

VR-03-020

542.07

**VACATION/ REPLAT
CHIRICAHUA SUBDIVISION FILING #2**

A request by Berean Fundamental Church Council Inc. and Anthony Mand (applicants) to vacate and replat Lot 6, Chiricahua Subdivision. The vacation and replat will create two lots, one lot of 2.43 acres and one lot of .74 acre. The properties are zoned PBP (Planned Business Park) and R-2 (Residential) Districts and are located east of Galley Road and north of Peterson Road, within the Cimarron Hills area. Assessor's Tax Schedule #54074-08-009, 010.

PREPARED BY

Mike Garrott
7/13/04

APPLICABLE RESOLUTIONS

Approval Page 13
Disapproval Page 14

DEVELOPMENT SERVICES DEPARTMENT RECOMMENDATION: Staff recommends **approval**, with the following conditions and notations:

CONDITIONS

1. Prior to recording the Plat:
 - a. Applicable drainage and bridge fees shall be paid.
 - b. The applicant shall submit the mylar to Enumerations for addressing.
 - c. All Deed of Trust holders shall ratify the Plat.
 - d. 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, for 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 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.
 - e. 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.

- f. Pursuant to the State Engineer's direction, an updated letter of commitment from the District is required that references a volume of water sufficient to supply a restaurant and church, since the State Engineer is skeptical that the 0.03 acre-feet estimated will supply both. Said letter is required before recording the plat.
2. Prior to hearing by the Board of County Commissioners:
 - A. Add the following notes:
 - 1) Notice: "This property may be impacted by noise caused by aircraft operations into and out of the Colorado Springs Airport. The buyer should familiarize himself/herself with this potentiality and the ramifications thereof."
 - B. All outstanding Engineering Division issues shall be resolved.
3. Prior to the Development Services Department's authorization for the issuance of a building permit, the applicant shall submit a Plot Plan in accordance with Section 37 of the El Paso County Land Development Code. The plan shall address among other things lighting, grading, drainage, erosion control, landscaping, parking and fencing.
4. Prior to the Development Service Department's authorization for the issuance of a building permit, the applicant shall resolve all outstanding Colorado Springs Airport conditions.
5. Conditions of Compliance, as stipulated by the County Attorney's Office, shall be adhered to at the appropriate time.

NOTATION

1. Minor Subdivisions not forwarded to the Board of County Commissioners for consideration within 12 months of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.

A finding of sufficiency regarding water has been made by the State Water Engineer.

PUBLIC NOTICE: The property was posted on or before July 13, 2004

PUBLIC NOTIFICATION: The Development Services Department notified adjoining property owners of the applicant's intent on July 6, 2004. A summary of their responses will be given at the meeting.

ADJOINING LAND USE AND ZONING:

North	Multi-Family Dwellings	R-3 (Residential) District
South	Golf Course	M (Industrial) District
East	Religious Institution	PBC (Planned Business Center) District
West	Golf Course	M (Industrial) District

HISTORY: The properties were originally zoned A-3 (airport farm) district on May 11, 1942. The properties were rezoned from A-3 to PBP and R-2 in 1964. The properties were originally platted as part of the Cimarron Hills Filing #1, which was recorded on January 17, 1964, consisting of 103 residential lots. The parcels in questioned were replatted as part of the Berean Fundamental Church subdivision, which was recorded on October 28, 1969. The parcels were again replatted as part of the Chiricahua Subdivision, which consisted of 5 residential lots and 1 commercial lot on July 14, 1983. Lot 6, Chiricahua Subdivision was illegally subdivided into 2 lots without the benefit of the subdivision process on January 18, 1985. Subdivision regulations were adopted by the State of Colorado in July of 1972. The applicant's intent is to legalize the two parcels by processing a subdivision request.

AGENCY COMMENTS

COLORADO DEPARTMENT OF TRANSPORTATION

The Colorado Department of Transportation has reviewed the information submitted requesting approval for a rezoning of 2 contiguous parcels from the R-2 (Residential) and PBP (Planned Business Park Districts to PBP (Planned Business Park) District located east of Galley Road and north of Peterson Road. We have the following comments:

- The approval of this request will not have a significant impact to the state highway system.

EL PASO COUNTY CONSERVATION DISTRICT- The El Paso County Conservation District has reviewed the Vacation/Replat of the Chiricahua Subdivision Filing #2 and has no comments at this time.

DEPARTMENT OF ARMY, ALBUQUERQUE DISTRICT - CORPS OF ENGINEERS

This replies to your January 2, 2004 letter requesting a review of the preliminary plat for the proposed vacation and replatting of Lot 6 and the rezoning of two parcels within Lot 6 of the Chiricahua Subdivision development in Colorado Springs, El Paso County, Colorado. We have assigned Action No. 2004 00051 to this request.

We have reviewed the submitted information. The site is located in Section 8, Township 14S, Range 65W. It appears that the development site does not contain the following water of the United States: East Fork Sand Creek. A site visit was not made and other waters of the United States may be located on the site.

Waters of the United States are regulated under provisions of Section 404 of the Clean Water Act and a Department of the Army permit may be required for the discharge of dredge or fill material into these waters. From the project description you provided, it appears that the structures or construction activities may not involve a regulated discharge into these waters.

These comments are provided as an informational review response only.

ENVIRONMENTAL SERVICE DEPARTMENT

The Environmental Services Department (ESD) has completed its review of the Chiricahua Subdivision Filing #2 Vacation/Replat. Our review consisted of the following items; wetlands, general wildlife resources, and federal and state listed threatened or endangered species.

We have reviewed the submittal and have no comments at this time.

It should be noted that the U.S. Army Corps of Engineers and the FWS have regulatory jurisdiction over wetland and threatened and endangered species issues, respectively.

CHEROKEE METROPOLITAN DISTRICT

This property is located within the boundaries of Cherokee Metropolitan District.

The District stands ready to serve the property with water and sanitary sewer services. The amount of water for this development may not exceed .37 acre feet per year. This water will reduce the amount of water allocated to the Cimarron Hills Platted areas.

STATE OF COLORADO STATE ENGINEER

The above referenced proposal will subdivide 2.94 acres into 2 commercial use lots. As stated on the Water Supply Information Summary form provided last January, the estimated water requirement was given as 27.4 gallons per day (0.03 acre-feet per year), which is unreasonably low for the water needs of a restaurant and a church. Cherokee Metropolitan District is the water supplier, but we have not yet seen a written commitment for service.

Subsequent to our January 9, 2004 letter on this subdivision, Cherokee Metropolitan District provided additional information to our office on its water supplies and commitments for service. The attached table entitled "Cherokee Metropolitan District, Present / Projected Water Demand" is Cherokee's listing of its water commitments. Cherokee stated it has no commitments or contracts to serve or deliver water other than identified on that table. Also attached is a table prepared by our office summarizing both Cherokee's currently available water supplies and its commitments as given on its table. As shown on our table, Cherokee currently has 5,710 acre-feet per year of water supply, and 5,175.33 acre-feet per year of delivery commitments, leaving approximately 535 acre-feet per year of water available for additional commitment.

The information in our files indicates the district has sufficient water resources to supply this subdivision. Pursuant to the provision of C.R.S. 30-28-136(1)(h)(II) it is the opinion of this office that so long as the applicant provides to the county a written commitment for service from the District, which references a volume of water sufficient to supply a restaurant and a church, the proposed water supply can be provided without injury to existing water rights.

COUNTY ATTORNEY'S OFFICE submitted the following Findings and Conclusions:

- 1) This is a proposal by Berean Fundamental Church Council Inc. and Anthony Mand to vacate and replat Lot 6 of the Chiricahua Subdivision into two lots; one lot will consist of 2.43 acres and the second lot will consist of .74 acres. The property is currently zoned PBP and R-2 District. The property is located in the Southeast quarter of Section 7, Township 14 South, Range 65 West of the 6th P.M., El Paso County, Colorado.
- 2) The Applicant has provided for the source of water to be from a central water system – Cherokee Metropolitan District. The Applicant estimates its annual water requirements to serve 2 commercial lots at 27.4 gallons per day or 0.03 acre-feet per year. Applicant will have to be able to provide a supply of 9.0 acre-feet of water (0.03 ac.ft./yr. x 300 yrs.) to meet the County's 300 year water supply requirement.

- 3) Cherokee develops its water supply from the alluvium of the Upper Black Squirrel Creek Designated Ground Water Basin, which water is considered by Cherokee, the State Engineer, and the Upper Black Squirrel Creek Designated Ground Water Management District to be annually renewable water. Under § 49.5.D.4.c., of the Land Development Code, such water provided from renewable ground water sources is considered to be annually renewable and is therefore considered to have a minimum life of 300 years.
- 4) In a letter dated January 9, 2004, the State Engineer indicates that prior to making a comment, the District needs to provide an updated summary of the water commitments it has made to date to the State Engineer. Pursuant to C.R.S. 30-28-136(1)(h)(II), the State Engineer is of the opinion that until the District provides the requested information, the proposed water supply cannot be provided without injury to existing water rights.
- 5) A letter from the General Manager for Cherokee Metropolitan District dated April 10, 2003, states that Cherokee Metropolitan District stands ready to serve the property with water and sanitary sewer services in an amount not to exceed .37 acre-feet annually.
- 6) In a letter dated July 1, 2004, the State Engineer states that he thinks the 0.03 acre-feet per year estimated demand is unreasonably low for both a restraint and a church. The Engineer states that he has not seen a commitment letter from the District. The Engineer states that after its January 9, 2004 opinion, the District provided additional information, which the Engineer compared to its own tables of Cherokee's currently available water supplies and commitments. The Engineer's tables show that Cherokee has approximately 535 acre-feet per year of water available for additional commitments. Pursuant to C.R.S. 30-28-136(1)(h)(II), the State Engineer is of the opinion that so long as the applicant provides a written commitment from the District that references a volume of water sufficient to supply a restaurant and a church, the proposed water supply can be provided without injury to existing water rights.
- 7) Therefore, based on the finding of sufficiency and no injury made by the State Engineer and the letter of commitment is received from the District, and on the Conditions below, the County Attorney's Office would recommend that the proposed water supply is sufficient in quantity and dependability. The El Paso County Health Department will make a finding as to quality.

CONDITIONS

- 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. Pursuant to the State Engineer's direction, an updated letter of commitment from the District is required that references a volume of water sufficient to supply a restaurant and church, since the State Engineer is skeptical that the 0.03 acre-feet estimated will supply both. Said letter is required before recording the plat.

COLORADO SPRINGS UTILITIES, WATER AND WASTEWATER

WATER/WASTEWATER COMMENTS

INFORMATION ITEMS:

14. This item is not in the Colorado Springs Utilities' water/wastewater service area.
23. These are comments from Jerry Valle for the Water Resources Department.

Note - for more information on these comments or other information on Colorado Springs Utilities, please contact the following representatives:

Gas and Electric – Bill Davis 719-668-8254
Water Resources - Jerry Valle 719-668-8252

COLORADO SPRINGS AIRPORT

Based on the review, the Colorado Springs Airport has no objection to the proposal as it will not adversely affect the safe and efficient use of air space by aircraft or the safety of persons and property on the ground.

This determination is issued in accordance with FAR Part 77, and FAR Part 150, and concerns the effect of this proposal on the safe and efficient use of the navigable airspace by aircraft and does not relieve the sponsor of any compliance responsibility relating to any law, ordinance, or regulation of any Federal, State, or local governmental body. The proposal falls under Airport Horizontal Surface and as a result the developer should be made aware of the provisions of the administrative recommendation, and be required to execute an aviation easement for each property.

Conditions:

- 1) In the event of any construction activity, a FAA Form 7460-1 will be required (Penetrates 100:1 slope).
- 2) Petitioner's granting of an aviation easement and that same is recorded with the El Paso County Clerk so as to be a burden of the title to the property included in this request.

- 3) No man-made or non-manmade obstructions be allowed to penetrate the horizontal surface.
- 4) All exterior lighting plans be approved by the Director of Aviation to prevent a hazard to aircraft.
- 5) No electromagnetic, light, or any physical emissions which might interfere aircraft, aviation, communications or navigational aids be allowed.
- 6) If a crane is to be used during the construction period, an FAA Form 7460-1 will need to be filed through the Airport Operations office and approved by the Federal Aviation Administration before any building permit is issued by the City or County.
- 7) A statement shall be included in the aviation easement and recorded on the plat and deed requiring disclosure by the developers/ realtors to prospective purchases. This statement should be clear and in bold print to read:

Notice: "This property may be impacted by noise caused by aircraft operations into and out of the Colorado Springs Airport. The buyer should familiarize himself/herself with this potentiality and the ramifications thereof."

EL PASO COUNTY PARKS DEPARTMENT - Park staff has no objections to this submittal.
For internal review only and not forwarded to the Park Board for review.

CITY OF COLORADO SPRINGS – No comment.

The following agencies were notified and their comments, if any, will be provided at the meeting.

El Paso County Department of Health and Environment
Comprehensive Planning Division
911 Emergency
Pike's Peak Regional Building Department
School District #11- Colorado Springs
Cimarron Hills Fire Department

DEVELOPMENT SERVICES DEPARTMENT COMMENTS

ENGINEERING DIVISION

The following are DOT comments pertaining to the above referenced submittal items:

- 1) We have no objection to the rezone request.

The following are comments on Vacation / Replat:

- 1) A drainage letter report is required with this application to include drainage flow patterns from the proposed development, and an evaluation of the need for any drainage improvements.
- 2) The drainage letter report is required to address drainage and bridge fees in the Sand Creek basin. Drainage and bridge fees are applicable to the increase in impervious land cover brought about by the proposed development.
- 3) No new access will be allowed to this subdivision from Galley Road. If the applicant intends to use the existing access driveway on Galley, it should be clearly shown as a joint access point and easement on the plat.
- 4) This existing access on Galley is required to be paved to minimize tracking onto Galley.
- 5) A grading and erosion control plan is required for this project.

PLANNING DIVISION COMMENTS

CURRENT PLANNING

- 1) The applicant's intent is to vacate and replat lot 6, Chiricahua Subdivision into 2 lots. Lot 1 of the proposed subdivision is currently zoned R-2 (Residential), lot 2 is currently zoned PBP (Planned Business Park). The applicant is concurrently requesting to rezone the entire subdivision from the R-2 and PBP to PBP. The request is to replat the above-mentioned lots into two lots. Lot 1 of the proposed subdivision will be 2.43 acres in size and lot 2 will be .74 acre in size. The PBP zoned district does not have a min. lot size. The applicant proposes to construction a pizza restaurant on lot 2. Lot 1 is developed with an existing church facility.
- 2) The property was created by a Warranty Deed on January 18, 1985 without the benefit of the subdivision process. Subdivision regulations were adopted by the State of Colorado in July of 1972.

- 3) Water and sewer service will be provided by the Cherokee Metropolitan District. A finding of sufficiency was made by the State Engineer and the Office of the County Attorney regarding water quantity.
- 4) The parcel lies within the Sand Creek Drainage Basin Boundaries; drainage and bridge fees are required to be paid prior to recording the plat.

ENCLOSURES

Vicinity Map
Letter of Intent
Reduced Plat

El Paso County Parcel Information

Parcel Number: 5407408010

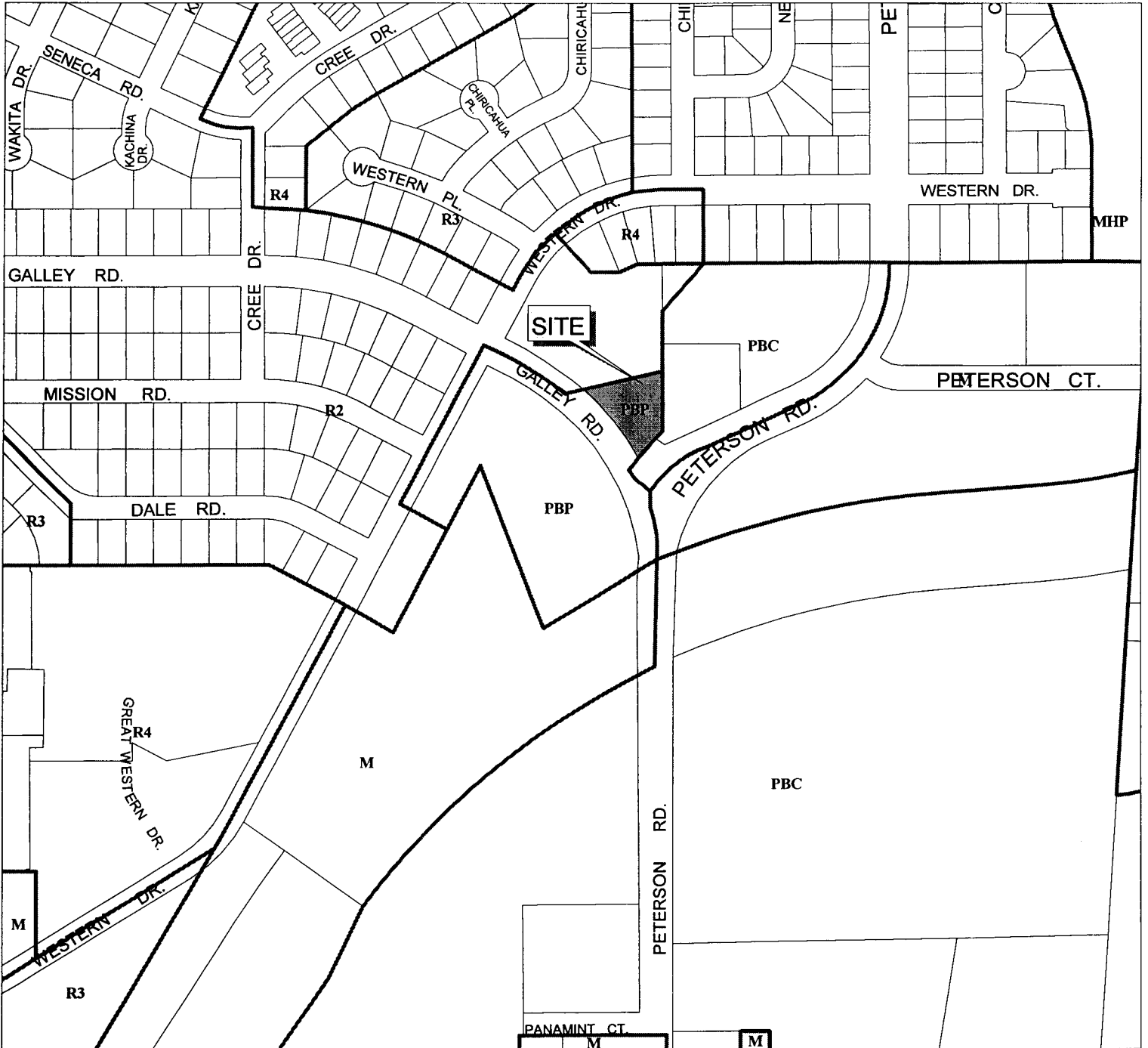
Parcel Address: 0 GALLEY RD

Parcel Owner: MAND ANTHONY S

File Name: PRE-03-052

Zone Map No.: 542.07

Owner Mailing Address: 5735 INDUSTRIAL PL, COLORADO SPRINGS, CO 80916



Please report any discrepancies to:
El Paso County GIS/Mapping
325 S. Cascade
Colorado Springs, CO 80903
(719)520-6523

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February 19, 2003

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December 16, 2003

SUBJECT: Letter of Intent, Chiricahua Subdivision No. 2

1. Owner: Proposed Lot 1:

Berean Fundamental Church Council
6862 Galley Road
Colorado Springs, CO 80915

Proposed Lot 2:

Anthony S. Mand
5735 Industrial Place
Colorado Springs, CO 80916
(719) 266-5857

Consultant: Oliver E. Watts PELS * see above*

2. Site, location, size, zoning:

This Site is located on the north end of the intersection of Galley Road and Peterson Road. This 2.94 acre Site is split into 2 parcels. The north 2.34 acre parcel zoned R-2 holds a Church. The south 0.74 acre, PBP zoned parcel is vacant at this time. The Assessors number for the north parcel is 54074-08-009 and the south is 54074-08-010. Both parcels are located in the Southeast $\frac{1}{4}$ of Section 7, Township 14 South, Range 65 West of the 6th P.M. We want to zone the north, Church parcel to PBP.

3. Request and reason:

Both parcels mentioned above are part of Lot 6 Chiricahua Subdivision, platted in 1983. The two parcels were split (illegally) back in the mid 1980's and different zones assigned to each.

We want to resubdivide the two parcels, in the current configuration, into two legal lots. This will allow for a small pizza restaurant to be constructed on the south parcel. As stated above, we also want to re-zone the north, Church parcel from R-2 to PBP.

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

This Site is bordered on the north by Western Drive, an 80' right-of-way street with 55' worth of paving from curb to curb. Galley Road, another 80' right-of-way, bounds the property on the west with 54' worth of paving, curb to curb. Peterson Road bounds the property on the south with a 100' right-of-way and 68' worth of paving from curb to curb.

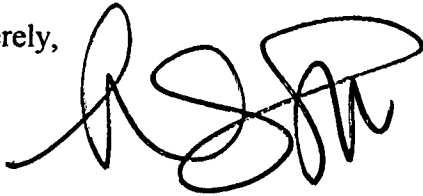
-514-

As stated above, the north parcel contains a church and the south is vacant. We propose constructing a pizza restaurant on the south parcel. All utility mains are in place to service the south parcel. The City of Colorado Springs will provide gas and electric to the Site per the Commitment Letter. Cimarron Hills Fire Protection District will provide fire coverage. A Commitment Letter was requested, but not provided / refused. Water and sewer services will be provided by Cherokee Metropolitan District, again per Commitment Letter. Access to the Church will be via existing driveways, one off of Western Drive and one off of Galley. The Galley Road driveway will be platted into a common ingress and egress driveway. Parking for the south Site will be on the Church parcel via a "Joint Parking Agreement." Said parking area will be paved. Per the submitted Development Report, drainage from the Site will be adequately handled by existing facilities.

5. Waiver requests and justifications.
None are known or applied for at this time.

Please contact our office should you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erik S. Watts', with a stylized, cursive script.

Erik S. Watts
Oliver E. Watts PE-LS
Consulting Engineer

