercial Lots
West:	CR (Commercial Regional)	Special Purpose

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D. BACKGROUND

The subject property was originally platted October of 2007, under the name "Powers Centre Filing No. 3", Plat number 8998. The subject property is surrounded by industrial and commercial zoning and uses. The applicant is requesting the Vacation and Replat to create individual lots for each building, allowing each building owner to then purchase the individual lot on which their business is located.

E. ANALYSIS

1. Land Development Code Compliance

The subject property will meet the zoning requirements for CR and will align with the general character of the zoning district and surrounding area. Additionally, the current store does not intend any new construction. The replat has met all required findings that are necessary for a Vacate and Replat. Each lot owner will adhere to the parking agreement known as "Reciprocal Access/Parking Agreement" which can be found in the covenants that were recorded October 13, 1982, in Book 3621 at Page 592. An amendment was recorded December 3, 1985, in Book 5095 at Page 982.

2. Zoning Compliance

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

- Width (front line setback): none
- Front setback (3,4,11): 50 ft
- Side setback (2,3,4,11): 25 ft
- Rear setback (2,3,4,11): 25 ft
- Maximum Lot Coverage: None
- Maximum Height: 45 ft

2 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.

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

4 Gasoline pumps and canopies shall be setback at least 25 feet from all property lines.

11 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.

F. MASTER PLAN COMPLIANCE

1. Your El Paso County Master Plan

a. Placetype Character: Employment Center

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 Meadowlake 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*

Supporting

- *Commercial Retail*
- *Commercial Service*
- *Restaurant*

Please see the map series attachment for a depiction of the placetype character in the area.

Analysis:

The subject property has a commercial business on it and is taking one lot and creating three so that each business can have their own lot and be responsible for that specific lot. These lots each have a commercial business which is supported by the character and land uses in the Master Plan. This property has a "Short Stop

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Burgers” restaurant at the site, this is a commercial business that serves the community. This is consistent with the supporting uses in the Employment Center placetype character.

b. Area of Change Designation: Transition

Transition areas are fully developed parts of the County that may completely or significantly change in character. In these areas, redevelopment is expected to be intense enough to transition the existing development setting to an entirely new type of development. For example, a failing strip of commercial development could be redeveloped with light industrial or office uses that result in a transition to an employment hub or business park. Another example of such a transition would be if a blighted suburban neighborhood were to experience redevelopment with significant amounts of multifamily housing or commercial development of a larger scale in line with a commercial center.

Please see the map series attachment for a depiction of the area of change designation in the area.

Analysis:

While this project does not propose any new development, it is expected within this area of change. There is potential for growth within this area, due to the vacant lots near the subject area. The surrounding parcels have potential for new development and redevelopment.

c. Key Area Influences: 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 Board of County Commissioners approved the CAZ to attract local businesses and spur development on the available land. The County should continue to prioritize nonresidential growth in this area to help expand the Employment Center in unincorporated El Paso County. Employment Centers not only provide additional job opportunities for County residents but it expands the County’s tax base, providing more opportunities to address other County issues such as upgrades to infrastructure, expansion of services and development of new roadways. Peterson Air Force Base also utilizes the Colorado Springs Airport for military flight operations and hosts various military activities critical to national security. The County should also coordinate future development adjacent

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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.

Please see the map series attachment for a depiction of the key area designation in the area.

Analysis:

The key area supports growth in this area and mentions the growth mainly being for commercial or employment opportunities. This key area offers to prioritize employment opportunities. While this project does not intend for new construction, it does offer employment opportunities and has brought more commercial growth to the area. Approval of this Vacation and Replat would allow the proprietors of these businesses the potential to own the property associated with their business.

d. Other Implications (Priority Development, Housing, etc.)

Not applicable.

2. 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.*

Policy 2.1.3 – *Communicate and gather input on complex, and at times, contentious water and land use considerations.*

Goal 4.1 – *Develop an understanding of the differences in water supply sources, and any water quality issues within the County.*

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 5 of the Plan, which is an area anticipated to experience growth by

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2040. The following information pertains to water demands and supplies in Region 5 for central water providers:

The Plan identifies the current demand for Region 5 to be 4,396 acre-feet per year (AFY) (Figure 5.1) with a current supply of 4,849 AFY (Figure 5.2). The projected demand in 2040 for Region 5 is at 6,468 AFY (Figure 5.1) with a projected supply of 68,000 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region is 5 is at 9,608 AFY (Figure 5.1) with a projected supply of 10,131 AFY (Figure 5.2) in 2060. This means that by 2060 a surplus of 523 AFY is anticipated for Region 5.

3. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcel as having a low wildlife impact potential. Colorado Parks and Wildlife have no outstanding comments.

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

Please see the Parks Section below for information regarding conformance with The El Paso County Parks Master Plan (2022).

Please see the Transportation Section below for information regarding conformance with the El Paso County 2016 Major Transportation Corridors Plan (MTCP).

G. PHYSICAL SITE CHARACTERISTICS

1. **Hazards:** No hazards were found to be associated with this project.
2. **Floodplain:** FEMA Flood Insurance Rate Maps, 08041C0751G and 08041C0752G, indicate that the property is outside of a floodplain. There are no expected impacts from this application to a floodplain.
3. **Drainage and Erosion:** The property is located within the Sand Creek Drainage Basin (FOFO2000) and is currently platted as Lot 1 Powers Centre Filing No. 3. Drainage basin fees are not assessed with this Vacation and Replat request in accordance with El Paso County's ECM Appendix L.3.13a since there is no increase in impervious cover.

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The applicant was not required to submit a drainage report or grading and erosion control plan as there is no proposed land disturbance resulting from the Vacation and Replat to create two new parcels for existing businesses located on the site. The property is comprised of existing pavement, roofs, and structures. Drainage from the site flows south towards Omaha Boulevard. The applicant confirmed in their letter of intent that there are no planned improvements or offsite impacts resulting from the replat.

- 4. Transportation:** The property is an existing shopping center northeast from the intersection of Powers Boulevard and Omaha Boulevard. Powers Boulevard is a Colorado Department of Transportation (CDOT) owned and maintained roadway classified as a Principal Arterial. There is currently no direct access from Powers Boulevard to the property nor is direct access allowed. Omaha Boulevard is an El Paso County owned and maintained collector roadway. The property obtains access through Omaha Boulevard and Palmer Park Road through a shared access easement. Traffic is not expected to increase due to the replat and the applicant has stated in their letter of intent that traffic patterns will not be changing.

The development is subject to the El Paso County Road Impact Fee program (Resolution 19-471), as amended.

H. SERVICES

1. Water

Sufficiency:

Quality: Sufficient

Quantity: Sufficient (Conditional)

Dependability: Sufficient (Conditional)

Attorney's summary: The State Engineer's Office has made a finding of adequacy and has stated water can be provided without causing injury to decreed water rights.

El Paso County Public Health has made a favorable recommendation regarding water quality sufficiency.

The County Attorney's Office has made a recommendation for a finding of conditional sufficiency with regards to water quantity and dependability. The condition is as follows:

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Applicant must obtain final plat approval and provide evidence thereof to the District within 12 months of the District's commitment letter dated February 17, 2023 (approval must be provided by February 17, 2024), to retain the District's water commitment. If Applicant fails to do so, this recommended finding of conditional sufficiency will be deemed moot and no longer valid. Once Applicant provides proof to the District that satisfies the District's condition of final plat approval, this conditional finding of sufficiency will automatically convert to a full sufficiency finding.

2. Sanitation

Sanitation is provided by Colorado Springs Utilities.

3. Emergency Services

The property is within the Cimarron Hills Fire Protection District.

4. Utilities

Colorado Springs Utilities

5. Metropolitan Districts

Cherokee Metropolitan District

6. Parks/Trails

For this application there are no regional or urban park fees required, as the Board of County Commissioners have elected to not require park fees for commercial applications.

7. Schools

Commercial uses do not require a school fee to be paid.

I. APPLICABLE RESOLUTIONS

See attached resolution.

J. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.3.C, Actions Vacating or Altering a Recorded Plat, Replat, of the El Paso County Land Development Code (As Amended), staff recommends the following conditions and notation:

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CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
5. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
6. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated June 15, 2023, as provided by the County Attorney's Office.

NOTATION

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.

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K. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified twenty-three (23) adjoining property owners on August 18, 2023, for the Planning Commission and Board of County Commissioners meetings. Responses will be provided at the hearing.

L. ATTACHMENTS

Map Series

Vicinity Map

Letter of Intent

Plat Drawing

State Engineer's Letter

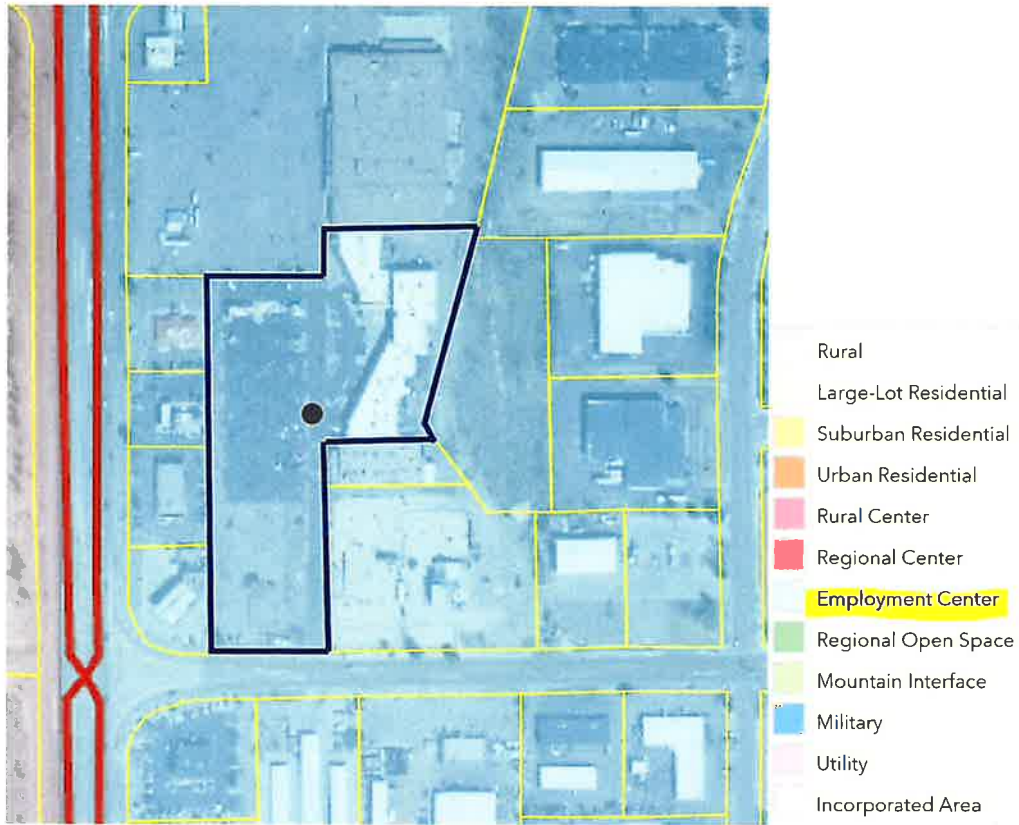
County Attorney's Letter

Draft Resolution

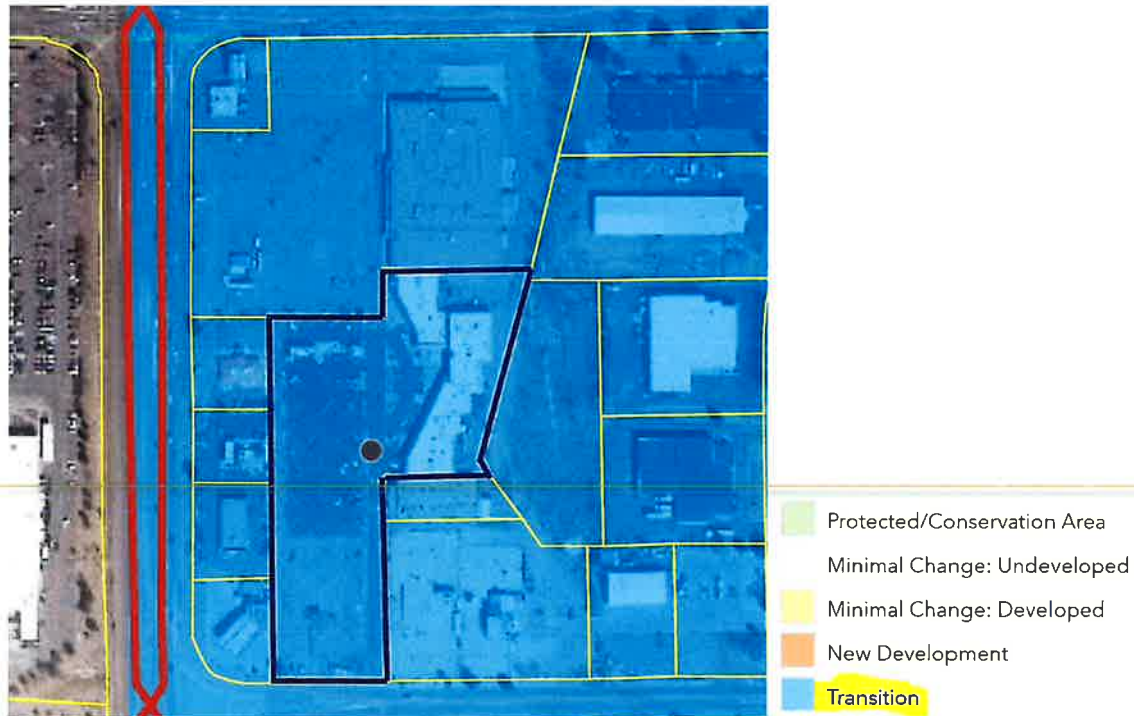


VR236 Map Exhibit

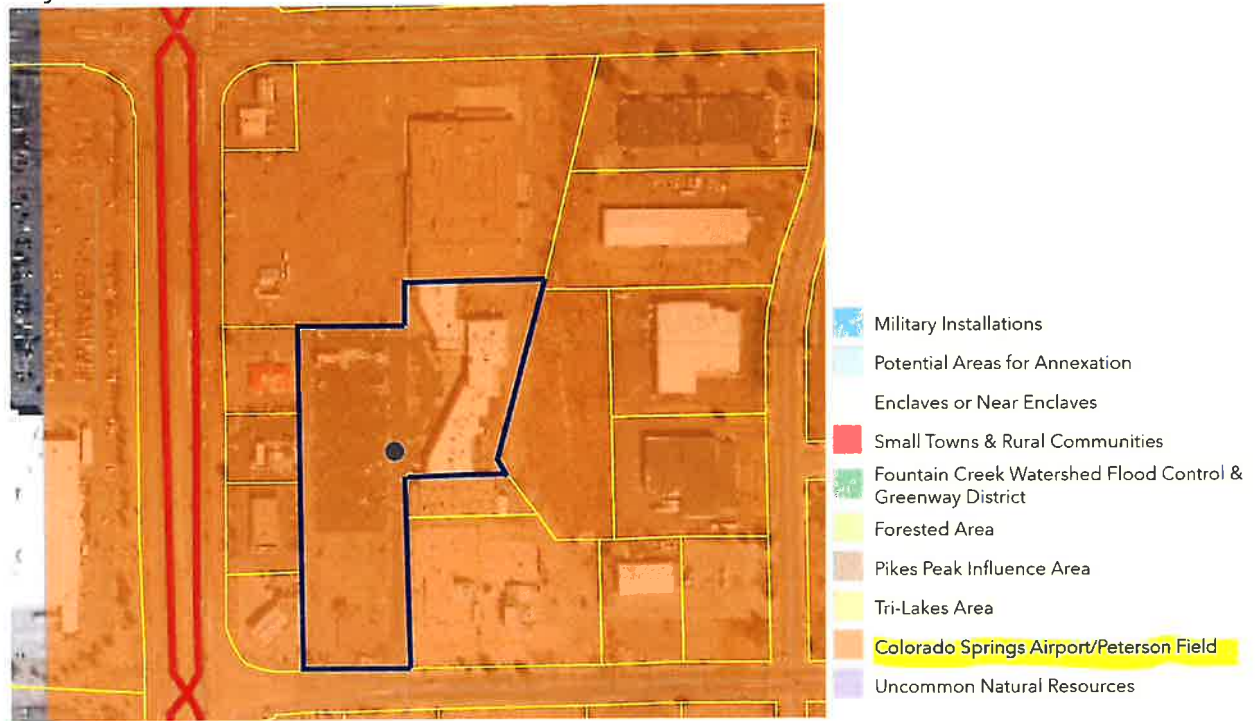
Placetype Map:



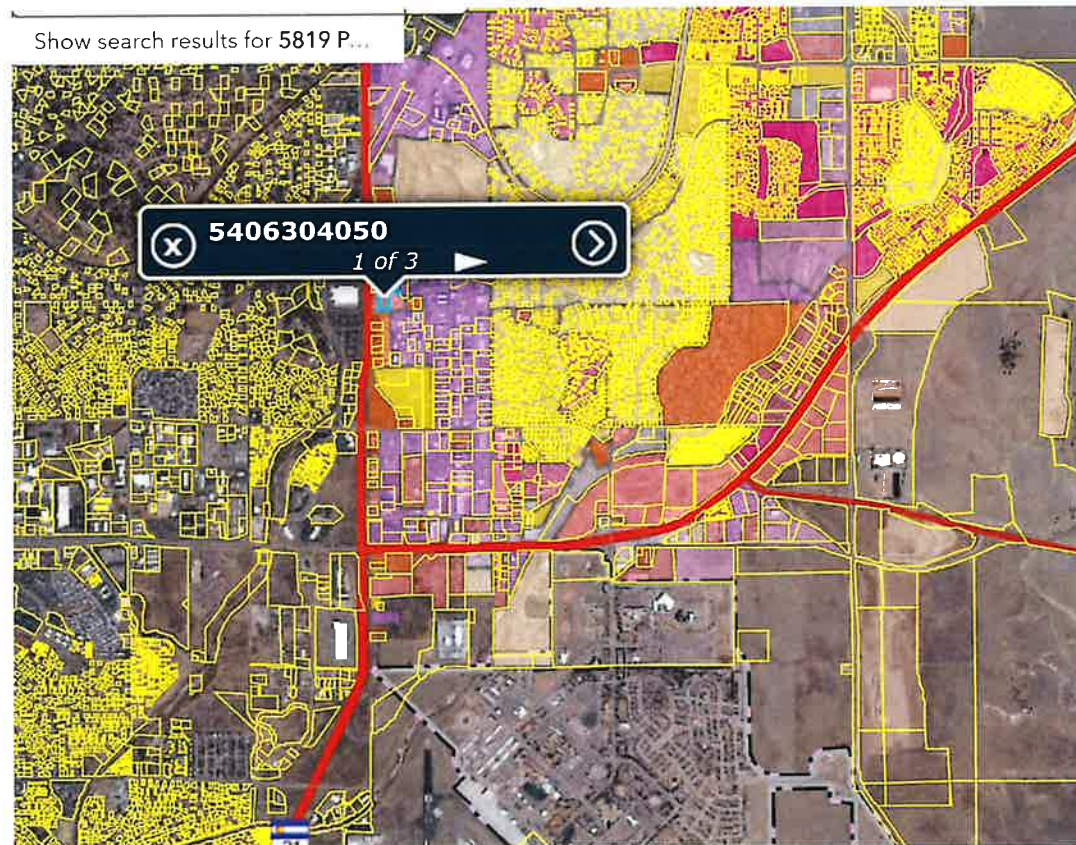
Areas of Change:

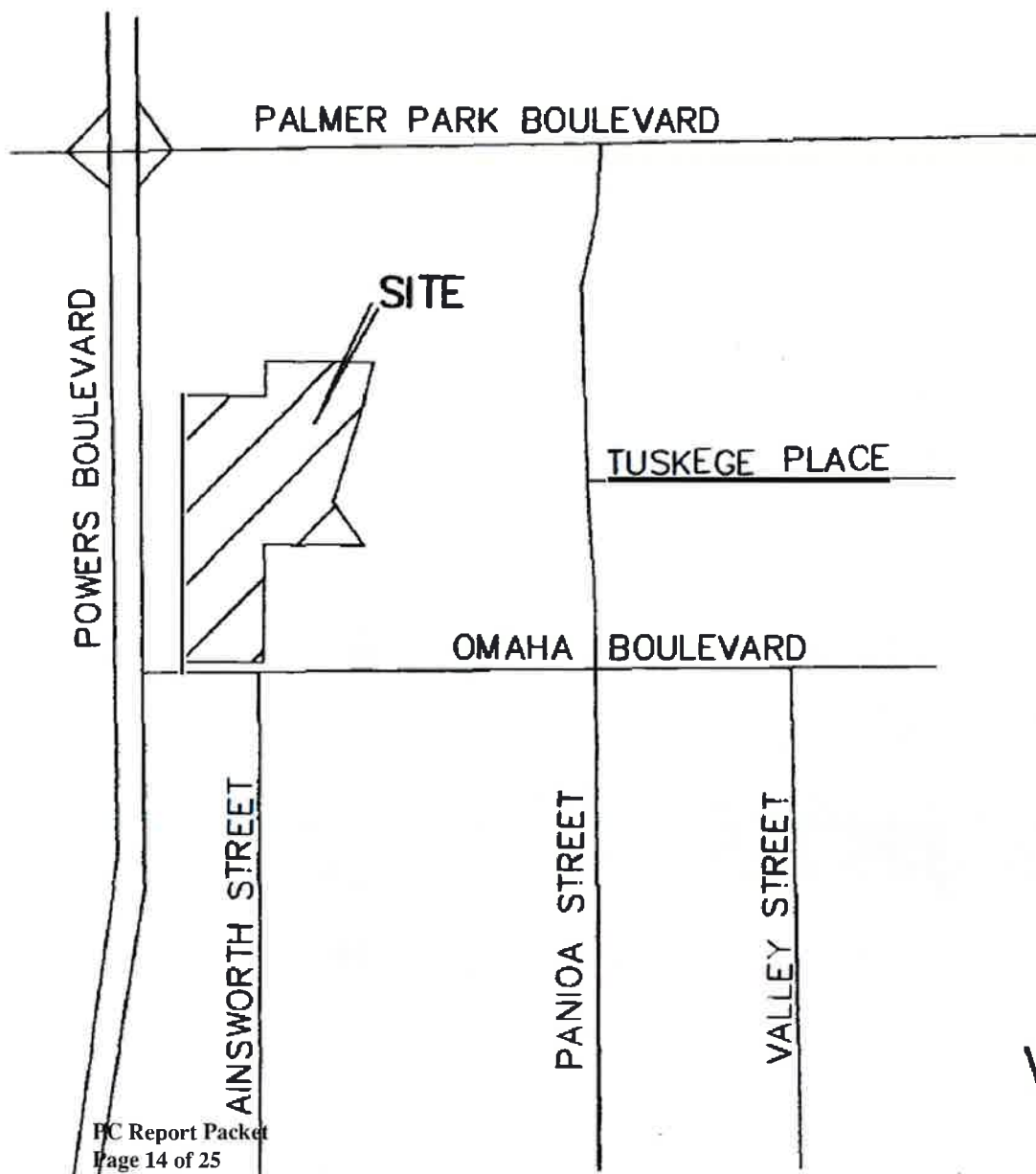


Key Area:



Aerial:





VICINITY MAP
NO SCALE

OLIVER E. WATTS PE-LS
OLIVER E. WATTS, CONSULTING ENGINEER, INC.
CIVIL ENGINEERING AND SURVEYING
614 ELKTON DRIVE
COLORADO SPRINGS, COLORADO 80907
(719) 593-0173
FAX (719) 265-9660
CELL (719) 964-0733
olliewatts@aol.com

Celebrating over 43 years in business

May 15, 2023

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

SUBJECT: Powers Centre Filing 3A, a minor Subdivision Plat to Lot 1 Powers Centre Filing No 3, splitting 1 Lot into 3 Lots

Lot 1 Powers Centre Filing No 3 is a commercial shopping center that is located east and south of the intersection of Powers Boulevard and Palmer Park Boulevard.

Owner information:

Michael J. Nisenbaum
5030 Boardwalk Drive, Suite 200
Colorado Springs, CO 80919
(719) 640-7388
mike@mjinmgmt.net
Assessor's Parcel No.: 5406304050
Existing zone: CR CAD-0

History:

This site is a developed section of land located in the eastern portion of unincorporated Colorado Springs. According to the County Master Plan, the site is classified as an Employment Center that falls within the Cimarron Hills "larger urban enclave" area.

There is currently a shopping center on the site with multiple tenets/uses.

The site is surrounded on all sides by other plots of developed land. These sites are used much in the same way as this, as commercial sites.

Request and Justification:

Our intent is to subdivide this existing property into 3 commercial use lots. The proposed minor subdivision is compatible with the surrounding properties. The lots will be consistent with the CR CAD-0 zoning with respect to lot layout, land use, lot size, minimum building setbacks, water supply and wastewater disposal.

Water and Sewer:

A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code. Water and Waste water services are currently provided by Cherokee Water. There will be no change to either. According to the County Master Plan, this site falls within Projected Growth Area Region 5. According to the State Division of Water Resources, this site sits in Water Division 2, Water District 10. Water usage will not exceed Cherokee Water's statutory allotment. The site is on Central Sewer, provided by Cherokee Metro district. The existing sewage disposal system complies with State and local laws and regulations, [C.R.S. §30-28- 133(6)(b)] and the requirements of Chapter 8 of this Code. It is operated under State and County Health Department rules and regulations and in accordance with the Water Decree.

A listing of some of the policies of the Water Master Plan that are supported by the proposed development follow: Policy 4.1.3 – Support enhanced monitoring of sources of surface and tributary groundwater in the County. The existing commercial buildings will utilize Cherokee Water for any waste water treatment.

Electric:

Electric will be provided by the City of Colorado Springs per their commitment letter on January 10th, 2023. Said letter has been submitted with the subdivision packet.

Gas:

Gas will be provided by the City of Colorado Springs per their commitment letter on January 10th, 2023. Said letter has been submitted with the subdivision packet.

Traffic Generation:

There will be no new traffic generation as a result of this subdivision. Nothing is changing about the current businesses, no new grading, building or anything else that would increase the traffic generated for the site. The only thing that is changing is the location of the Lot lines. Therefore, a Transportation Impact Study (TIS) is not required for the project. This development is subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 19- 471. Traffic Impact Fees will be paid at time of building permit.

FEMA Floodplain:

Per FEMA Panels 08041CO751G and 08041CO752G, this site is not within the limits of a 100yr floodplain.

Stormwater runoff / drainage

There will be no change in the current runoff patterns caused by this resubdivision and therefore no adjacent properties will be adversely affected by the land action. See the statement below in CH 7.

Request of Subdivision Applicability per LDC Chapters 7&8:

This proposed subdivision will be dividing the current 1 lot into 3 commercial lots compatible with zoning CR CAD-0. Two of the lots will surround existing businesses and the third will consist of the remaining subdivided land.

▪ CH 7:

- A Preliminary plan is not required as this is a “minor subdivision”.
- The subdivision is consistent with all design standards and regulations.
- The new lots are already served by Cherokee water for water and wastewater services. There will be no change to this.
- There are no geological hazards present on the site or special precautions relevant to the site as it is already developed.
- There are no drainage improvements required for the lots. Nothing is changing, only new lot lines are being drawn.
- The site already falls under the jurisdiction of EPSO and is within the Cimarron Hills Fire Protection District.
- The site complies with methods of fire protection as outlined in Chapter 6. A Letter will be included to show evidence of this.
- There will be no offsite impacts as a result of this subdivision.
- There are no required public facility improvements for this subdivision.

▪ CH 8:

- The land is suitable for development as the entire area is already commercially developed.
- The land is safe for the intended purposes of commercial development. There are no known major geological hazards that affect this site.
- There are no slopes over 30% on the proposed lots or any other known extreme geological hazards affecting this site.
- Regarding roads and access, there are two major thoroughfares running to the north and west of the site. There is existing access from Palmer Park Boulevard to the north and Omaha Boulevard to the south.
- There are no plans to alter the landscape of the new lots.
- As far as we are aware, there are no structures or other areas located on the site that would qualify as archeological or historical.
- As far as we are aware, there are no plans for differing land use on these lots.
- According to the County Master plan, this site is designated as one of the “most likely” areas for a plane crash, therefore residential development is discouraged. This is not an issue because this site is purely commercial in nature. Development will comply with existing APZ’s.
- As far as we are aware, there are no endangered species affected by these proposed changes.
- As stated previously, this site is not within the limits of a 100yr floodplain per FEMA Panels 08041CO751G and 08041CO751G.
- The current lot does sit near to a major arterial (Powers Boulevard) but nothing is being changed or added to the site aside from new lot lines. Therefore, we do not need to worry about noise mitigation.
- The current and proposed lots are not situated anywhere near a railroad.
- This site is not located near enough to any major military outpost or installation and thus does not fall under any constraints detailed in LDC chapter 8.

Constraint’s/Hazards:

As far as we are aware, there are no special features to this site that would result in constraints or hazards preventing development of the proposed new 3 lots.

Proposed Improvements:

The overall goal of this subdivision is to split the existing site into 3 lots. Nothing about the commercial businesses on the lots will be changing aside from a possible change in ownership. Tenants on the existing lot wish to own their respective portion of the lot outright. As far as we are aware, nothing else is changing.

We ask that El Paso County grant the subdivision request to CR CAD-0. This will allow three lots to be made from an existing one so that their tenants may own the land they do business on.

Please contact our office with any questions, thank you

Oliver E. Watts, Consulting Engineer, Inc.

By: _____
Dylan J. Watts, Authorized Representative

A VACATION AND REPLAT OF LOT 1, POWERS CENTRE FILING NO. 3
in the SW 1/4, Section 6, Township 17 South, Range 65 West, 6th P.M.
EL PASO COUNTY, COLORADO

McGraw Hill was the sole owner of the following properties:

1. Lot 1, 3422 Terrace, LLC, a California limited liability company, as to an undivided 50% interest, and 11217 McGraw Hill Street, LLC, a California limited liability company, as to an undivided 50% interest being the owner of the following described tract of land to wit:

Lot 1, Hansen Estate from the B. County of El Paso, State of California, and contains 55% acres

[illegible]

5922 Oldenham, LLC, a California limited liability company, as to an undivided 50% interest; and 31317 McCornick Street, LLC, a California limited liability company, as to an undivided 50% interest.
By: Michael J. Nissenbaum
Title: Manager/Member

SS
COUNTY OF _____

Acknowledged before me this _____ day of _____, 20____, by _____ Nsenang as Owner, Climevia, LLC, a California limited liability company, as to an undivided 50% interest, and (i)(2) McCormick Street, LLC, a California limited liability company, as to an undivided 50% interest.

Witness, by name and address, that:

Notary Public

I, David L. Watts, a duly registered Professional Land Surveyor in the State of Colorado, do hereby certify that this plat truly and correctly represents the results of a survey made on 11/18/2020. No error or under my direct supervision and that all monuments exist as shown herein, that mathematical closure errors are less than 1/10,000, and that this plat has been prepared in full compliance with all applicable laws of the State of Colorado dealing with monuments, subdivision, or surveying of land and all applicable provisions of the El Paso County Land Development Code.

I attest the above on this _____ day of _____, 2020.

Diver E. Watts, Colorado PE-LS No. 9853 Date _____
For and On Behalf of Diver E. Watts, Consulting Engineer, Inc.

[illegible]

Chair, Board of County Commissioners _____ Date _____

This plot for Posters Centre Filing No. 34 was approved for filing by the El Paso County, Colorado Planning and Community Development Department Director on the _____ day of _____, 202__, subject to any notes or conditions specified herein.

Planning and Community Development	Director	Date
------------------------------------	----------	------

STATE OF COLORADO
COUNTY OF EL PASO

I hereby certify that this instrument was filed in my office on this ____ day of _____, 2017, and was
registered as _____ of the records of El Paso County.

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El Paso County Clerk and Recorder
Fee -----
Surcharge -----
-----
SINKING FEES ----- PARK FEES -----
DRAINAGE FEES ----- BRIDGE FEES -----

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SUBDIVISION SUMMARY

TOTAL LOTS IN SUBDIVISION	3
TOTAL ACREAGE	555 Acres

Any person who knowingly removes, alters or defaces any public land survey monument or land boundary monument or accessory commits a Class 2a misdemeanor pursuant to CRS 5-18-4-508

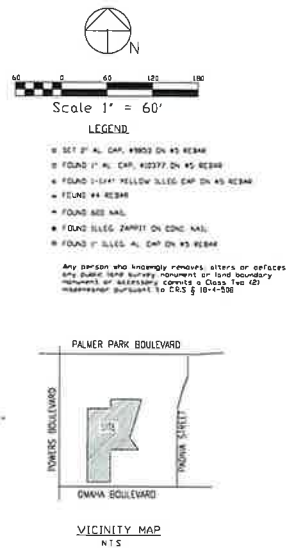
PREPARED BY THE OFFICE OF...
OLIVER (WAITS)
CONSULTING ENGINEER
614 ELKTON DRIVE
COLORADO SPRINGS, CO 80907
(719) 593-0173
oliver@tsb.com
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3-22-23 DEW 18-5237-07

PCD File No. VR236 7-12-83 PAGE 1 OF 2 PAGE!
 DUYER E. WATTS CONSULTING ENGINEER, COLORADO SPRINGS 3-22-23 DEW 18-5237-07

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A VACATION AND REPLAT OF LOT 1, POWERS CENTRE FILING NO. 3
in the SW 1/4, Section 6, Township 17 South, Range 65 West, 6th P.M.
EL PASO COUNTY, COLORADO



PREPARED BY THE OFFICE OF
DIVER C. WAITS PE-LS
CONSULTING ENGINEER
614 ELKTON DRIVE
COLORADO SPRINGS, CO 80907
(719) 593-0173
dwaits@redcom.com
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1-22-23 DEW 18-5237-06



April 4, 2023

El Paso County Planning Department
2880 International Circle
Colorado Spring, CO 80910

RE: Powers Centre Filing No. 3A
SW 1/4 of Sec. 6, Twp. 14S, Rng. 65W, 6th P.M.
Water Division 2, Water District 10
CDWR Assigned Referral No. 30702

To Whom It May Concern:

We have received a referral regarding the above referenced proposal to subdivide an existing 5.551 acre tract of land currently known as Tract 1 of Powers Centre Filing No. 3 into three commercial lots. According to the submittal, the proposed supply of water is to be served by Cherokee Metropolitan District (“Cherokee”). Wastewater will be disposed of in a private wastewater septic system.

Water Supply Demand

The Water Supply Information Sheet, Form no. GWS-76, provided with the submittal estimates a demand of 4.6 acre-feet per year for all intended uses within the subdivision.

Source of Water Supply

The source of water for the proposed development will be Cherokee Metropolitan District. The estimated water demand for the proposed subdivision are consistent with the estimated demand for the uses on the property prior to subdivision. A letter of commitment from Cherokee, dated February 17, 2023, was provided with the referral materials indicating that Cherokee confirms its commitment to providing 4.6 acre-feet/year for use on the proposed subdivision.

According to the records of this office, Cherokee has sufficient water resources to supply this development as described above.

Additional Comments

If a storm water detention structure is constructed as a part of this project, the applicant should be aware that, unless the structure can meet the requirements of a “storm water detention and infiltration facility” as defined in section 37-92-602(8), Colorado Revised Statutes, the structure may be subject to administration by this office. The applicant should review DWR’s *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado*, attached, to ensure that the notification, construction and operation of the proposed structure meets statutory and administrative requirements. The applicant is encouraged to use *Colorado Stormwater*



Detention and Infiltration Facility Notification Portal, located at <https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>, to meet the notification requirements.

State Engineer's Office Opinion

Pursuant to Section 30-28-136(1)(h)(II) C.R.S., it is the opinion of this office that the proposed water supply can be provided without causing injury to decreed water rights, and the supply is expected to be adequate. Should you or the applicant have questions regarding any of the above, please feel free to contact me directly.

Sincerely,



Kate Fuller, P.E.
Water Resource Engineer

Cc: Rachel Zancanella, Division Engineer
Jacob Olson, Water Commissioner District 10

County Attorney

Kenneth R. Hodges, County Attorney

719-520-6485
Centennial Hall
200 S. Cascade, Suite 150
Colorado Springs, CO 80903
www.ElPasoCo.com

Board of County Commissioners

Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

June 15, 2023

VR-23-6 Powers Centre Filing No. 3A
Vacation and Replat

Reviewed by: Lori L. Seago, Senior Assistant County Attorney
April Willie, Paralegal

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a vacation and replat proposal by Oliver Watts Consulting ("Applicant") to replat one commercial lot into 3 commercial lots on 5.551 acres. The property is currently zoned CR CAD-O (Commercial Regional - Commercial Aviation District Overlay). This commercial property is already developed with multiple existing uses.

Estimated Water Demand

2. Pursuant to the *Water Supply Information Summary* ("WSIS"), the annual subdivision demand is 4.6 total acre-feet for commercial use. The WSIS does not identify the square footage of the commercial uses upon which this figure is based. Based on this, the Applicant must provide a supply of 1,380 acre-feet of water (4.6 acre-feet/year x 300 years) to meet the County's 300-year water supply requirement for the subdivision.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from the Cherokee Metropolitan District ("District" or "Cherokee"). The District currently provides

ASSISTANT COUNTY ATTORNEYS

NATHAN J. WHITNEY
CHRISTOPHER M. STRIDER

STEVEN A. KLAFFKY
DOREY L. SPOTTS

LORI L. SEAGO

BRYAN E. SCHMID
STEVEN W. MARTYN

TERRY A. SAMPLE
MERI GERINGER

central water service to the existing uses on the property. As identified in the *Water Resources Report for Powers Center Filing No. 3A*, dated March 2023 and revised on June 7, 2023, the annual water demand for the development is 4.6 acre-feet per year. Per the *Water Resources Report*, Cherokee's total available water supply is approximately 4,443.00 acre-feet/year, while its existing water commitments, including this property, total 4,111.7 acre-feet per year.

4. The General Manager of the District provided a letter dated February 7, 2023, committing to continue to provide water service for the commercial lots within the Powers Plaza Filing 3A Subdivision, which is located within the District's boundaries. The District's combined commitments for the 3 lots are delineated as follows and are based on average annual water consumption over the last five years:

Address	Commercial Interior Demand (AFY)	Demand (AF/yr)
5849-5857 Palmer Park Blvd	0.16	0.16
5859-5863 Palmer Park Blvd	0.22	0.22
5869 Palmer Park Blvd	0.13	0.13
5871-5883 Palmer Park Blvd	4.12	4.12
Total	4.6	4.6

The District notes that these commitments are "hereby made exclusively for this specific development project at this site within the District." The District's commitment is only a conditional commitment: "[t]o confirm this commitment you must provide the District with a copy of the final plat approval from El Paso County Development Services within 12 months of the date of this letter. Otherwise, the District may use this allocation for other developments requesting a water commitment."

State Engineer's Office Opinion

5. In a letter dated April 4, 2023, the State Engineer reviewed the application to subdivide the 5.551-acre tract into 3 lots. The State Engineer confirmed that the Cherokee Metropolitan District has committed a water supply of 4.6 acre-feet/year, which is the water demand identified in the WSIS. Further, the State Engineer states that "[a]ccording to the records of this office, Cherokee has sufficient water resources to supply the development as described above." Further, the State Engineer declared that "[p]ursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply can be provided without causing injury to decreed water rights, and the supply is expected to be adequate."

Recommended Findings

6. Quantity and Dependability. Applicant's water demand for Powers Centre Filing No. 3A is 4.6 acre-feet per year to be supplied by Cherokee Metropolitan District.

Based on the water demand of 4.6 acre-feet/year for the development and the District's availability of water sources, but given the conditional nature of the District's commitment to serve, the County Attorney's Office recommends a finding of conditional sufficiency as to water quantity and dependability for Powers Centre Filing No 3A.

7. Quality. Section 8.4.7(B)(10)(g) of the El Paso County Land Development Code allows for a presumption of water quality when water is supplied from an existing Community Water Supply operating in conformance with the Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

8. Basis: The County Attorney's Office reviewed the following documents in preparing this review: the *Water Supply Information Summary* provided March 20, 2023, the *Water Resources Report* dated March 23, 2023, revised June 7, 2023, the *Cherokee Metropolitan District* letter dated February 17, 2023, and the *State Engineer's Office Opinion* dated April 4, 2023. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect or should the below requirement not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

REQUIREMENTS:

A. Applicant and all future owners of lots within this filing shall be advised of and comply with the conditions, rules, regulations, and specifications set by the District.

B. Applicant must obtain final plat approval and provide evidence thereof to the District within 12 months of the District's commitment letter dated February 17, 2023 (approval must be provided by February 17, 2024), to retain the District's water commitment. **If Applicant fails to do so, this recommended finding of conditional sufficiency will be deemed moot and no longer valid. Once Applicant provides proof to the District that satisfies the District's condition of final plat approval, this conditional finding of sufficiency will automatically convert to a full sufficiency finding.**

cc: Ashlyn Mathy, Planner

VACATION AND REPLAT (RECOMMEND APPROVAL)

_____ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. VR-23-006
POWERS CENTRE FILING NO. 3A

WHEREAS, Ollie Watts Consulting did file an application with the El Paso County Planning and Community Development Department for approval of a vacation and replat to vacate one lot and replat it as three lots within the CR (Commercial Regional) zoning district for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on September 7, 2023; and

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

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;

6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations; and
7. For the above-stated and other reasons, the proposed vacation and replat is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, in approving a vacation and replat of a subdivision, the El Paso County Planning Commission and Board of County Commissioners shall find that the application meets the criteria of approval listed in Land Development Code ("Code") 7.2.3(C)(4) (as amended):

1. The replat complies with the Code, and the original conditions of approval associated with the recorded plat;
2. No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
3. The replat is in keeping with the purpose and intent of the Code;
4. The replat conforms to the required findings for a minor or major subdivision, whichever is applicable;
5. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM;
6. The approval will not adversely affect the public health, safety, and welfare; and
7. Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the replat has been resolved.

WHEREAS, a sufficient water supply has been acquired with a condition in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of the Code.

WHEREAS, the condition of water supply is as follows:

Applicant must obtain final plat approval and provide evidence thereof to the District within 12 months of the District's commitment letter dated February 17, 2023 (approval must be provided by February 17, 2024), to retain the District's water commitment. If Applicant fails to do so, this recommended finding of conditional sufficiency will be deemed moot and no longer valid. Once Applicant provides proof to the District that satisfies the District's condition of final plat approval, this conditional finding of sufficiency will automatically convert to a full sufficiency finding.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Ollie Watts Consulting for approval of the Vacation and Replat to allow a vacation of one lot to be replatted as three lots within the CR (Commercial Regional) zoning district be approved by the Board of County Commissioners with the following conditions and notation:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
5. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
6. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated June 15, 2023, as provided by the County Attorney's Office.

NOTATION

7. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.

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

_____ seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows: (circle one)

Thomas Bailey	aye / no / non-voting / recused / absent
Sarah Brittain Jack	aye / no / non-voting / recused / absent
Jim Byers	aye / no / non-voting / recused / absent
Jay Carlson	aye / no / non-voting / recused / absent
Becky Fuller	aye / no / non-voting / recused / absent
Jeffrey Markewich	aye / no / non-voting / recused / absent
Brandy Merriam	aye / no / non-voting / recused / absent
Eric Moraes	aye / no / non-voting / recused / absent
Kara Offner	aye / no / non-voting / recused / absent
Bryce Schuettpelz	aye / no / non-voting / recused / absent
Wayne Smith	aye / no / non-voting / recused / absent
Tim Trowbridge	aye / no / non-voting / recused / absent
Christopher Whitney	aye / no / non-voting / recused / absent

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

DONE THIS 7th day of September 2023 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
Thomas Bailey, Chair

EXHIBIT A

LOT 1 POWERS CENTRE FIL NO 3