



# Conditional Use Permit Report

## Case #CUP23-0003

*Planning Commission Date: February 6, 2024*

*City Council Date: March 4, 2024*

### **GENERAL INFORMATION**

<b>PROJECT NAME</b>	South Adams County Water and Sanitation District (SACWSD) Water Treatment Facility
<b>LOCATION</b>	Generally located at the northeast corner of Quebec Street and E. 74 <sup>th</sup> Place (west of existing facility at 7400 Quebec Street)
<b>SITE SIZE</b>	9.738 acres
<b>CURRENT ZONING</b>	Public (Zone Change Case Z23-0002)
<b>APPLICANT</b>	South Adams County Water and Sanitation District
<b>OWNER(S)</b>	Kroenke CC Properties LLC
<b>CASE PLANNER</b>	Stacy Wasinger, AICP

### **REQUEST**

The request is to obtain a Conditional Use Permit (CUP) for a water treatment facility in the Public zone.

### **BACKGROUND AND CASE HISTORY**

In 2008, this property was annexed into the City and zoned into the existing Prairie Gateway Planned Unit Development (PUD) zone. Prairie Gateway Amendment 1 PUD Zone Document, to include this property, was approved by City Council in April 2008. The PUD zoning allows for a variety of commercial uses, but does not permit most residential or industrial uses. A water treatment facility is not a permitted use in the PUD zone. The applicant, SACWSD, requested to rezone the property to Public, to allow a new water treatment facility next to the existing Klein Water Treatment Facility located at 7400 Quebec Street. The Public zone allows a water treatment facility by Conditional Use Permit (CUP). The zone change case (Z23-0002) was heard by Planning Commission on November 8, 2023 and approved by City Council on first reading January 8, 2024. City Council second reading was February 5, 2024.

### **ADDITIONAL INFORMATION**

There is a proposed Development Plan (D23-0009) currently under review for this site. The plans consist of one water treatment facility building, approximately 17,000 sf. in size, and associated site improvements. This new water treatment facility is to continue SACWSD efforts to treat per- and polyfluoroalkyl substances (PFAS). Per the applicant's narrative, "SACWSD currently

*utilizes a GAC [granular activated carbon] treatment process at their Klein WTF. To consistently meet current satisfactory levels, SACWSD blends finished water with a limited amount of contracted supply. While this method of operations has resulted in current monitored PFAS levels that are satisfactory to SACWSD, the operations are costly and inefficient. Additionally, this method is an interim option as SACWSD grows into the full use of their long-term supplies. Because of this, the design and construction of IX [ion exchange] treatment system is the most efficient, cost effective, and sustainable way for SACWSD to treat for PFAS in their source water.”*  
This application is for the CUP to allow the use of a water treatment facility.

## **COMPREHENSIVE PLAN (CP) CONSISTENCY**

The subject property, including the existing SACWSD facility, is designated on the Future Land Use Map as Commercial and Utility. The proposed water treatment facility is consistent with the Comprehensive Plan future land use designation; public and utility uses are a noted use in both land use categories. Furthermore, this case is supported by Public Facilities and Infrastructure Goal 1 in the Comprehensive Plan, which strives to coordinate utilities and infrastructure with other districts to serve residents. It is also in line with Environmental Conservation and Stewardship Goal 4, which aims to conserve and protect water resources and quality. The proposed use is for a water treatment facility to serve the City and larger community. Therefore, the request appears to be consistent with the Comprehensive Plan.

## **PROJECT ANALYSIS**

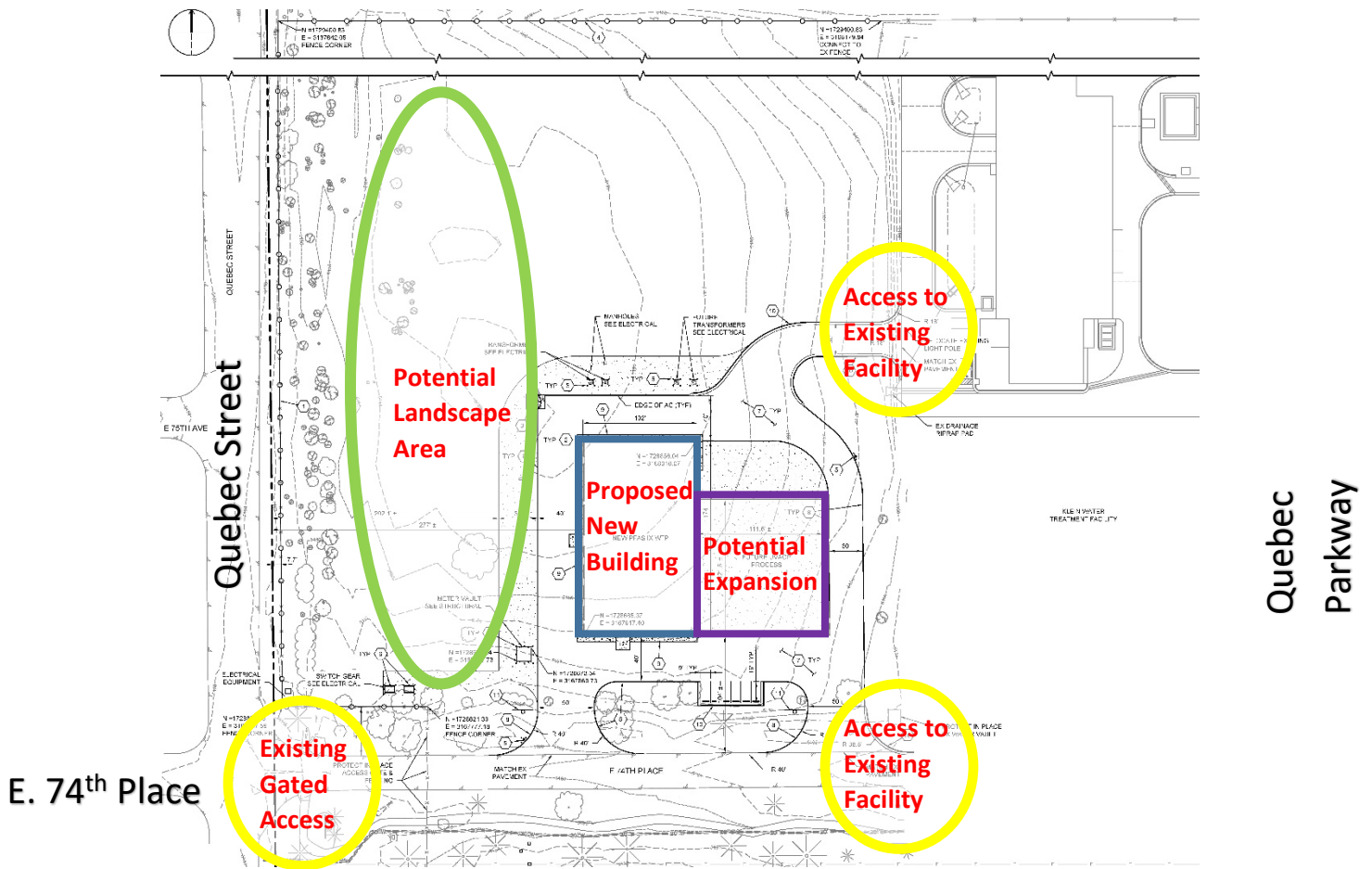
### **Site Overview**

The requested CUP is for a 9.736 acre portion of property, located at the northeast corner of E. 74<sup>th</sup> Place and Quebec Street, west of the existing Klein water treatment facility at 7400 Quebec Street. The proposed site is currently undeveloped. Per an executed possession and use agreement between SACWSD and Kroenke CC Properties, LLC, SACWSD will acquire the property with fee simple title through the agreement. The agreement gives SACWSD full use of the property, but does not transfer title at this time. The subject property is not platting at this time, but platting will be needed in the future. For instance, the subject site and the existing site will both utilize the existing access and circulation, and therefore will require consideration of access and easements. A condition of approval is recommended in order to ensure the subject property is created as a parcel and appropriately connected with the existing facility site following the transfer of ownership to meet approval criteria LDC Sec. 21-3230(3)(a)(i). This condition of approval is consistent with the agreement between SACWSD and Kroenke CC Properties and allows adequate time to complete the process.

### **Road Network Impacts**

Developing next to an existing facility, this proposed project is not expected to have major impacts to any adjacent road networks. Minimal additional trips are expected to be generated by the new facility. All commercial traffic is proposed to be routed off of Quebec Parkway, through the existing Klein facility, to the new water treatment facility. Engineering staff recommends a condition of approval limiting commercial traffic to the Quebec Parkway access point to mitigate any impact per approval criteria LDC Sec. 21-3230(3)(a)(iv).

Figure 1: Proposed Site Plan (annotations by staff)



**Stormwater Impacts**

Drainage is under review with the Development Plan, as well as the CUP. The applicant is providing appropriate drainage facilities to meet the Engineering Standards. Engineering staff recommends a condition of approval to require a drainage easement over the stormwater facility when the parcel is created to mitigate any impact and meet all standards per approval criteria LDC Sec. 21-3230(3)(a)(iii).

**Other Considerations**

The proposed facility serves a community need to meet Environmental Protection Agency guidance for PFAS contaminants. The west side of the site contains a number of easements for utilities and infrastructure, including the raw water line that enters the site for treatment. All water treatment activities will occur inside the new building. No other structure is proposed at this time, though future use may include expansion to the east of the new building and underground treated water storage tanks. These or any other future development projects on site will require the proper permitting and are not included with this CUP application. Therefore, given the application materials and information provided, there is no evidence of undue or adverse impact from the new facility of noise, odor, traffic, or other externalities.

SACWSD has provided a noise and vibration study of the existing facility, attached to this report. This study found no violation of noise ordinances from the existing facility, and did not provide any recommendation. However, at a neighborhood meeting held on November 29, 2023, residents from the existing houses to the west expressed concerns about the noise of generators and maintenance vehicles from the existing facilities. SACWSD has indicated a desire to work with the neighboring property owners to create landscape area that serves as a visual and audial barrier between the new facility and Quebec Street. While any current noise is unrelated to the proposed new facility, the strategic location of additional landscaping would mitigate existing impacts as well as any unexpected impacts in the future. A condition of approval is included to specifically locate required landscaping in the area between the proposed new facility and Quebec Street to the west per approval criteria LDC Sec. 21-3230(3)(a)(ii).

### **Overall Analysis**

There is adequate evidence in the record to show that the property in question currently meets, or will be able to meet once developed, all the relevant City standards and Land Development Code (LDC) requirements for the proposed conditional use. These requirements include, but are not limited to: access, floor area ratio (FAR), minimum lot area, minimum lot frontage, and setbacks.

The proposed CUP has been reviewed by the Development Review Team, including Planning, Public Works, South Adams County Water and Sanitation District, South Adams County Fire Protection District, Commerce City Energy, Equity, and Environmental (E3) Division, Commerce City Parks, Building Safety, Economic Development, and Xcel Energy. No comment or objection remains from review agencies regarding the CUP.

## **CONDITIONAL USE PERMIT APPROVAL CRITERIA**

A decision for this case must be based on the following criteria from Sec. 21-3230(3) of the Land Development Code. An application may be approved if:

**(a): All of the following criteria are met:**

**Criteria (i): The proposed use will not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, either as they presently exist or as they may exist in the future as a result of the implementation of provisions and policies of the comprehensive plan, this land development code, or any other plan, program or ordinance adopted by the city;**

This application is consistent with the existing water treatment facility and the expected non-residential development to the north. There is no evidence in provided application materials or other information that undue adverse impact will be created from the new facility. A condition to require a parcel be created for the site and appropriate connections to the existing site will ensure all LDC and Engineering Standards are met. *Therefore, it can be found that this application **meets Criteria (i)**.*

**Criteria (ii): Any adverse effect has been or will be mitigated to the maximum extent feasible, including but not limited to sufficient landscaping and screening to ensure harmony for adjoining uses;**

There is no evidence to show adverse impact from the new facility. Any impacts to infrastructure will be mitigated with the development of the site. With a condition to concentrate landscaping to create a visual and audial barrier for the existing neighborhood to the west, potential impacts can be further mitigated. *Therefore, it can be found that this application meets Criteria (ii).*

**Criteria (iii): The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features;**

This CUP application was reviewed by the applicable public service providers, including Public Works and South Adams County Water and Sanitation District, and there are no outstanding concerns. The recommended condition for a drainage easement at time of parcel creation will ensure all Engineering Standards are met. *Therefore, it can be found that this application meets Criteria (iii).*

**Criteria (iv): The proposed use will be adequately served by and will not impose an undue burden on any of the existing improvements, facilities, and services of the city or its residents. Where any such improvements, facilities, utilities or services are not available or are not adequate to service the proposed use in the proposed location, the applicant shall, as a part of the application and as a condition of approval, be responsible for establishing an ability, a willingness, and a binding commitment to provide such improvements, facilities, utilities and services in sufficient time to serve the proposed use;**

Future development at this location would have access to public uses. As a non-residential zone district, future development would not create excessive demand for facilities and services. Additionally, a condition that limits commercial traffic to the Quebec Parkway access point will ensure no adverse impacts to Quebec Street. *Therefore, it can be found that this application meets Criteria (iv).*

**Criteria (v): The applicant has provided adequate assurances of continuing maintenance;**

The applicant has provided operations and maintenance information sufficient to satisfy this requirement. *Therefore, it can be found that this application meets Criteria (v).*

**Criteria (vi): There is no evidence to suggest that the use violates any federal, state, or local requirements; and**

There is no evidence to suggest that the proposed use violates any federal, state, or local requirements. The stated purpose of the facility is to meet federal health guidance standards. *Therefore, it can be found that this application meets Criteria (vi).*

**(b):** One of the following criteria is met:

**Criteria (i):** There is a community need for the use at the proposed location, given existing and proposed uses of a similar nature in the area and of the need to provide and maintain a proper mix of uses both within the city and the immediate area of the proposed use; or

The proposed water treatment facility is intended to meet federal health guidance and provide for current and future needs in the service area. The proposed location creates efficiency with the existing water treatment facility, and utilizes existing utility lines for raw water. *Therefore, it can be found that this application **meets Criteria (i).***

**Criteria (ii):** The use complies with the general purposes, goals, objectives, policies, and standards of the comprehensive plan and all other plans or programs adopted by the city.

The water treatment facility is consistent with the purpose, goals, and policies of the comprehensive plan. Specifically, it is supported by Public Facilities and Infrastructure Goal 1 in the Comprehensive Plan, which strives to coordinate utilities and infrastructure with other districts to serve residents. It is also in line with Environmental Conservation and Stewardship Goal 4, which aims to conserve and protect water resources and quality. *Therefore, it can be found that this application **meets Criteria (ii).***

## **CONSIDERATIONS FOR DISCUSSION**

1. The is CUP consistent with the Comprehensive Plan goals and objectives.
2. The facility would provide capacity for existing services and future growth.
3. The Energy, Equity, and Environmental (E3) Division supports the project to reduce PFAS contamination.
4. Noise and vibration concerns have been expressed by the neighbors regarding the existing facility located directly to the east of this site.
5. SACWSD anticipates federal mandates requiring this type of water treatment in the near future.

## **POTENTIAL PLANNING COMMISSION MOTIONS**

1. Approval with conditions
  - a. I move that the Planning Commission enter a finding that the requested **Conditional Use Permit** for the property located **at the northeast corner of Quebec Street and E. 74th Place** contained in case **CUP23-0003** meets the criteria of the Land Development Code with conditions, and based upon such finding, recommend that the City Council approve the Conditional Use Permit with the following conditions:
    - A. South Adams County Water and Sanitation District (SACWSD) shall cause the Property to be established as a legal parcel, either through subdivision or through a warranty deed as provided in LDC Sec. 21-6100(2)(c). The applicant shall provide a copy of the warranty deed to the City.
    - B. Landscaping required per LDC Article 7, Division 5 (including a minimum of 20 trees and 91 shrubs) shall be provided and concentrated on the west side of the

subject property to provide additional buffer to existing Quebec Street and neighboring properties.

- C. Commercial vehicles shall not enter or exit through the access from Quebec Street, on the west side of the property.
- D. A drainage easement over the proposed storm water retention area shall be dedicated at the time of final plat of the property.

2. Approval

- a. I move that the Planning Commission enter a finding that the requested **Conditional Use Permit** for the property located **at the northeast corner of Quebec Street and E. 74th Place** contained in case **CUP23-0003** meets the criteria of the Land Development Code, and based upon such finding, recommend that the City Council approve the Conditional Use Permit.

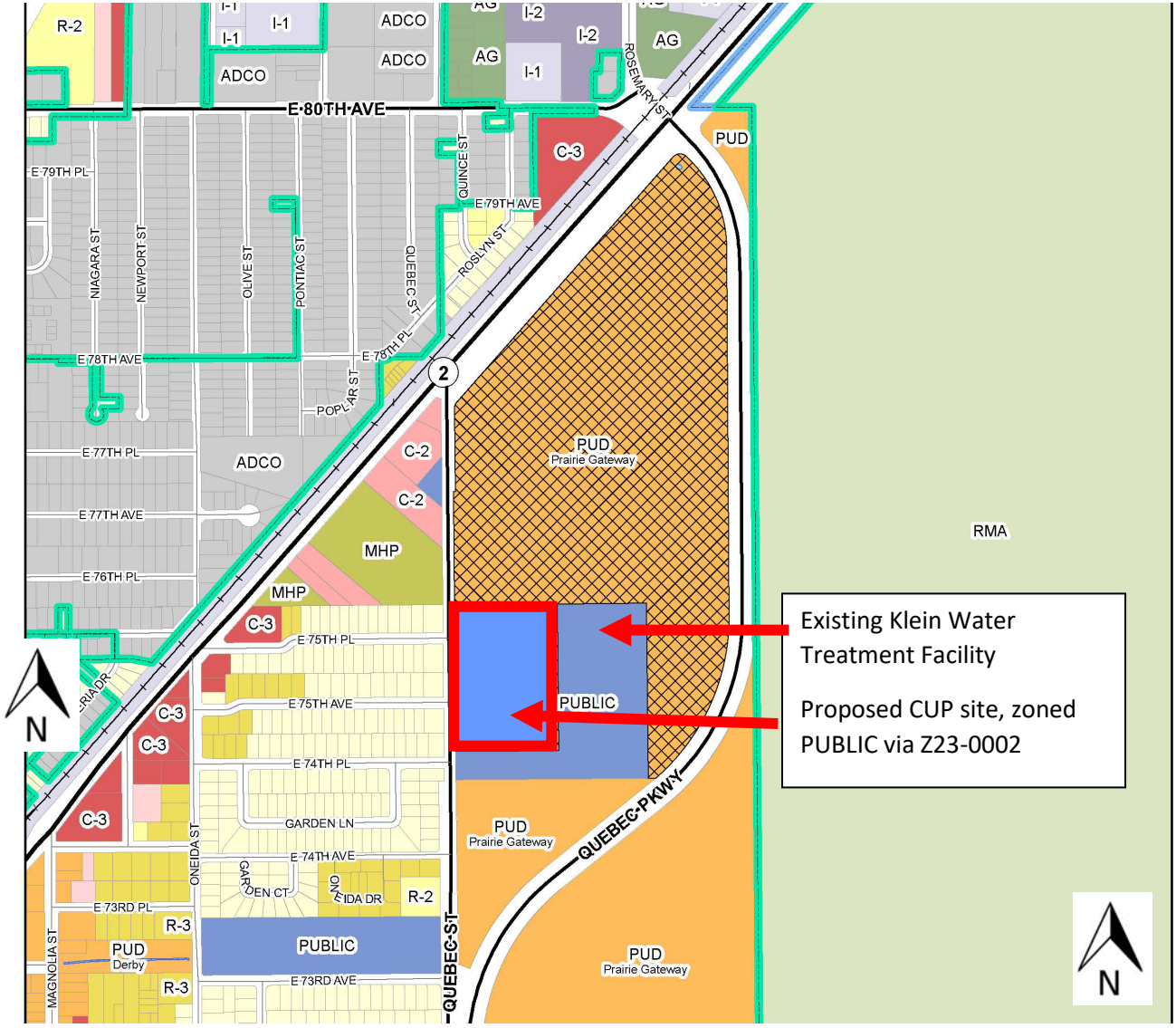
3. Denial

- a. I move that the Planning Commission enter a finding that the requested **Conditional Use Permit** for the property located **at the northeast corner of Quebec Street and E. 74th Place** contained in case **CUP23-0003** fails to meet the criteria of the Land Development Code and based upon such finding, recommend that the City Council deny the Conditional Use Permit.

4. Continuance

- a. I move that the Planning Commission continue the public hearing of the requested **Conditional Use Permit** for the property located **at the northeast corner of Quebec Street and E. 74th Place** contained in case **CUP23-0003** to:
  - A. The next regularly scheduled Planning Commission hearing; or
  - B. A date certain.

# Zoning Map

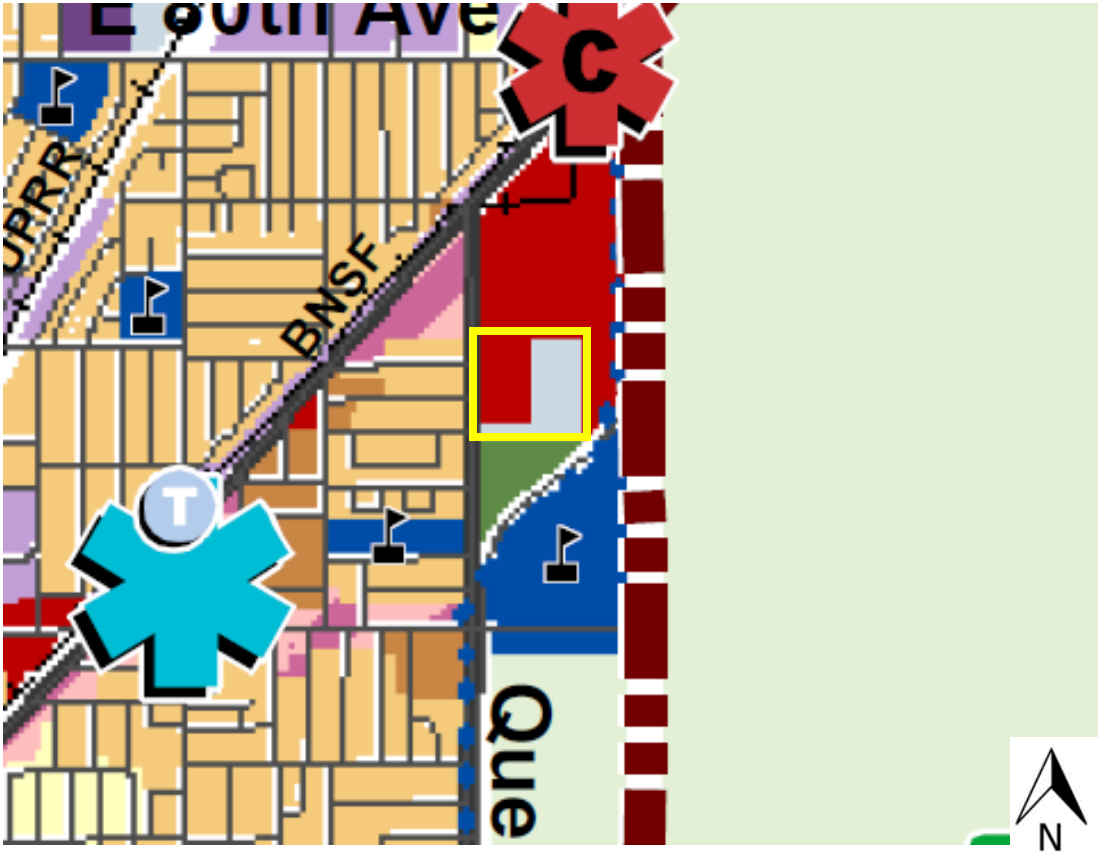


Existing Klein Water Treatment Facility

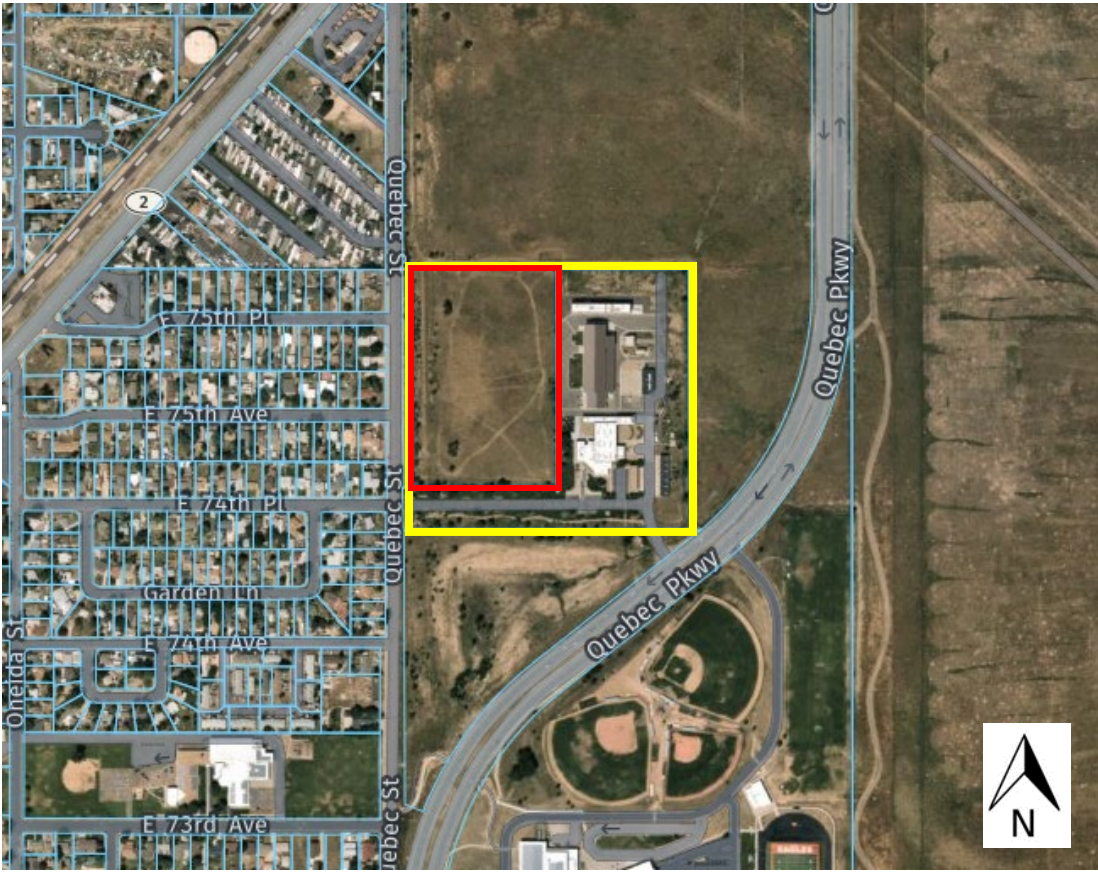
Proposed CUP site, zoned PUBLIC via Z23-0002



Future Land Use Plan



Aerial Map



## Site Photos



**View from Quebec St. facing northwest (Taken November 1, 2023)**



**View from Quebec St. existing facility entrance (Taken November 1, 2023)**

## Site Photos (continued)



**View from Quebec St., north side of property (Taken November 1, 2023)**



**View from Quebec St., west side existing facility (Taken November 1, 2023)**