

- 7.A. **MAPN-23-00 05** An ordinance amending the zoning map of the City of Colorado Springs relating to 60.28 acres located northwest of Old Ranch Road and Powers Boulevard from PK (Public Park) to R-Flex Low zone district.  
(Quasi-Judicial - 1st Reading only to set the public hearing for January 23, 2024)

Presenter:  
 Katelynn Wintz, Planning Supervisor, Planning and Neighborhood Services  
 Peter Wysocki, Planning Director, Planning and Neighborhood Services

- Attachments: CPCStaffReport\_Ovation  
 Land Use Plan\_Ovation  
 GeohazardReport  
 Traffic Impact Analysis  
 7.5.514 LAND USE PLAN  
 Exhibit B  
 ORD\_OvationZC  
 Exhibit A

Katelynn Wintz, Planning Supervisor, presented the scope of the project.  
 The applicant’s representative, Britt Haley, Director of Parks, Recreation and Cultural Services, presented the scope of the project.

Questions from commissioners

Commissioner Foos inquired if the 352 acres would mostly go to habitat restoration.

Britt Haley, Director of Parks, Recreation & Cultural Services stated it won’t be a highly activated space and would allow wildlife to roam freely.

Commissioner Hensler inquired if the area has always been zoned park land, to which Ms. Haley confirmed it has been zoned as park land since 2003.

Commissioner Briggs inquired if there is some sort of protection with the funding, and if there were other proposed locations. Furthermore, he inquired if the donation of the land is tied to the transaction.

Ms. Haley responded PLDO fees were utilized to purchase the property, so it would go back into the dedicated fund into the Park Land Dedication fee. The were locations that were looked at, but there was not a preferred site at the time. The donation of the land was tied to the transaction.

Commissioner Rickett requested an explanation of the difference between Parks and TOPS.

Ms. Haley responded TOPS was a sales use tax dedicated to purchase lands and trails for parks and open spaces. The program was originally suggested by the public, and it equates to a penny for every \$10 purchase that qualified. The TOPS program is unique in that it doesn't have the same restrictions and difficulties that other properties have with regard to continued funding, maintenance, stewardship.

Chair Hente requested an elaboration on the couple of properties to the south that were colored in dark purple. Ms. Haley responded every dark purple area was part of the donation, and there were four separate properties via donation.

The developer, La Plata, presented the scope of the project.

Questions from Commissioners

Commissioner Foos inquired on the potential access to powers and whether or not if it was a graded dirt path. Additionally, he inquired who would maintain the potential access.

The developer stated that portion of the project has not been fully figured out yet, but they anticipate it would need to be paved which they were certainly willing to do.

Commissioner Briggs inquired who would be responsible for the space between the fence and Powers Boulevard.

The developer stated that was part of CDOT right-of-way, so they would not have control over that.

Commissioner Almy inquired what the intended use of the 9 acre plot would be and if it were not to be picked up, what would it be used for.

The developer stated the 9 acres were actually the southern portion of the property, and it would remain with city parks if it were not to be picked up.

Commissioner Hensler inquired if City Council was aware of the rezoning proposal when city Council unanimously approved this. The developer confirmed they were aware of this. Furthermore, she asked if the builders would comply with the sprinkler requirements.

The developer stated the sprinklers were part of the discussion. There was feedback received on initial costs of additional sprinklers, which was around \$15,000/unit. The system itself was cheaper, but cost more as the water tap would

need to be upgraded. The two builders La Plata was working with have agreed to implement the sprinklers in each unit.

Commissioner Briggs inquired if there was a way to work with CDOT to have the portion between the fence line to Powers paved. He also inquired where the drainage ditch was located.

The developer stated the general drainage pattern is to the north. Todd Frisbie with City Traffic stated CDOT would not allow any access that goes up to the road so the area would not be paved.

Commissioner Rickett asked if the city has swapped responsibility back and forth with the state. Todd Frisbie confirmed that it has in the past. Commissioner Rickett stated if this project were to move forward, there would need more organization and a true exit would need to be created.

Commissioner Briggs asked if there was a representative from D20 available. He inquired if D20 took into account of community responses of overcrowding of schools. He also stated D20 always take the payment as opposed to consider a new facility or school. He inquired why that was always their response.

Katelynn Wintz, Planning Supervisor, stated there was not. She elaborated based on codified requirement with PLDO, there was a school section. As many were aware, education campuses were quite large in size, and there were a number of requirements that the district had to consider from a facilities perspective to determine if they could accept land dedication. Related to different applications of different sizes, that was an independent decision that they were able to make as the enforcers of that section of the code for land dedication or fees in lieu of, as it related to the district. Their response at that time for that particular application was that there were an adequate number of school facilities throughout District 20, which allowed for them to absorb new students. As it related to capacity, there were different levels at the different groupings of schools. Elementary had a class size maximum that had to be enforced; middle and high schools had different protocols that had unlimited classroom sizes because they were based on education.

Commissioner Briggs inquired when the district made decisions, was it more administrative or the board. Ms. Wintz responded it's in the city code but does not lay out who would be the responsible party. Commissioner Briggs also inquired if there were statistics that could be shown for out-districting.

Ms. Wintz replied there were statistics not choosing just out of the district, but choosing maybe to homeschool, etc. There might have been part of the internal decision-making that the district made when they were looking at their census, but that wasn't information they reported back to the City Planning Department.

Public Comments

Jamie Nau, a citizen whose home backs to the site, gave a slideshow presentation to the Commissioners opposing the project. He was concerned of the increased level of traffic for the proposed project.

He also spoke of the lack of evacuation plan for the proposed project.

Adreienne Nau, citizen, spoke in opposition of the project. She stated Pine Creek was already full and was worried about the traffic.

Tracy Corl, citizen, spoke in opposition of the project. She stated a sports complex would be ideal for the location.

Nathan Corl, citizen, spoke in opposition of the project and asked for intentionally for this proposed project.

Sarah Larsen, citizen, echoed Mr. Nau's statements and strongly opposed the project.

Richard and Charlene Dennings, citizens, spoke in opposition of the project. Furthermore, they stated there was a state code that allowed the governor to overrule for emergency accesses.

Dorothy Macnack, citizen, spoke greatly in opposition of the project.

Cliff Black, citizen, spoke in opposition of the project. He stated he purchased his home with the interest of the proposed site to be a sports complex. He believed approving this project would cause danger to people's lives and safety.

Genevieve Hutchinson, citizen, spoke in opposition of the project. She wanted to note there was a junior high and grade school that would also need to be evacuated near this site, and the area was not built for heavy Traffic.

Sharon Dehallis, citizen, spoke in opposition of the project.

Michael Corl, citizen, also spoke in opposition of the project. He stated the quality of education goes down when schools are overcrowded. He hoped there would be a resolution soon.

Becky Wright, citizen, spoke greatly in opposition of the project.

Applicant rebuttal

Lonna Thelen, TOPS Program Manager for Parks, Recreation, & Cultural Services, stated the Parks department had a contractual obligation to go through this process.

Chair Hente expressed sympathy for the idea of a sports complex, stating that the community could use more facilities of that type. However, he had questioned if there was any desire to put a sports complex there.

Ms. Thelen had confirmed that there was no desire to put a sports complex there,

citing strong opposition due to concerns about traffic and lights, particularly since it was intended to be a community park.

La Plata, the developer, highlighted the agreement's focus on emergency access, noting that while the median wasn't required, it helped with the egress and ingress of the point access. La Plata had clarified that emergency access to Powers Boulevard wasn't the only concern in the area. La Plata stated they had held up their side of the agreement. They emphasized the importance of the City upholding their part. Parks had expressed that if the area was not built as a park, they lacked the funds to maintain it. The idea of a sports complex had seemed financially unviable without proper funding. Furthermore, they stated the City had approached La Plata because they had no use for the piece of land anymore, leading to the initial transaction. This final step in the real estate transaction had received unanimous approval from City Council.

Commissioner Slattery requested an elaboration by the Fire Department on egress and ingress of the area.

Steven Smith, with Colorado Springs Fire Department, stated the fire code only addressed access into communities, so he would be unable to speak on the egress portion of the site. However, access into this community had been met.

Commissioner Rickett inquired when did the 50 unit requirement in the IFC came about. Mr. Smith stated that had been in the code they have previously adopted it out.

Commissioner Rickett had questioned whether the sprinkler actually benefited the homeowner in the event of a wildfire, particularly when the fire started from the outside of a house and things moved quickly.

Mr. Smith responded the sprinklers were intended to keep a fire that started within the structure long enough for the fire department to arrive and mitigate the situation. He clarified that this wouldn't necessarily help in the case of an outside-in fire, but it would definitely help with an inside-out fire.

Commissioner Rickett expressed every house should have another exit. He mentioned a concern about traffic and the challenges of dealing with developments in the area, where everyone is trying to find a second way out of a neighborhood in case of emergencies. He conveyed that unless the additional exit is truly accessible, it could create a sense of false hope. He suggested that if the project moved forward, the consideration of the suggested exit road should be reevaluated. He emphasized that even though it might be possible to cut the fence and allow four-wheel drives to get out through the ditch, it may not be a reliable exit for many. Lastly, he stated that these were two conditions he thought were mentioned in at least one of the possible approvals. Therefore, he recommended that those conditions be removed.

Katelynn Wintz, Planning Supervisor, stated removing the sprinkler ring throughout the development would create an inconsistency with the fire code. She highlighted that if this condition were to be removed, it would no longer meet the fire code criteria.

Commissioner Almy stated despite understanding the CDOT position, there was an acknowledgment that there was nothing wrong with some pre-planning and ensuring that all considerations were documented in emergency planning documents for those needing to take action on short notice. The area was described as cut off, smaller than previous discussions about Kettle Creek, and closely situated to Powers Blvd, providing massive egress but also being locked in by a ravine.

Commissioner Briggs stated in the past, there were discussions on two main points. He acknowledged its limitations in adjudicating matters related to how schools are run, emphasizing that such decisions should be handled at the local level through the school board. Despite recognizing the raised problem, there was an understanding that the board lacked the mandate to direct the administration to make changes in that regard.

He pointed out the particular land use statement criteria 7.5.514.C.3D and E, which impacts the permitted or requested use, and the adequacy of proposed ingress and egress points. Commissioner Briggs expressed concerned that, without the possibility for a second access point, the current situation did not align with this part of the land use plan.

There was mention of a motion that included a requirement for approval from CDOT, Commissioner Briggs expressed probable support for that motion. However, without a clear modification of access points influencing the decision, there was hesitation to fully endorse the proposal.

Commissioner Rickett inquired if the vote should be swapped with voting on the zone first and the land use plan second. Trevor Gloss, City's Attorney Office, stated it would be cleaner to swap the votes. However, the zoning vote would be a recommendation to City Council. Even if the Planning Commission approved 7.A. and 7.B. right now, it would be a conditional approval.

Chair Hente expressed He approval for Commissioner Brigg's motion, especially if CDOT approved it as well. He also indicated mindfulness of the many agreements the City had previously made, expressing concern about the city going back on its word. While acknowledging the desire of some to see the area as a park, he shared his perspective that it couldn't simply be a park due to the significant backlog of almost 300 million dollars in the parks system. He stated that he would vote in favor if CDOT approved the proposal.

Commissioner Hensler had expressed the opinion that the area would be a great fit for open space, especially considering the city's lack of funding. She noted a recurring focus on emergency access and suggested that if emergency access came from a different street, people could exit in another way. Commissioner Hensler acknowledged the lessons learned from past tragic fires and emphasized that school enrollment was the responsibility of the district. She expressed the inevitable impact of the community's growth, new homes, and increased traffic. While appreciating R-flex low and the diversity of housing, she stressed the need to address the housing shortage, which would impact housing costs. She recognized that the area was not always designated as park land and expressed a realization that change was imminent, with the community requiring more housing.

Commissioner Almy stated they were to be in contingent with CDOT approval while knowing it would not be approved, the board would basically be voting it down. He also agreed the city is growing and there was a shortage on housing.

Commissioner Slattery expressed views on the R flex low density proposed in the neighborhood, emphasizing that it was in context. She agreed with fellow Commissioners about upholding the city's commitment to bring hundreds of acres of open space into the TOPS program. Slattery expressed hesitation in making approval contingent upon CDOT, given their explicit statement that they would not be able to comply. She conveyed her belief that making approval contingent upon another state body over which they had no control was an overreach. In terms of the motion to approve with geological hazards, Slattery did not propose removing it. She favored the first motion without suggesting its removal, believing it could provide value and flexibility for future connectivity without imposing a requirement on CDOT, which was beyond their control. Regarding schools, Commissioner Slattery noted that D20 had built two new schools in the last seven years, addressing enrollment changes. She acknowledged that enrollment boundaries naturally change as families move into newer neighborhoods, and houses built decades ago see children leaving the nest. She highlighted this as a natural cycle in cities and development, emphasizing that the district was likely addressing these issues.

Commissioner Rickett acknowledged that La Plata had done an excellent job laying out the concept for the property, expressing appreciation for their efforts after being brought in by the city to handle the project. He also recognized the importance of the city standing behind its decisions, noting that City Council had approved a master plan for the area, indicating a Sports Complex or park for the 60 acres. He emphasized his longstanding support for master plans approved by the city, highlighting that people make property purchases based on the information presented by the city. Commissioner Rickett stressed the significance of adhering to the commitments outlined in the master plan, dating back to the 80s when it initially showed homes, then later, after the property was acquired by parks, it was rezoned for a Sports Complex. He believed that citizens bought their properties with the understanding presented by the city. As a result, Rickett indicated his

intention to vote against both the land use and zone change proposals.

Commissioner Foos began by expressing gratitude to the citizens for their active participation and comments during the discussion. He acknowledged the valuable involvement from both the citizens and La Plata, recognizing their efforts. He conveyed his internal struggle with the proposal, acknowledging the potential benefits and fit of the project in the area. However, he referenced his past voting history, revealing a concern for infrastructure issues, particularly those involving a single point of entry and exit, which could pose safety challenges. He believed the project did not align with the safety criteria used for evaluation. Despite acknowledging positive aspects such as habitat improvements, he emphasized that the safety issue associated with a single entry and exit point was a critical factor influencing his decision. Commissioner Foos declared that he could not support the project due to the safety concerns associated with the one-way access, stating this as his position on the matter.

Chair Hente raised a scenario where the first motion might not pass. In such a situation, he sought clarification on the other alternatives. Specifically, he questioned whether he could accept a motion on one of the alternative proposals or if, in the absence of the first motion passing, all alternatives would be considered dead.

Trevor Gloss, City's Attorney Office, clarified the board would be able to vote on the alternatives if the situation were to arise.

Commissioner Slattery raised a question regarding the approval process involving CDOT and the governor's potential override. She sought clarification on whether the governor's override would fall under CDOT approval since it was overriding CDOT. She further inquired if a state-level condition or approval from CDOT needed to be added for access.

Trevor Gloss, City Attorney's Office, clarified the process typically goes through CDOT when reaching the governor's level.

Commissioner Hensler revisited Andrea's earlier comments and questions regarding mandating actions for a governing body over which they have no control. She specifically addressed the wording related to emergency access, noting a discrepancy between the language in the presentation from the applicant and the language presented in their packet. Commissioner Hensler clarified that the language did not explicitly state the granting of emergency access but rather indicated coordination. Expressing a preference for approval, she suggested modifying the language to align with CDOT's statement, ensuring clarity about the nature of emergency access. She expressed concern that the current language might give the impression of constructing a road, which contradicted previous discussions. Lastly, she emphasized the need for consistency with CDOT's letter and stated her discomfort supporting the language in its current form.



Commissioner Briggs suggested that if the language allowed for access, the developer or the city could potentially install a culvert or some structure for emergency vehicle passage. He emphasized the importance of having the ability to implement such measures in case of an emergency, as opposed to merely stating that they won't obstruct emergency efforts. Commissioner Briggs noted the uniqueness of the request, emphasizing the need for language that clearly addressed the permission for access in emergency situations.

Commissioner Almy suggested adding a recognition that CDOT would not prevent access during an emergency.

Michael Tassi, Assistant Director Planning and Community Development, suggested a motion to acknowledge the language from the CDOT letter regarding emergency coordination and access. Additionally, he proposed requiring the applicant to provide an easement up to the fence line for that purpose.

Trevor Gloss, City Attorney's Office, noted based on the discussion, the Commission may consider requiring an emergency access easement as a condition for approval. This easement would make the specified area accessible for ingress and egress, and addressing the grade could be addressed with the developer later. The purpose of creating the easement would be to reserve the area for emergency access.

Katelynn Wintz, Planning Supervisor, stated that based on aerial imagery and contour lines from City View, multiple at-grade areas were identified along the shared right-of-way and property boundary on the east side of the property. She acknowledged the presence of drainage areas in this section.

Commissioner Rickett expressed a significant safety concern, emphasizing that having an exit road leading to a fence with the ability to cut it doesn't guarantee accessibility beyond that point. He pointed out that this situation did not improve safety and, in fact, could worsen it, especially during adverse weather conditions. Commissioner Rickett stressed the importance of having a CDOT approved road, specifying that it doesn't necessarily have to be paved within the CDOT right-of-way for enhanced safety.

Commissioner Almy had emphasized a limitation in not recognizing the potential for emergency response to address the access point effectively. He used the analogy of allowing vehicles to drive across a field, emphasizing that the key factor was whether the field was suitable for the required vehicles and purposes.

**Motion by Commissioner Rickett, seconded by Commissioner Foos, to recommend denial to City Council the Ovation Land Use Plan based upon the findings that the proposal does not comply with the review criteria for Land Use Plans as set forth in City Code Section 7.5.514. The motion failed by a vote of 3:5.**

**Aye:** 3 - Commissioner Briggs, Vice Chair Foos and Commissioner Rickett

**No:** 5 - Commissioner Almy, Commissioner Hensler, Commissioner Hente, Commissioner Cecil and Chair Slattery

**Absent:** 1 - Commissioner McMurray

**Motion by Commissioner Hensler, seconded by Commissioner Slattery, to recommend approval to City Council the Ovation Land Use Plan based upon the findings that the proposal complies with the review criteria for Land Use Plans as set forth in City Code Section 7.5.514 with the following condition of approval and technical modification:**

**\* Revise note 19 of the Land Use Plan to the following:**

**"This property is subject to the finding's summary and conclusions of a geologic hazard report prepared by CTL Thompson Inc. dated May 2, 2023, which identified the following specific geologic hazards on the property; expansive soil and bedrock and shallow groundwater. The following recommendations shall be adhered to**

- 1. Construction materials testing and observation services during site development and construction.**
- 2. Individual lot soils and foundation investigations for foundation design.**
- 3. Subgrade investigation and pavement design for on-site pavements. A copy of said report has been placed within File# MAPN-23-0005 or within the subdivision file of the City of Colorado Springs Planning and Development Team. Contact the Planning and Development team, 30 S Nevada, Suite 701, Colorado Springs, CO, 80903, if you would like to review said report."**

**The motion failed by a vote of 4:4**

**Aye:** 4 - Commissioner Almy, Commissioner Hensler, Commissioner Cecil and Chair Slattery

**No:** 4 - Commissioner Briggs, Vice Chair Foos, Commissioner Hente and Commissioner Rickett

**Absent:** 1 - Commissioner McMurray

Motion by Commissioner Briggs, seconded by Commissioner Cecil, to recommend approval to City Council the Ovation Land Use Plan based upon the findings that the proposal complies with the review criteria for Land Use Plans as set forth in City Code Section 7.5.514 with the following condition of approval and technical modification:

**Condition of Approval\*** Prior to approval, require CDOT approval of proposed emergency access to Powers Boulevard.

**Technical Modification**

\* Revise note 19 of the Land Use Plan to the following: "This property is subject to the finding's summary and conclusions of a geologic hazard report prepared by CTL Thompson Inc. dated May 2, 2023, which identified the following specific geologic hazards on the property; expansive soil and bedrock and shallow groundwater. The following recommendations shall be adhered to

1. Construction materials testing and observation services during site development and construction.
2. Individual lot soils and foundation investigations for foundation design.
3. Subgrade investigation and pavement design for on-site pavements. A copy of said report has been placed within File# MAPN-23-0005 or within the subdivision file of the City of Colorado Springs Planning and Development Team.. The motion failed by a vote of 2:6.

**Aye:** 2 - Commissioner Briggs and Commissioner Hente

**No:** 6 - Commissioner Almy, Vice Chair Foos, Commissioner Hensler, Commissioner Cecil, Commissioner Rickett and Chair Slattery

**Absent:** 1 - Commissioner McMurray

Motion by Commissioner Hensler, seconded by Commissioner Slattery, to recommend approval to City Council the Ovation Land Use Plan based upon the findings that the proposal complies with the review criteria for Land Use Plans as set forth in City Code Section 7.5.514 with the following condition of approval and technical modification:

**Condition of Approval:** Recognize the language provided by CDOT to not preclude coordination and access during an emergency via a required easement by the developer to CDOT property at grade

**Technical Modification:**

\* Revise note 19 of the Land Use Plan to the following: "This property is subject to the finding's summary and conclusions of a geologic hazard report prepared by CTL Thompson Inc. dated May 2, 2023, which identified the following specific geologic hazards on the property; expansive soil and bedrock and shallow groundwater. The following recommendations shall be adhered to

1. Construction materials testing and observation services during site development and construction.
2. Individual lot soils and foundation investigations for foundation design.
3. Subgrade investigation and pavement design for on-site pavements. A copy of said report has been placed within File# MAPN-23-0005 or within the subdivision file of the City of Colorado Springs Planning and Development Team. Contact the Planning and Development team, 30 S Nevada, Suite 701, Colorado Springs, CO, 80903, if you would like to review said report."

The motion passed by a vote of 5:3.

**Aye:** 5 - Commissioner Almy, Commissioner Hensler, Commissioner Hente, Commissioner Cecil and Chair Slattery

**No:** 3 - Commissioner Briggs, Vice Chair Foos and Commissioner Rickett

**Absent:** 1 - Commissioner McMurray

- 7.B. ZONE-23-00** An ordinance amending the zoning map of the City of Colorado Springs relating to 60.28 acres located northwest of Old Ranch Road and Powers Boulevard from PK (Public Park) to R-Flex Low zone district.  
**14** (Quasi-Judicial - 1st Reading only to set the public hearing for January 23, 2024)

**Presenter:**

Katelynn Wintz, Planning Supervisor, Planning and Neighborhood Services

Peter Wysocki, Planning Director, Planning and Neighborhood Services

- Attachments:** StaffReport\_Ovation\_KAW  
 ORD\_OvationZC  
 Project Statement  
 Zone Change\_Exhibit A  
 Zone Change\_Exhibit B  
 GeohazardReport  
 Traffic Impact Analysis  
 7.5.704 ZONING MAP AMENDMENT (REZONING)

**Motion by Commissioner Cecil, seconded by Commissioner Slattery, to recommend approval to City Council the zone change of 60.28 acres located northwest of Old Ranch Road and Powers Boulevard from PK (Public Park) to R-Flex Low based upon the findings that the request complies with the criteria for a Zoning Map Amendment as set forth in City Code Section 7.5.704. The motion passed by a vote of 6:2.**

**Aye:** 6 - Commissioner Almy, Commissioner Briggs, Commissioner Hensler, Commissioner Hente, Commissioner Cecil and Chair Slattery

**No:** 2 - Vice Chair Foos and Commissioner Rickett

**Absent:** 1 - Commissioner McMurray

**8. Updates/Presentations**

**8. Informal Updates/Presentations**

**9. Adjourn**