

**Meggan Herington, AICP, Executive Director**  
**El Paso County Planning & Community Development**

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**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

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## SUMMARY MEMORANDUM

**TO:** El Paso County Board of Commissioners  
**FROM:** Planning & Community Development  
**DATE:** 3/16/2023  
**RE:** P-22-010, Romens Rezoning, Romens Living Trust

### Project Description

A request by Romens Living Trust for approval of a map amendment, rezoning 36.5 acres from A-35 (Agricultural) to RR-5 (Residential Rural). If the request for rezoning is approved, the applicant intends to subdivide to create seven (7) single-family residential lots with a minimum lot size of five (5) acres. The property is located between the intersections of Hopper Road, Bradshaw Road, and Cleese Court.

### Notation

Please see the attached PC Minutes for a complete discussion of the topic and the project manager's staff report for staff analysis and conditions.

### Planning Commission Recommendation and Vote

Fuller moved / Schuettpelz seconded for approval, for a map amendment (rezone), Romens Rezone, utilizing the resolution attached to the staff report, with two (2) conditions and two (2) notations, that this item be forwarded to the Board of County Commissioners for their consideration. The motion was **approved (9-0)**. The item was heard as a consent agenda item.

### Discussion

This item did not have discussion at the Planning Commission hearing and was unanimously recommended for approval. No responses were received in regard to the application from the adjacent properties.

### Attachments

1. Draft PC Minutes.
2. Signed PC Resolution.
3. PC Staff Report.
4. Draft BOCC Resolution.

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## **PLANNING COMMISSION**

### **MEETING RESULTS (UNOFFICIAL RESULTS)**

Planning Commission (PC) Meeting  
Thursday, March 16<sup>th</sup>, 2023  
El Paso County Planning and Community Development Department  
2880 International Circle – Second Floor Hearing Room  
Colorado Springs, Colorado

#### **REGULAR HEARING, 9:00 A.M.**

**PC MEMBERS PRESENT AND VOTING:** BRIAN RISLEY, TOM BAILEY, SARAH BRITTAIN JACK, JAY CARLSON, BECKY FULLER, ERIC MORAES, BRYCE SCHUETTPELZ, AND BRANDY MERRIAM.

**PC MEMBERS VIRTUAL AND VOTING:** TIM TROWBRIDGE.

**PC MEMBERS PRESENT AND NOT VOTING:** CHRISTOPHER WHITNEY.

**PC MEMBERS ABSENT:** JOSHUA PATTERSON.

**STAFF PRESENT:** MEGGAN HERINGTON, JUSTIN KILGORE, CARLOS HERNANDEZ MARTINEZ, LEKISHIA BELLAMY, CHRISTIAN HAAS, RYAN HOWSER, MIRANDA BENSON, GAYLA BERRY, AND EL PASO COUNTY ATTORNEY LORI SEAGO.

**OTHERS PRESENT AND SPEAKING:** SARAH OSTREM, NANCY SPAULDING, GREG WOLFF, KEN SIGENTHALLER, GERALD MCLAUGHLIN, JOE SQUATRITO, MATTHEW RUBASITCH, HANTS WHITE, MARTHA WOOD, STEVEN BOSCO, JACK HOLST, TED BRUNING, WILLIAM DAVIS, AND JULIE HAVERLUK.

### **1. REPORT ITEMS**

**A. Planning Department.** Next PC Hearing is Thursday, April 6, 2023, at 9:00 A.M.

**Ms. Herington** updated the board on posting and mailed notification internal procedure changes. She advised that there will be multiple Land Development Code amendments presented at the next hearing as non-action items.

**Mr. Risley** asked if staff intends to hear public input at both meetings?

**Ms. Herington** answered that she only expects public comment when voting is expected. The non-action items would be like a report item. This will be PCD staff's opportunity to gather thoughts and feedback.

**Mr. Whitney** stated he really appreciates the simplified notice language.

**Mr. Risley** thanked Ms. Herington for her enthusiastic review of processes and adjusting procedures when she finds room for improvement. He stated it was an excellent example of her leadership.

**Mr. Kilgore** advised the board that Mr. Trowbridge has joined the hearing online.

**Mr. Risley** established that Mr. Trowbridge will be a voting member and Mr. Whitney will observe the hearing but not vote.

**Mr. Kilgore** requested that agenda item 2C, P-23-001, to be heard as a regular item due to the significant public input received. He also advised the board that there is an added recommended condition for item 2D, VA-23-001.

**Mr. Risley** stated that when they get to that item on the agenda, he will ask if the item needs to be pulled and heard as a regular item or if Ms. Seago can just update the board on that added condition.

**B. Call for public comment for items not on hearing agenda. NONE.**

## **2. CONSENT ITEMS**

**A. Adoption of Minutes of meeting held March 2, 2022.**

**PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (9-0).**

**B. P2210**

**HOWSER**

### **MAP AMENDMENT (REZONE) ROMENS REZONE**

A request by Romens Living Trust for approval of a map amendment rezoning 36.5 acres from A-35 (Agricultural) to RR-5 (Residential Rural) to accommodate the future creation of seven (7) single-family residential lots. The property is located between the intersections of Hopper Road, Bradshaw Road, and Cleese Court. (Parcel No. 41000-00-075) (Commissioner District No. 2).

**PC ACTION: FULLER MOVED / SCHUETTELZ SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, P-22-010 FOR A MAP AMENDMENT (REZONE), ROMENS REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).**

**IN FAVOR:** BAILEY, BRITAIN JACK, CARLSON, FULLER, MERRIAM, MORAES, SCHUETTELZ, TROWBRIDGE, AND RISLEY.

**IN OPPOSITION:** NONE.

**COMMENT:** NONE.

**C. P231**

**BELLAMY**

**MAP AMENDMENT (REZONE)  
1825 SUMMIT DR**

A request by Steven and Jennifer Liebowitz for approval of a map amendment rezoning 5.23 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural) to accommodate the future creation of two (2) single-family residential lots. The property is located at the northwest corner of the intersection of Old North Gate Road and Silverton Road. (Parcel No. 62040-01-018) (Commission District No. 1).

**PC ACTION: THIS ITEM WAS PULLED TO THE CALLED-UP CONSENT CALENDAR.**

**D. VA231**

**HAAS**

**VARIANCE OF USE  
FORD DRIVE ADDITIONAL DWELLING UNIT**

A request by Vertex Consulting Services for approval of a variance of use to convert an existing accessory living quarters into a second dwelling in the RR-2.5 (Residential Rural) district. The 2.89-acre property is located at the southwest corner of the intersection of Ford Drive and Milam Road. (Parcel No. 6214000026) (Commissioner District No. 1).

**DISCUSSION**

**Ms. Fuller** asked why this request wasn't presented by the applicant last fall [when going through the Accessory Living Quarters (ALQ) process]?

**Mr. Carlson** asked if PCD staff had requested to pull item 2D?

**Mr. Risley** explained that PCD staff advised of an added condition but did not recommend the item be pulled.

**Mr. Whitney** added that he also has a question for PCD staff.

**Mr. Haas** deferred to the applicant's representative for explanation behind not requesting the Additional Dwelling Unit (ADU) when they went through the ALQ process. He asked for Mr. Whitney's question so he could address that before bringing up the representative.

**Mr. Whitney** stated the staff report clearly stated there is a difference between an ALQ and an ADU. He noticed some of the comments were concerns that there will be creation of an entirely different environment. ALQ allows for parttime use of an additional building for a limited time, and ADU creates a building that is leasable or sellable and creates greater density. He stated ALQ is not such a big deal, but ADU is a change to the character.

**Mr. Haas** stated that the difference between ALQ and ADU is among the most frequently asked questions. An ADU suggests that the unit will be occupied permanently, be rentable, and increase density. An ADU could have a more intense use of water or other utilities and has the potential of separate utilities and address. Within ALQ, there is distinction between attached or detached. If the ALQ were to be detached, like it is with this application, and the applicant wants family to live there permanently, they would need to go through the Special Use application process. An ADU is only an allowed use by right in the A-35 zoning district. Anyone in any other zoning district that would like a detached rental unit on their property would need to go through this Variance of Use process.

**Mr. Whitney** supposed that the only other option would be to rezone for multi-family residences. While one wouldn't want to rezone to multi-family in an area like this, this request is still changing the character of the area.

**Mr. Haas** stated that in his research of the Master Plan, it is suggested that those who implemented the Master Plan were open to allowing ADU's as permanently occupied and rentable units in more zoning districts.

**Mr. Carlson** clarified that Mr. Whitney's initial comment indicated an ADU can be sold separately from the primary residence, but that is not allowed through this change of use.

**Mr. Haas** stated that is correct.

**Mr. Whitney** understood and was grateful for the clarification. He stated approval of this application would still increase density.

**Mr. Kilgore** added that PCD staff is currently researching ADU's and ALQ's partially because of information coming from the State level, and partially due to discussion with other neighboring communities. Both are becoming more popular. Concerns include additional resources being used and additional traffic being generated. PCD is in the process of conducting significant research on the topic.

**Mr. Risley** commented that perhaps there will be an upcoming LCD amendment.

**Ms. Nina Ruiz**, the applicant's representative with Vertex Consulting, answered the question regarding why the ADU variance was not requested at the time the ALQ affidavit was completed. She stated the applicant was not aware requesting a variance was an option. The initial primary residence on the property was not large enough for their growing family so they began the construction process on the second dwelling. They were only aware they could utilize the smaller dwelling for guest purposes.

**Ms. Fuller** stated the situation feels sneaky. It appears like the applicant requested a less intense use to get approved and now that it is approved, less than 6 months later, they are requesting a more intense use.

**Ms. Ruiz** stated she is sure that was not the applicant's intent to be sneaky. It is her understanding that when the applicant went to PCD, no one explained to them that a variance was an option. It's possible that PCD staff didn't realize the applicant would be interested in pursuing a variance request.

**Ms. Fuller** asked if Ms. Ruiz assisted the applicant with the ALQ process?

**Ms. Ruiz** stated she did not assist the applicant through that process. If she had, she would have advised the applicant of the variance option.

**Ms. Seago** explained the added condition's requirement that the applicant pay the El Paso County Road Impact Fee with the PCD Department no later than 10 days after BOCC approval. The reason this condition is attached to the variance request is that the structure is already built. Normally, this fee would be assessed at building permit.

**Mr. Risley** asked if the applicant had any comments or concerns regarding the added condition?

**Ms. Ruiz** stated there was no issue.

**Ms. Fuller** asked if there were any oppositions from neighbors for this request?

**Mr. Haas** answered that there were two letters of opposition received from neighbors and one from a Black Forest land-use committee.

**PC ACTION: MERRIAM MOVED / BAILEY SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2D, VA-23-001 FOR A VARIANCE OF USE, FORD DRIVE ADDITIONAL DWELLING UNIT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, WITH THREE (3) CONDITIONS AND THREE (3) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-1).**

**IN FAVOR:** BAILEY, BRITTAIN JACK, CARLSON, MERRIAM, MORAES, RISLEY, SCHUETTPELZ, AND TROWBRIDGE.

**IN OPPOSITION:** FULLER.

**COMMENT:** MS. FULLER hopes the BOCC looks closer at this request and she regrets not pulling it to be heard as a regular item.

### **3. CALLED-UP CONSENT ITEMS**

**2C. P231**

**BELLAMY**

**MAP AMENDMENT (REZONE)  
1825 SUMMIT DR**

A request by Steven and Jennifer Liebowitz for approval of a map amendment rezoning 5.23 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural) to accommodate the future creation of two (2) single-family residential lots. The property is located at the northwest corner of the intersection of Old North Gate Road and Silverton Road. (Parcel No. 62040-01-018) (Commission District No. 1).

#### **STAFF PRESENTATION**

**Mr. Carlson** asked El Paso County Department of Public Works' review engineer, Carlos Hernandez Martinez, if it was required that the property access onto Summit Dr.?

**Mr. Hernandez Martinez** answered that the preference is to have this property access onto Summit Drive.

**Ms. Merriam** asked if an additional driveway will be required since there are already three existing driveways accessing Summit Dr. How many more driveways are going to be allowed, especially when the density is increasing?

**Ms. Bellamy** stated that would be part of the future process.

**Mr. Hernandez Martinez** answered that would be part of the platting process and an additional driveway would be allowed. The property owners could later request a secondary driveway access permit, which has its own set of requirements.

**Mr. Risley** asked how many driveway access permits currently exist on this property?

**Mr. Hernandez Martinez** answered that there are no current driveway permits.

**Mr. Risley** clarified that for the existing 5-acre lot, there are no driveway permits?

**Mr. Hernandez Martinez** stated that is correct.

**Mr. Whitney** asked Ms. Bellamy for more information regarding an existing lot to the east of this property that is zoned RR-2.5. Is that property also surrounded by 5-acre lots?

**Ms. Bellamy** answered that she found 1 parcel across Roller Coaster Road that is zoned RR-2.5.

**Mr. Whitney** thanked Ms. Bellamy for the information, stating the original report of this request described the property as surrounded by RR-5. He agrees that information is relevant.

**Mr. Bailey** clarified that there may be a reasonable explanation as to why there are no current driveway access permits onto Summit Road. He is sure there could be several other driveways in the area that were built before the existing driveway access fees were charged.

**Ms. Bellamy** agreed and confirmed.

## **APPLICANT PRESENTATION**

**Mr. David Gorman**, the applicant's representative with Monument Valley Engineering, presented the first page of the Overlook Estates covenants (EXHIBIT A) following his full presentation. He explained that the covenants this parcel adheres to would allow for replat if rezoning is approved through the County. He stated this allowance is not the case everywhere; Sun Hills subdivision has covenants that would prohibit replating of lots.

## **PUBLIC COMMENT**

**Ms. Sarah Ostrem** (online) is opposed to this application. She doesn't understand why rezoning would be allowed. She thinks that if the owner wanted to live on 2.5 acres, they should have bought a property zoned RR-2.5. She likens this request to driving down the road and telling an officer they should be allowed to drive 100 mph while everyone else must drive 55 mph.

**Ms. Nancy Spaulding** (online) is opposed to this application. She disagrees that higher housing capacity is needed in this area. She thinks that notion is “a city thing” coming from the density provided in Flying Horse. She likes being in her little pocket of land and would like it to stay that way. Even though traffic is only estimated to increase 10 additional trips per day, that is not considering the Discovery Canyon Campus south of this area. She says that while there may be growth around their neighborhood, they do not want to increase the growth within where they live.

**Mr. Greg Wolff** is in support of this application. He has lived in the area over 30 years and has seen a lot of growth. He is a Realtor. Overlook Estates is a perfect transition point when considering the outskirts of Colorado Springs. When Mark Gebhart was employed with the County, he said that one house on 5 acres was a waste of space. When looking at Discovery Canyon, he thinks it makes sense to transition to RR-2.5. He thinks home values will only go up. He thinks a 2.5-acre lot in Overlook Estates could be sold for \$400,000-\$425,000. The value of Sun Hills is the 5-acre lots in a covenant-controlled area. One of the letters of opposition stated that one main street on the south side of the neighborhood is higher. He stated he drove out there with an altimeter and determined that there is a 160' difference between the valley and the ridge. The values will go up. Small acreage towards the front would be a good transition.

**Mr. Sigenthaler** is opposed to this application. He believes that even if there has been change in the area, not all the change may have been good. He does not support breaking 5-acre lots into smaller parcels for financial gain. He doesn't know how enough wells will be allowed to support increasing density. He doesn't think this will be a one-time thing.

**Mr. McLaughlin** is opposed to this application. He discussed the criteria of approval versus the applicant's letter of intent (LOI). If subdivision of these 5-acre lots is allowed, that will result in significant change restricted in LDC 5.3.5(B). If the number of lots is doubled, the overall character will not be maintained as stated in the Master Plan Land-Use goal LU3. The LOI quotes a goal to meet transition requirements, but there does not need to be further transition than what's already there. He stated the LOI mentions a transportation corridor, the water plan, and expected growth. He thinks this zone change will set a precedent. It was mentioned in the presentation that there were multiple letters of support, but (in EDARP) there are currently 55 letters in opposition and 1 letter of support.

**Mr. Squatrito** is opposed to this application. Approval would set a precedent and adversely affect all properties currently zoned RR-5. The applicant's LOI makes broad assertions that they meet criteria, but he argues against that. He stated this rezone would result in a significant change to the density of the area. This would result in a negative impact and a material change of the surrounding character. There is no need to rezone for the general health, welfare, or safety of the community. If approved, the PC and BOCC should anticipate many follow-up rezoning actions which will have an overall negative impact. Properties in this area are on well and septic. If rezoning of the area is allowed, that potentially doubles the number of wells. That would put pressure on the Dawson Aquifer and put existing wells at risk. There will be increased traffic and population density affecting the character and infrastructure of this area.

**Mr. Rubasitch** is opposed to this application. He presented an updated Water & Wells Committee report (EXHIBIT B). He believes the new Master Plan encroaches upon rural environments with its removal of the Black Forest Preservation Plan (BFPP). The BFPP's intent



since the 1970's was to ensure the aquifers would maintain existing wells on 5-acre properties while sustaining the surrounding environment and wildlife. He stated that he has asked the BOCC when the BFPP was removed from the Master Plan, who voted in favor of its removal, and why it was removed, but never received an answer. He asked if the change was done legally? He stated that 3 of the 5 Commissioners, Geitner, Bremer, and Williams, receive over 30% of their campaign contributions from the same developers that wanted the BFPP removed. He asked if that was a conflict of interest? He asked if the Commissioners should recuse themselves when voting on applications by those developers? He stated 90% of applications are approved and that current residents are not being heard when they express concerns about congestion, crime, or water. Comm'r Williams recused herself from the Flying Horse North Sketch Plan. He hopes that it is taken into consideration that he does not feel represented yet a small group of developers is. He quoted the bylaws of the BOCC regarding conflicts of interest.

**Ms. Seago** clarified that the BFPP and all small area plans of El Paso County were repealed and replaced by Your El Paso County Master Plan. The BOCC is not the body who approves the Master Plan, the PC is. The BOCC does not vote on the Master Plan.

**Mr. Rubasitch** attempted to continue speaking about the depth of wells but was asked to cease by Mr. Risley due to exceeding allotted time and his comments not addressing the criteria of approval for this application.

**Mr. White** is opposed to this application. He noted that there are currently 55 letters of opposition and only 1 to support. Practical precedent in the area is that if someone wants to build a second dwelling, it is only used parttime by immediate family (ALQ). There are 0 examples of a person rezoning in this area and for this reason. He knows of at least 5 people that went through the process for an ALQ. He quoted a legal proceeding, Holly Development v. Board of County Commissions (1959), that "*Amendment to zoning ordinance should be made with caution and only when changing conditions clearly require amendment.*" Also, "*When a general zoning ordinance is passed, those who buy property in zoned districts have the right to rely upon the rule of law that the classification made in the ordinance will not be changed unless the change will be required for the public good.*" He pointed out that Mr. Wolff, in favor of this application, was denied rezoning of his parcel twice in the past. There is no evidence with this request varies from Mr. Wolff's denied requests other than the physical location. Any perceived issue regarding transition would have been evaluated and dealt with during the City's Flying Horse planning process that already took place and is irrelevant to the established neighborhoods today. The existing community is in place; no transition is required now. He quoted a Guidance Manual by Donald Elliot that used King's Mill Homeowners Assoc. v. City of Westminster (1976) as a citation, that "*Spot zoning is prohibited in Colorado on the theory that a local government cannot act merely to benefit a single landowner, but must act to benefit the general public.*"

**Ms. Wood** is opposed to this application. She stated she does not oppose changes that benefit the community, but this change will only benefit one individual. Flying Horse and the City's density has moved north. Existing residents of this community do not want to transition to smaller lots. She stated they successfully opposed a path from Flying Horse to Fox Run Park because they do not want people cutting through their neighborhood. The proposed rezone only benefits one person and will open the opportunity to more density.

**Mr. Bosco** is opposed to this application. He thinks approval will set a precedent.

**Mr. Holst** is opposed to this application. He stated that Mr. Wolff attempted a zoning change in 2014, was heard before the PC, and was denied twice. If those two requests in the same area were denied, why should this one be approved? He thinks this will be spot zoning. He also agrees with the concerns raised regarding water.

**Mr. Bruning** is opposed to this application. He stated that the criteria of approval and/or other individuals speaking have mentioned a change in the neighborhood, but this contiguous neighborhood of RR-5 properties has not changed since 1955. There may be change across the street or change in the entire city/county, but this neighborhood has not changed. Old North Gate Rd is the transition zone. The one example mentioned of an RR-2.5-acre lot 8-10 lots away is an anomaly that no one remembers how it happened. He does not agree with the claim of compatibility between RR-5 and RR-2.5.

**Mr. Davis** is opposed to this application. He lives immediately adjacent to the subject property. He is not opposed to the thought of the Liebowitz's subdividing *their* property, but he cannot imagine the entire neighborhood being subdivided as a transition zone. He is very concerned about the water sufficiency in the area. He recently had to replace his well so that it is drilled deeper but even that supply is iffy.

**Ms. Haverluk** is opposed to this application. She doesn't want a precedent set. She is also concerned about the additional well and septic. One property doing it is one thing, but once anyone in this neighborhood can do it, the water table will be affected. She also mentioned the increase in transportation if the entire neighborhood subdivided.

**Mr. Gorman**, the applicant's representative, responded to comments regarding water. He stated the LDC allows for the use of wells on 2.5-acre lots. The owners have already gone to the water court. He stated that the previous attempts to rezone in the area were done under a previous Master Plan. This request is being done under guidance of a revised Master Plan. He pointed out that while there are smaller lots south, within the City, there are also 1-acre lots to the west in the County. He thinks this corridor is appropriate for smaller lots.

**Ms. Liebowitz**, the applicant, stated that in her review of the opposition, the main concerns were water, traffic, and precedence. Recently, an Overlook Estates property owner completed a variance of use project to construct a second home on their property which borders Sun Hills. That second dwelling is currently occupied by a family member but is a totally second residence. She stated that property owner submitted a letter of opposition to this project stating they would be tempted to rezone as well and sell that second home separately. She states that the precedence of two homes on one lot has already been made. While a second dwelling on a single lot is an option they could already pursue, she is looking to increase her property value by rezoning.

**Mr. Liebowitz**, the applicant, listed the main concerns of traffic, water, wells, land value, precedence, and quality of life. He stated that most of those concerns are from residents of Sun Hills subdivision, which they are not a part of. Overlook Estates is comprised of themselves and 13 neighbors, and is situated between Flying Horse (in the City) to the south and Sun Hills to the north. Overlook Estates has different covenants than Sun Hills which allows subdivision of lots. Regarding traffic concerns, he stated most Overlook Estates residents access directly onto

Old North Gate Rd. Some residents access Summit Drive to Silverton, but most traffic on Silverton comes from residents of Sun Hills. EPC Public Works is already looking into the traffic on Silverton. Part of their preparation for this process was obtaining a second well decree for a potential second residence. A Judge issued that decree. Sun Hills is already bordered by higher density lots. RR-5 and RR-2.5 have the same intent of low density, single-family, rural residential. As applicants, they believe they have followed guidelines and regulations, and have gone above and beyond by ensuring they do not adversely affect water supply or quality of life.

**Ms. Seago** added that covenants are private property restrictions and are not enforced by or binding upon the County. Overlook Estates' covenants allowing subdivision is not relevant to the County's discussion either for or against. Water is reviewed at final plat if rezoning is approved. Any decree is reviewed at that time to determine adequate legal water supply.

## **DISCUSSION**

**Ms. Fuller** thanked those members of the public whose comments were relevant to the approval criteria. She encourages anyone who wished to speak when this goes to BOCC focus on review criteria. She sees this request as spot-zoning. She thinks the request has the potential of causing a domino effect in the area and could result in significant change to the neighborhood. While it is true that a variance for a second dwelling could be obtained on the property, that is different from splitting this lot into two. She stated fewer people are able to afford constructing a second residence as opposed to zoning and subdividing to sell. She does not think this area has experienced any change. This property is in the middle of the neighborhood. She does not think this rezone is compatible to the area around it.

**Mr. Carlson** agreed with Ms. Fuller's comments and addressed the comment that this is a transition area. He disagrees. He thinks transition areas are needed when large tracts of land are being developed up against areas like this. He does not agree with the idea of going into an existing neighborhood to create a transition area where none existed before. He believes the RR-5 zoning type is under attack in the County. He thinks this neighborhood should be preserved.

**Ms. Merriam** stated that the people she knows that live on 5 acres have horses, which was not discussed. She thinks RR-5 and RR-2.5 each have a different look and feel to them.

**Mr. Trowbridge** agreed the previous comments. He does not see this as a compatible rezone.

**Mr. Bailey** stated each application is judged against the merits of established criteria. Latitude is limited. He believes private property rights are important, so he is struggling with this decision. This process is quasi-judicial, not democratic. He added that when trying to persuade someone that your position is correct, the method matters. Accusing the decision makers of being corrupt or less intelligent than you is not an effective method. The role of the Planning Commission is to consider the specific criteria of approval. The Planning Commission is a board of citizen volunteers. The elected officials are different. Accusatory speech at the BOCC hearing might cause them to discount your argument. Your opinion of corruption is not relevant to this application's criteria of approval. Also, depth and number of wells will be relevant at a later stage of the process.

**Ms. Fuller** agreed that Mr. Bailey often votes in favor of private property rights. She agrees that anyone who owns property has the right to ask if they can change the zoning, but it is within the Planning Commission's ability to say no.

**Mr. Whitney** would not be in favor of this application. He agrees with the comments made by the other PC members. He agrees that the 5-acre zoning type is under attack. People who live on 5 acres do so because they want to live on and around 5-acre lots.

**Mr. Moraes** addressed a question made by one member of the public, asking what is the point of zoning laws. He stated that any landowner has the right to ask for a rezoning. During the process with PCD staff, rezone requests like industrial in the middle of suburban are likely going to receive advisal that they are not likely going to be approved. However, the property owner has the right to ask. At some point, this was all one piece of land that has been subdivided. The land most people are living on now was something else before. He reiterated the approval criteria at the rezoning stage. Surrounding neighbors are the boots on the ground, so he appreciates neighbors attending these public hearings. He reiterated that the PC approved the Master Plan and part of that resolution to adopt stated the small area plans were rescinded. Many of their goals may be incorporated into the new Master Plan. He does not think this application is compatible with the surrounding area.

**PC ACTION: CARLSON MOVED / FULLER SECONDED FOR DISAPPROVAL OF CALLED-UP CONSENT ITEM NUMBER 2C, P-23-001, FOR A MAP AMENDMENT (REZONE), 1825 SUMMIT DRIVE, CITING THAT THE APPLICATION DOES NOT MEET THE REQUIREMENT OF COMPATIBILITY TO EXISTING USES AND ZONING IN ALL DIRECTIONS, AND THAT THIS ITEM BE FORWARDED AS A RECOMMENDATION OF DISAPPROVAL TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED (7-2).**

**IN FAVOR:** BAILEY, CARLSON, FULLER, MERIAM, MORAES, RISLEY, AND TROWBRIDGE.

**IN OPPOSITION:** BRITTAIN JACK AND SCHUETTPELZ.

**COMMENT:** MS. BRITTAIN JACK mentioned private property rights being a large part of her vote against the motion. It is not illegal to make money. It is not illegal to be a developer. She stated the County needs to grow and needs affordable and attainable housing. MR. SCHUETTPELZ also mentioned private property rights. He also believes RR-2.5 is compatible with RR-5 because they are in the same Large Lot Residential Placetype of the Master Plan.

**4. REGULAR ITEMS. NONE.**

**MEETING ADJOURNED at 11:23 A.M.**

**Minutes Prepared By:** Miranda Benson

# Exhibit A

160058

BOOK 1814 PAGE 530

JUL 12 1960

## DECLARATION OF RESTRICTIONS AND PROTECTIVE COVENANTS

WHEREAS The undersigned, OVERLOOK ESTATES, INC. is the owner of the following-described property, to-wit:

Overlook Estates according to plat thereof in Plat Book B-2 at Page 73 of the El Paso County, Colorado public records, and

WHEREAS it is the desire of the undersigned to establish restrictions and protective covenants applicable to and for the benefit of all of the above-described real property:

NOW, THEREFORE, THESE PROTECTIVE COVENANTS AND RESTRICTIONS:

For and in consideration of the premises and in further consideration of the declarations herein set forth and in further consideration of the future purchases and transfers of real estate lying within the above-described tracts, it is hereby declared that all of the above-described real property is and shall be used, held, transferred and conveyed subject to the following restrictions and protective covenants, to-wit:

### PART A.

A-1. LAND USE, BUILDING TYPE AND OCCUPANCY. The land contained herein shall be used for residential purposes. No building shall be erected, altered, placed or permitted to remain, except detached, single-family dwellings not to exceed 35 feet or two stories in height. Private garages, private stables and guest houses may be permitted in accordance with restrictions hereinafter set forth, except that one tract may be used as a site for a community club for the use and benefit of all of the tracts in said subdivision, subject to approval of the Architectural Control Committee.

\* A-2. SUBDIVISION. Five acres shall be the minimum sized building site, provided, however, that in the event all or a portion of the subdivision should be rezoned by the appropriate zoning authority so as to allow smaller building sites, then such zoning shall control as to any portion so rezoned, provided further that in no event shall any building site be less than one acre in size. \*

# Exhibit B

## Significant Facts About the Denver Basin and Individual Wells

Compiled by the Black Forest Water & Wells Committee

February 2023

Water is a very precious and limited resource in Colorado

Black Forest gets an average of 18 inches of precipitation per year – 88 inches of snow

Colorado Springs gets 15 inches of precipitation – 35 inches of snow

The Denver Basin is a giant bowl stretching from Greeley in the north to Colorado Springs in the south

The basin extends from the front range out to Limon

The basin is actually four bowls inside each other representing four separate aquifers

The aquifers are the Dawson (top,) Denver, Arapahoe and Laramie-Fox Hills (bottom.)

Garden of the Gods and Red Rock Open Space are edges of the bowls sticking up out of the ground

State water officials believe the four aquifers are sealed from each other

Tests in one area from an Arapahoe well affected the adjacent Denver and Dawson aquifer

No one knows for sure how much the aquifers are sealed from each other

Drilling logs do not show a clear, impermeable boundary between aquifers

If these bowls are being recharged at all, it is a slow process over generations of time

Only a little over half of the Denver Basin water can be economically removed

Through continuous, long-term use, a well becomes less and less efficient

After several years, it is not economical to pump because of decreasing output

A local well-driller with 30 years of experience said the geology of the Denver Basin is not unified or homogeneous

Basin has multiple interlocking and overlapping layers of sand, gravel, sandstone and claystone

Wells 1/4 mile apart can produce widely varying amounts of water

Wells only 200 feet apart can have widely different static levels

Having a water allocation or water right is no guarantee of actual amount of water

“Paper water does not equate to wet water”

Water use in the Denver Basin is 62% agriculture, 20% municipal and 12% domestic (private wells)

For residential households in the Black Forest, the State of Colorado considers water use as follows

An acre foot of water is 326,500 gallons which is 1 acre (about a football field) 1 foot deep in water

The average household uses 0.35 acre-feet of water per year. This is 313 gallons per day.

90% of the water used in a household is returned into the ground via the septic system

Just 10% is actually consumed or evaporated into the air

15% of the water used for watering gardens and lawns is returned into the ground

85% of irrigation water is evaporated into the air and not soaked into the ground

100% of the water used for animal watering is consumed and none is returned into the ground

Colorado Springs gets water from the Arkansas River and from snow runoff on the Western Slope

Water piped from the Western Slope through Twin Lakes near Buena Vista and into Arkansas River

A secondary pipeline comes over the front range just south of the Air Force Academy

Southern Delivery System (SDS) is a 24-inch waterline from Pueblo Reservoir to Colorado Springs

At present, Colorado Springs Utilities has water rights and supplies above the current demand

CSU also has extensive Denver Basin water rights

CSU policy is not to use Denver Basin aquifer water except in an emergency

Annexed developments surrender their water rights to CSU except for golf courses and ponds

Flying Horse and Flying Horse North water their golf courses with aquifer water

Wolf Ranch created Wolf Lake (6 acres) with aquifer water

So far, Colorado Springs Utilities has not provided water to anyone outside the city limits

The city is considering providing water to entities outside the city limits

Providing water this way would be a revenue boost to Colorado Springs Utilities

Colorado Springs uses 40 million gallons per day in the winter and 100 million gpd in the summer

Thousands of homeowners rely on Denver Basin water for their homes

The Denver Basin has well over 100,000 wells, but the exact number difficult to find

El Paso County alone has over 22,000 private wells

Highlands Ranch in Denver (100,000 residents) uses Denver Basin water for 10% of its needs

70% of water used in the South Denver metro area is groundwater

Castle Rock, Parker and other municipalities use Denver Basin water

Water levels in the Denver basin are declining in several areas

Around the city of Castle Rock some wells have been declining up to 30 feet/year

The Denver basin is thinner in the Castle Rock area

The Castle Rock area has a huge number of Denver basin wells

Fortunately, according to a local well driller, Black Forest wells have been holding quite steady for many years

The Dawson aquifer is much thicker in the Black Forest than further north

The State of Colorado Division of Water Resources allocates how much water anyone can pump

The state has models that tell the thickness of the aquifer at any given location

The decree takes the thickness of the aquifer (feet) times the acreage = acre-feet

This is called the saturated thickness

The state considers 0.2 or 1/5 of each cubic foot to be water

Acre-feet X 0.2 = acre-feet of water available

Water allowed per year is available water divided by 100 for 100-year duration of aquifer

Figure is again divided by 3 for 300-year rule

About 40% of the water is not economically able to be extracted because the pumping rate

declines with pumping and makes it too expensive and unproductive to keep pumping

Amount of water allocated for pumping is based on 1985 geological model

The amount assumes pumping the aquifers dry in 100 years

The 100-year rule was initiated in 1973

We are 46 years, almost halfway, into the 100 years toward "dry" wells in many parts of the state

El Paso County initiated a 300-year rule in 1986 to extend available water for private wells in the county

El Paso County permits only 1/3 of the state allocation per year

Theoretically the 300-year rule should provide water for two more centuries

The 300-year rule was challenged in the Colorado Supreme Court but was upheld for El Paso County

In spite of the 300-year rule, all of the northern El Paso County water providers need more water

Water providers were told they had enough water for their developments

Continuous pumping is resulting in diminishing returns from well production

Woodmoor Water says well that formerly pumped 100 gpm only pumps 40 gpm now

Monument, Palmer Lake, Woodmoor, Tri-View, Meridian Ranch, Paint Brush Hills and Falcon need more water

Several of these water providers have purchased additional water rights on ranches south of Colorado Springs and near Leadville

Access to that water not available at this time

Without renewable water urban development south of Black Forest will potentially use huge amounts of Denver Basin water

Sterling Ranch, The Retreat at TimberRidge and The Ranch will total 7400 homes

The entire Black Forest has 6600 homes with private wells by comparison

These developments are currently planning to use Denver Basin water from the Black Forest

Insufficient groundwater exists under these developments to serve all the homes

Water rights on Sundance Ranch, Flying Horse North, High Forest Ranch, Bar-X Ranch and McCune Ranch purchased to provide more water

A potential annexation plan may mean some of these developments will use city water

Unintended consequence of annexation may be developments with small urban lots

Development requirements in Colorado Springs city limits have been more stringent than for rural developments, resulting in higher building costs.

Developers have leapfrogged over Banning-Lewis Ranch into the county because of stringent city requirements

Resulting developments often use Denver Basin water instead of renewable city water

New cooperative agreement will require city standards for county urban developments

Cherokee Metropolitan District has obtained significant water rights in the Black Forest

Sundance Ranch, Flying Horse North, Shiloh Ranch and County Line Road water rights were purchased

State granted permission to pump 1246 acre-feet of Dawson water per year from 23 well sites

Cherokee has permission to pump a total of 3708 acre-feet of water per year from all 4 aquifers

Compared to rural, residential development, this is 10 times as much water use as for 5-acre lots

All the well sites are on the property boundaries so half of the water pumped belongs to neighbors

The water is being piped to supply 18,000 customers in southeast Colorado Springs

Cherokee Metro has committed 2025 af/yr of water to Sterling Ranch

This is 1.8 million gallons of water per day.



Cherokee Metro District wells already drilled are not producing significant water

Only 4 wells have been drilled to date

One Denver well drilled to 1970 feet (12-inch bore) and produced only 50 gpm

One Arapahoe well drilled to 2520 feet (12-inch bore) and produced 450 gpm

One Dawson well drilled to 1044 feet (12-inch bore) and produced 68 gpm

A second Dawson well drilled to 1030 feet (12-inch bore) and produced 65 gpm

The two Dawson wells do not even have a pump installed and are not producing

These wells cost around \$750,000 to drill

Three of these four wells are producing very poorly

These wells suggest that commercial extraction may not be productive or economical

Transmissivity or flow of water back and forth underground may not be very rapid

Clay and sandstone don't allow water to flow laterally very easily

Water seems to be located in "pockets" within clay and sandstone layers

"Pockets" of water sufficient for private wells but not for commercial extraction

Water seems to not flow back into large wells fast enough to produce profitable results

This is an excellent example of "paper water may not equal real water."

Loop proposal suggested in late 2021 to pipe SDS water north through Cherokee Metro pipeline

Cherokee Metro pipeline currently carries water from Sundance Ranch to SE Colorado Springs

Cherokee Metro would get SDS water in exchange for CSU using Cherokee pipeline

Cherokee wishes to be absorbed into CSU but high debt is stumbling block

Pipeline would be extended from Sundance Ranch to Monument and Palmer Lake

Branches could bring water to Falcon, Meridian Ranch and Paint Brush Hills

Pipeline would also provide water for Sterling Ranch, TimberRidge and the Ranch

Renewable water would be provided to northern water providers to save Denver Basin water

Wastewater would be piped south to connect to CSU wastewater system along I-25

Estimated cost around \$134 million

Falcon Area Water Authority (FAWA) is planning a huge water project in Black Forest

Project will pipe water from 27 sites to Falcon and Sterling Ranch area

Water coming from High Forest Ranch (7), Bar-X Ranch (16) and Winsome (4) sites

Water rights granted for 1270 acre-feet/year to be pumped

FAWA officials say more water rights are for sale in the Black Forest

Remains to be seen if "paper water equals wet water"

### Future Potential Uses of Denver Basin Water

A developer has obtained rights to 39,000 acre-feet of water per year from Greenland Ranch

Greenland Ranch is a conservation easement between Monument and Castle Rock

Greenland Ranch has thousands of acres of native grassland

Conservation easement will not be developed but will remain as open space

Front Range Water Company (Sun Resources) is proposing a 24-inch pipeline to Denver

Placed in perspective, this is 35 million gallons of water per day they are allotted.  
This water would be pumped to an eastern Denver suburb  
Adjudicating a well means legally obtaining the water rights under your property.

Adjudicating has little value unless a high water user is near your property  
If the high water user affects your well, you may sue for damages  
Without water rights, private wells are considered exempt wells with no rights  
Adjudicating will cost \$500-1000 in attorney fees and will take up to 6 months

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**Common Sense Principles That SHOULD Logically  
Govern Water Use in the Denver Basin**

**The Dawson aquifer should only be used for private wells**

**All wells, including commercial wells, should be sited well away  
from property boundaries**

**All urban density developments should be required to use  
renewable water only**

**Paper water does not equal real water**

Matthew R

MAP AMENDMENT - REZONE (RECOMMEND APPROVAL)

FULLER moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. P-22-010

ROMENS REZONE

WHEREAS, Romens Living Trust did file an application with the El Paso County Planning and Community Development Department for an amendment of the El Paso County Zoning Map to rezone property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference, from the A-35 (Agricultural) zoning district to the RR-5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by this Commission on March 16, 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 amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, when approving a map amendment, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5.B (Map Amendment, Rezoning) of the El Paso County Land Development Code (2022):

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Romens Living Trust for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the A-35 (Agricultural) zoning district to the RR-5 (Residential Rural) zoning district be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

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

SCHUETTPELZ seconded the adoption of the foregoing Resolution.

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

Brian Risley	aye / no / abstain / absent
Thomas Bailey	aye / no / abstain / absent
Tim Trowbridge	aye / no / abstain / absent
Becky Fuller	aye / no / abstain / absent

Sarah Brittain Jack	aye / no / abstain / absent
Jay Carlson	aye / no / abstain / absent
Eric Moraes	aye / no / abstain / absent
Joshua Patterson	aye / no / abstain / absent
Bryce Schuettpelz	aye / no / abstain / absent
Christopher Whitney	aye / no / abstain / absent
Brandy Merriam	aye / no / abstain / absent

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

DONE THIS 16<sup>th</sup> day of March 2023, at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: Brian Risley  
BRIAN RISLEY, Chair

DATED: March 16, 2023

EXHIBIT A

The Northeast 1/4 of the Northeast 1/4 of Section 24, Township 11 South, Range 64 West, 6th Principal Meridian, County of El Paso, State of Colorado.

Containing a calculated area of 1,591,627 square feet (36.539 acres) of land, more or less.





# EL PASO COUNTY

COMMISSIONERS:  
CAMI BREMER (CHAIR)  
CARRIE GEITNER (VICE-CHAIR)

COLORADO

HOLLY WILLIAMS  
STAN VANDERWERF  
LONGINOS GONZALEZ, JR.

## PLANNING & COMMUNITY DEVELOPMENT

**TO:** El Paso County Planning Commission  
Brian Risley, Chair

**FROM:** Ryan Howser, AICP Planner III  
Lupe Packman, IE Engineer I  
Meggan Herington, AICP Executive Director

**RE:** Project File No.: P-22-010  
Project Name: Romens Rezone  
Parcel No.: 41000-00-075

OWNER:	REPRESENTATIVE:
Romens Living Trust 5135 Coneflower Lane Colorado Springs, CO, 80917	Catamount Engineering PO Box 221 Woodland Park, CO, 80866

**Commissioner District:** 2

Planning Commission Hearing Date:	3/16/2023
Board of County Commissioners Hearing Date:	4/18/2023

### EXECUTIVE SUMMARY

A request by Romens Living Trust for approval of a map amendment (rezoning) from A-35 (Agricultural) to RR-5 (Residential Rural). The 36.5-acre property is located between the intersections of Hopper Road, Bradshaw Road, and Cleese Court.

### A. WAIVERS/DEVIATIONS/ AUTHORIZATION

**Waiver(s)/Deviation(s):** There are no waivers or deviations associated with this request.

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

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

**B. APPROVAL CRITERIA**

In approving a map amendment (rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2022):

- The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
- The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

**C. LOCATION**

North:	RR-5 (Residential Rural)	Single-family residential
South:	RR-5 (Residential Rural)	Single-family residential
East:	RR-5 (Residential Rural)	Single-family residential
West:	RR-5 (Residential Rural)	Single-family residential



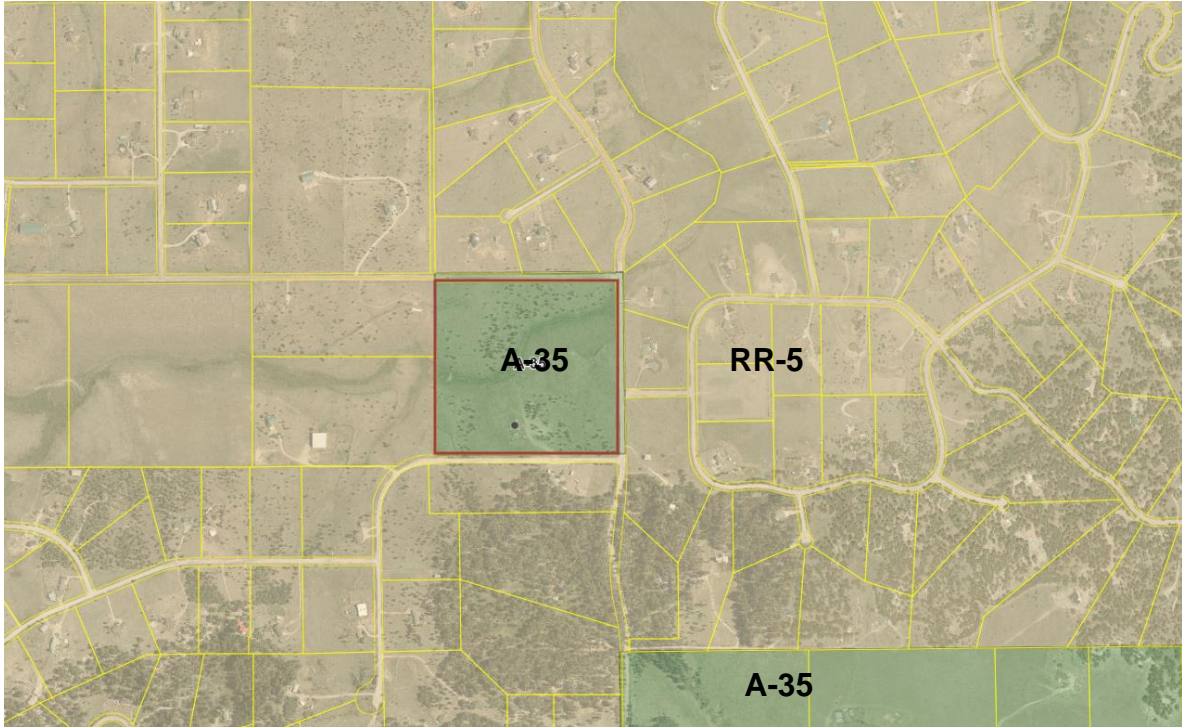


Figure C.1: Zoning Map

#### **D. BACKGROUND**

The property was zoned A-35 (Agricultural) on March 24, 1999, when zoning was first initiated for this portion of the County. The property has not been rezoned since zoning was initiated.

The applicant is proposing to rezone the unplatted parcel, containing 36.5 acres, from A-35 (Agricultural) to RR-5 (Residential Rural).

If the proposed map amendment (rezone) is approved, the applicant intends to subdivide the parcel into seven (7) lots with a minimum lot size of five (5) acres. The 5-acre minimum lot size is a requirement of the RR-5 zoning district as indicated in the applicant's letter of intent and concept exhibit. The applicant has submitted a final plat, which is currently under review (PCD File No. SF-22-026).

## E. ANALYSIS

### 1. Land Development Code Analysis

The applicant is requesting approval of a map amendment (rezoning) to the RR-5 zoning district. Section 3.2 of the Code states the following as the intent of the RR-5 zoning district:

*“The RR-5 zoning district is a 5-acre district intended to accommodate low-density, rural, single-family residential development.”*

The applicant intends to use the property for low-density, rural, single-family residential purposes, which is consistent with the intent of the RR-5 zoning district.

### 2. Zoning Compliance

The subject parcel is proposed to be rezoned to the RR-5 (Residential Rural) zoning district. The RR-5 zoning district is intended to accommodate low-density, rural, single family residential development. The density and dimensional standards for the RR-5 zoning district are as follows:

*Minimum lot size: 5 acres \**

*Minimum width at the front setback line: 200 feet*

*Minimum setback requirement: front 25 feet, rear 25 feet, side 25 feet \**

*Maximum lot coverage: 25 percent*

*Maximum height: 30 feet*

*\* In the event that the land to be partitioned, platted, sold or zoned abuts a section line County road, the minimum lot area for lots abutting the road shall be 4.75 acres and minimum lot width shall be 165 ft.*

*\*Agricultural stands shall be setback a minimum of 35 ft from all property lines.*

In order to initiate any new residential uses on the property, the applicant will need to obtain site plan approval. The proposed subdivision request is being reviewed to ensure that all proposed structures will comply with the RR-5 zoning district dimensional standards as well as the General Development Standards of the Code and Engineering Criteria Manual requirements.



The property is surrounded on all four sides by properties similarly zoned RR-5. Therefore, a rezone to RR-5 for the subject property is both compatible and consistent with surrounding properties in all directions.

## F. MASTER PLAN ANALYSIS

### 1. Your El Paso Master Plan

#### a. Placetype: Rural

##### **Placetype Character:**

*The Rural placetype comprises rangeland, farms, and other agricultural uses. The primary land use in this placetype is agriculture however residential uses such as farm homesteads and estate residential are allowed as support uses. Residential lot development within the Rural placetype typically cover 35 acres or more per two units with the minimum lot area consisting of 5-acres per unit. The Rural placetype covers most of the eastern half of the County.*

*Rural areas typically rely on well and septic and parcels for residential development tend to be substantial in size. Rural areas are remotely located and distant from high activity areas or dense suburban or urban places, making access to regional transportation routes, such as Highway 24 and Highway 94, vital to the quality of life for rural community residents.*

*The agricultural lands that Rural areas contain represent a valuable economic resource and unique lifestyle that should be preserved. The Rural placetype includes agricultural lands which represent a valuable economic resource and allow for a unique lifestyle that should be preserved. As growth occurs, some Rural areas may develop and transition to another placetype, however leapfrog development should be discouraged, by pro-actively permitting changing areas contiguous to existing development to another placetype.*

##### **Recommended Land Uses:**

###### *Primary*

- *Agriculture*
- *Parks/Open Space*
- *Farm/Homestead Residential*

###### *Supporting*

- *Estate Residential (Minimum 1 unit/5-acres)*
- *Institutional*

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PLNWEB@ELPASOCO.COM

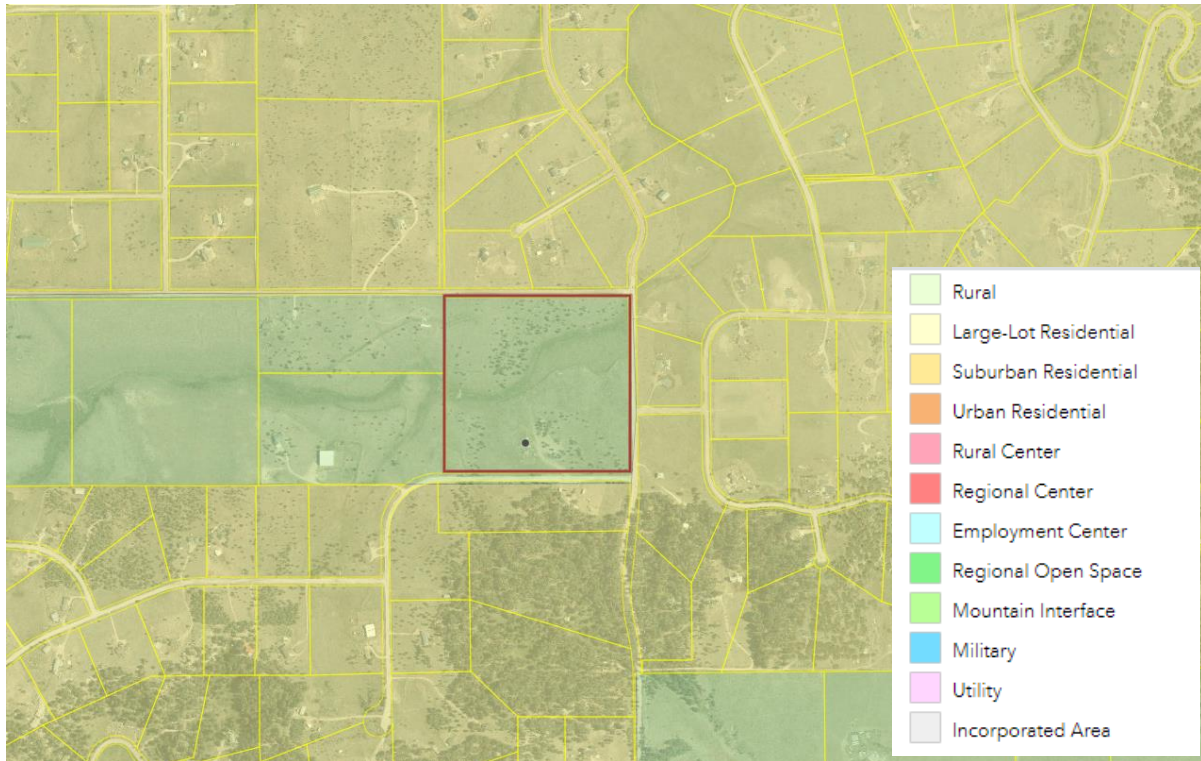


Figure F.1: Placetype Map

**Analysis:**

The Rural Placetype supports the County’s established agricultural and rural identity. This placetype is uniquely sensitive to new development due to limited water access and infrastructure making sustainable growth a priority. Relevant goals and objectives are as follows:

***Objective LU3-1*** - Development should be consistent with the allowable land uses set forth in the placetypes first and second to their built form guidelines.

***Objective HC2-6*** - Continue to carefully analyze each development proposal for their location, compatibility with the natural environment, and cohesion with the existing character.

The proposed rezone would reallocate 36.5 acres of underdeveloped land from the A-35 zoning district to the RR-5 zoning district, which would support Estate Residential with a maximum density of 1 dwelling unit per 5-acre

density within the Rural placetype. The placetype allows single-family detached residential uses with 5-acre lots or larger as a primary use.

**b. Area of Change Designation:** Minimal Change: Undeveloped

*The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall there will be no change to the prioritized rural and natural environments.*

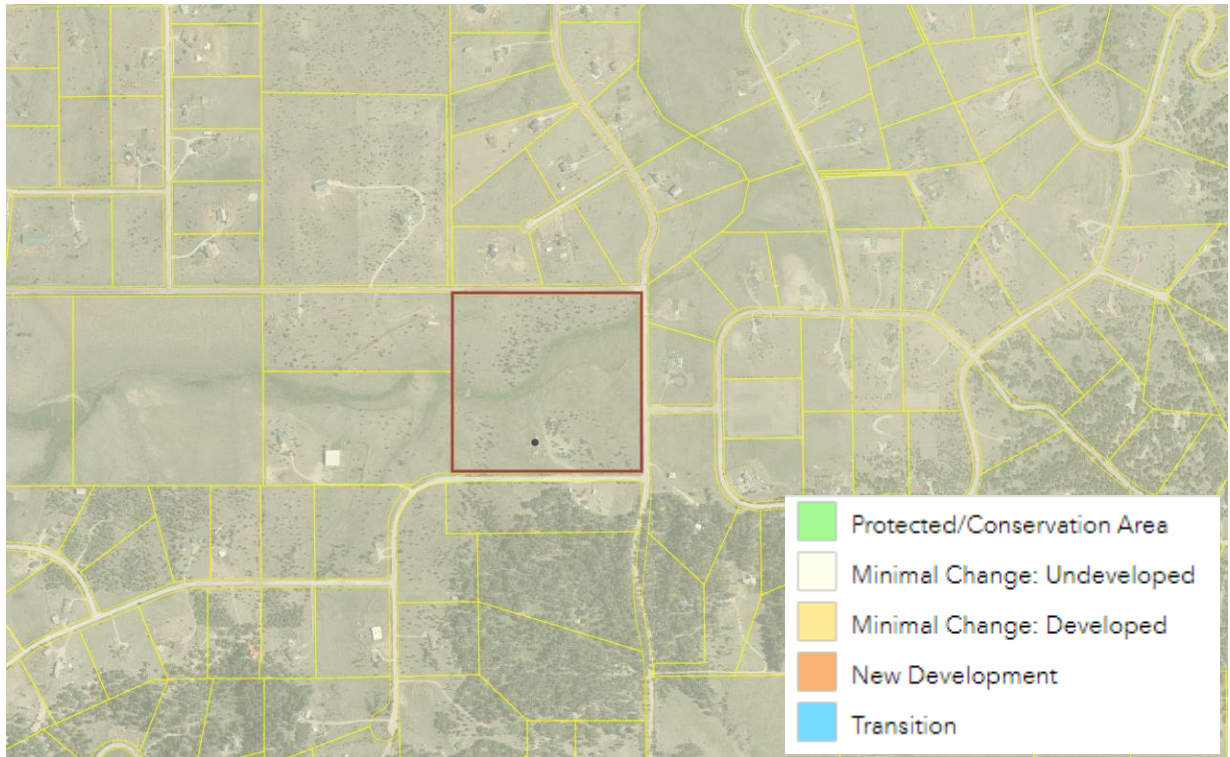


Figure F.2: Area of Change Map

**Analysis:**

The minimal change: Undeveloped area of change states that these areas will experience some redevelopment but will be limited in scale. The applicant is proposing to rezone the subject property to RR-5 (Residential Rural) in order to create additional lots for single family development.

- c. **Key Area Influences:** The property is not located within a key area.
- d. **Other Implications (Priority Development, Housing, etc.):** The property is not within a priority development area.

### 3. 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 1.1.1** – Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.*

***Goal 1.2** – Integrate water and land use planning.*

The property is located within Planning Region 4c of the Plan, which is an area anticipated to experience growth by 2040. The Region is identified as potentially having issues regarding long term sustainable draw from the Denver Basin aquifer. The Plan identifies the current demands for Region 4c to be 2,970 acre-feet per year (AFY) (Water Master Plan, Figure 5.1) with a current supply of 2,970 AFY (Figure 5.2). The projected demand in 2040 is at 3,967 AFY (Figure 5.1) with a projected supply in 2040 of 3,027 AFY (Figure 5.2). The projected demand at build-out in 2060 is at 4,826 AFY (Figure 5.1) with a projected supply in 2060 of 3,027 AFY (Figure 5.2). This means that by 2060 a deficiency of 1,799 AFY is anticipated for Region 4c.

A finding of water sufficiency is not required with a map amendment (rezone); however, it is required with any future subdivision request.

### 4. Other Master Plan Elements

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





The Master Plan for Mineral Extraction (1996) identifies potential conglomerate deposits (coarse grained sedimentary rock containing Arkosic sand, pebbles, and cobble) in the area of the property. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

An analysis of potential geologic hazards and constraints will be required with any subsequent subdivision request.

### **2. Floodplain**

FEMA Flood Insurance Rate Map indicates the parcel is located within flood zone X which is an area of minimal flood hazard and determined to be outside the 500-year floodplain.

### **3. Drainage and Erosion**

The area of the proposed map amendment (rezoning) is located within the Bijou Creek Drainage Basin. This drainage basin is unstudied with no drainage or bridge fees. A drainage report is not required with a map amendment (rezoning) request.

### **4. Transportation**

The subject property has frontage along Hopper Road, Bradshaw Road, and Cleese Court. The El Paso County Major Transportation Corridors Plan Update (2016) does not depict roadway improvement projects in the immediate vicinity of the parcel.

A traffic impact analysis (TIS) was not required with this map amendment (rezoning) request since traffic is expected to generate less than 100 daily trips.

## **H. SERVICES**

### **1. Water**

A finding of water sufficiency for water quantity, quality, and dependability is not required with a map amendment (rezone) request. A finding of water sufficiency is required with any subsequent final plat(s) application.



## **2. Sanitation**

Wastewater is anticipated to be provided by onsite wastewater treatment systems.

## **3. Emergency Services**

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

## **4. Utilities**

Mountain View Electric Association (MVEA) is anticipated to provide electrical service and Black Hills Energy (BHE) is anticipated to provide natural gas service. MVEA and BHE were each sent referrals for the rezone; MVEA has no outstanding comments and BHE did not provide a response.

## **5. Metropolitan Districts**

The property is not located within a metropolitan district service area.

## **6. Parks/Trails**

Land dedication and fees in lieu of park land dedication are not required for a map amendment (rezoning) application. Fees in lieu of land dedication will be required with any subsequent final plat recordation.

## **7. Schools**

Land dedication and fees in lieu of school land dedication are not required for a map amendment (rezoning) application. Fees in lieu of land dedication will be required with any subsequent final plat recordation.

## **I. APPLICABLE RESOLUTIONS**

See attached resolution.

## **J. STATUS OF MAJOR ISSUES**

There are no major issues with this map amendment request.

## **K. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Planning Commission and the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment,



Rezoning) of the El Paso County Land Development Code (2022), staff recommends the following conditions and notations:

### **CONDITIONS**

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

### **NOTATIONS**

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

### **L. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified twenty-two (22) adjoining property owners on February 24, 2023, for the Planning Commission and Board of County Commissioner meetings. Responses will be provided at the hearing.

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

## **M. ATTACHMENTS**

Vicinity Map

Letter of Intent

Rezone Map

Draft PC Resolution

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

[WWW.ELPASOCO.COM](http://WWW.ELPASOCO.COM)

# El Paso County Parcel Information

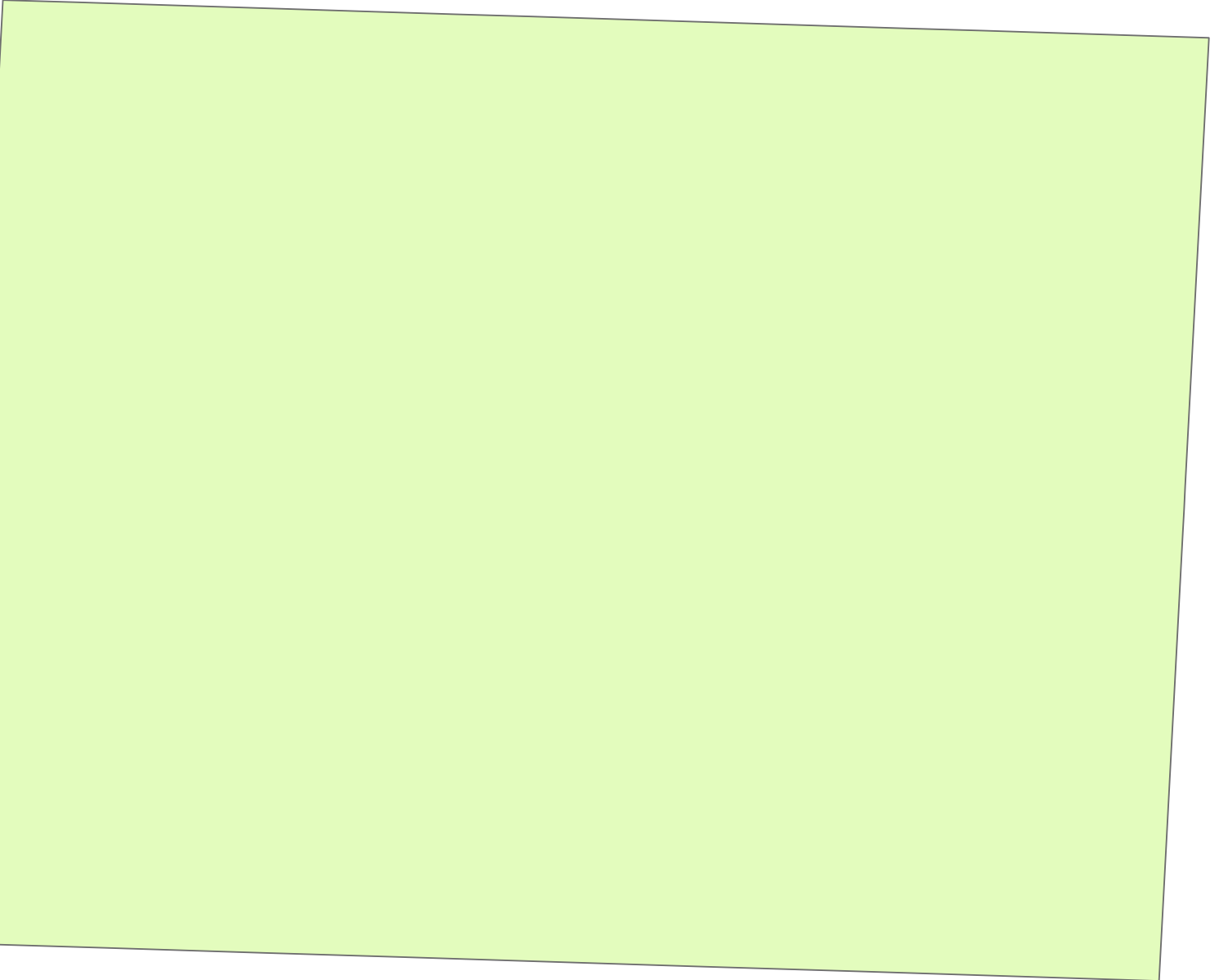
File Name:

Date:

PARCEL

NAME

ADDRESS



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



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Letter of Intent

# Romen Subdivision

Rezone

Adelaida

Romens

DECEMBER 16, 2022

## REZONE LETTER OF INTENT - ROMENS SUBDIVISION

OWNER/APPLICANT: Adelaida Romen Trustee  
ADDRESS: 17720 CLEESE CT PEYTON, CO 80831  
PHONE: 719-331-3310

---

**SITE LOCATION/LEGAL DISCRPTION:** The Northeast 1/4 of the Northeast 1/4 of Section 24, Township 11 South, Range 64 West, 6th Principal Meridian, County of El Paso, State of Colorado.

The site lies north of US Highway 24, west of Peyton Highway in El Paso County, Colorado. The parcel is bounded to the north by Hopper Road right-of-way, to the east by Bradshaw Road right-of-way, to the south by Cleese Court, and to the west by the Hybar Subdivision. The existing access to the parcel is from Cleese Court, a gravel county local roadway. The entire parcel lies within unincorporated El Paso County and is currently zoned A-35. (Parcel No. 41000-00- 075)

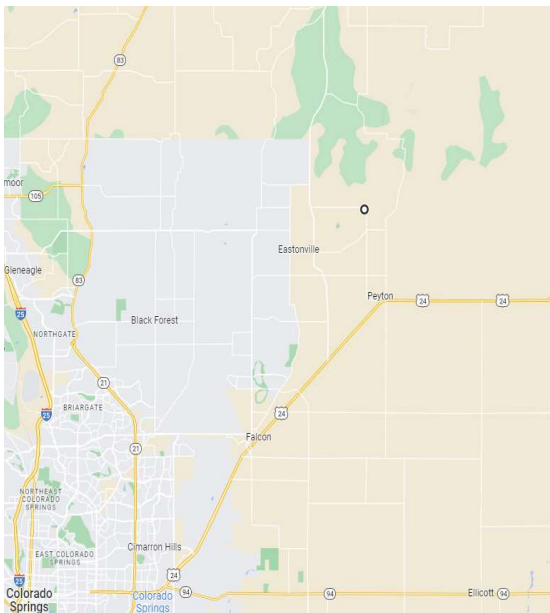


Figure 1 Map showing the location of the proposed subdivision in El Paso County, Colorado.

**REQUEST (REZONE):** Adelaida Romen is requesting to rezone the original platted 36.539 acre parcel (designated A-35) into 7 (approximate 5 to 6 acre lots, designated RR-5), development consistent with the surrounding area. The Romen Subdivision would be bordered on all sides by previously existing RR-5 (5-acre) residential development lots. Currently, no applicable El Paso County overlay zones interact with the proposed rezone development. It should be noted that the El Paso County Assessors office currently (and incorrectly) reports this parcel as 40.0 acres in size. The current parcel size is plated as 36.539 acres.

**JUSTIFICATION:** Romen Subdivision would be in compliance with the Map Amendment criteria set out in **Section 5.3.5 (A)(B)(C)** as follows:

**(A) Purpose**

The purpose of zoning is to locate particular land uses where they are most appropriate, considering public utilities, road access, and the established development pattern. In addition to categorizing land by uses such as residential, commercial, and industrial, the LDC also specifies such details as building setback lines, the height and bulk of buildings, the size and location of open spaces, and the intensity to which the land may be developed. The zoning of parcels of land generally conforms to and promotes the County's Master Plan. Zoning protects the rights of property owners while promoting the general welfare of the community. By dividing land into categories according to use, and setting regulations for these categories, zoning governs private land use and segregates incompatible uses. Generally, rezoning is justifiable under one of the following circumstances:

- When the requested rezoning is in general conformance or consistency with the County's Master Plan;
- If inconsistent with the Master Plan, a material change in the character of the area since the date of the current zoning is demonstrated;
- When there was an error or oversight in the original zoning of the property; or
- The zone change is necessary for the general health, safety, or welfare of the community.



**(B) Criteria for Approval**

In approving a Map Amendment, the following findings shall be made:

- The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood.
  
- The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. §30-28-111 §30-28-113, and §30-28-116;
  
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
  
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

**(C) Conditions on Rezoning Authorized**

Conditions of approval may be included in the resolution approving a rezoning request. Where any approved condition would impact the permitted uses or density and dimensional standards of the rezoned property, the existence of the conditions shall be noted on the Zoning Map. Any amendment to the conditions placed upon a rezoning is considered a new zoning action. Conditional zoning shall not be used to circumvent the intent or requirements of this Code, shall be exercised sparingly and in exceptional situations, and the burden of proof shall be upon the applicant to demonstrate the need.

## **REZONE APPROVAL CRITERIA (ANALYSIS)**

- The applicant is proposing to rezone the property from A-35 to RR-5 (Residential Rural). Section 3.2 of the Code states the following as the intent of the RR-5 zoning district:  
“RR-5, Residential Rural District. The RR-5 zoning district is a 5-acre district intended to accommodate low-density, rural, single-family residential development.”

The criteria meets the intent; additionally the RR-5 has been designated as a priority redevelopment (based on the El Paso County Master Plan).

- Zoning Compliance  
The density and dimensional standards for the RR-5 zoning district are as follows:
  - Minimum lot size: 5 acres
  - Minimum width at the front setback line: 200 feet
  - Minimum setback requirement: front 25 feet, rear 25 feet, side 25 feet \*
  - Maximum lot coverage: None
  - Maximum height: 30 feet

\* Agricultural stands shall be setback a minimum of 35 feet from all property lines.

With a zone change to RR-5, applicant is capable of meeting all zoning standards.

- The rezoning application of proposed land use is compatible with the existing and permitted land uses and zone districts in all directions.
- Proposed Land Use  
Zoning district change from A-35 to RR-5 development.

The proposed land use will [at full build-out] include single family residential dwelling units on lots no smaller than 5 acres in size and open space. The balance of the land subject to this application (e.g. jurisdictional and non-jurisdictional wetlands/ floodplains) will also be rezoned RR-5 and will remain as a reservation area, delineated beyond the limits of the West Bijou Creek 100-year floodplain and the designated Emergent Wetland. There is no proposed development within this area.

RR-5 zoning is compatible with adjoining zone districts because it is; 1) similar in character to the zoning of existing communities on Bradshaw and Hopper Road; 2) will not negatively affect view corridors from the existing homes due to home placement on the new lots; 3) will not have negative drainage impacts on the existing neighborhoods because storm water will be appropriately discharged in conformance with plans approved by the County; 4) will not have significant traffic impacts on the surrounding neighborhood, as shown by the Applicant's traffic report; and 5) the project will not introduce incompatible or different land uses, as the surrounding neighborhood is predominantly single family residential lots similar in size and character to the lots to be developed under this Application (RR-5). The proposed development will retain the character of the existing community.

- The site is suitable for the intended use and proposes uses that are compatible with surrounding RR-5 zones, as defined in Chapter 5 of the Land Development Code, as it matches existing single family residential lots (surrounding RR-5) and open space uses of adjacent land.
- Existing public infrastructure and services, such as roads, utilities, water, sanitation, fire, and drainage will be used to the extent available and adequate to meet the needs of the new development. New infrastructure, to include ROW dedication, utilities, erosion control, etc. will be planned and installed in accordance with standards of the Land Development Code (LDC), Engineering Criteria Manual and Drainage Criteria Manual (ECM).

## **YOUR EL PASO COUNTY MASTER PLAN**

### Baseline Considerations:

1. Is there a desirability or demand within the community for this use?
  - The proposed Romen subdivision would help to fulfill desirability and demand for additional large lot residential housing Services within El Paso County. As illustrated in the recently approved Your El Paso County Master Plan, this area has been identified as a Priority Redevelopment area, specifically for large lot residential.

2. Does the market support the need for the use? Would the use be viable if built right now?
  - There is a demand for the proposed Roman Subdivision, as the area has continued to grow from traditionally rural parcels to large-lot residential. Specifically, in this area large-lot residential has been designated as a priority Redevelopment, (based on the El Paso County Master Plan).
3. Would the use be providing necessary housing or essential goods and/ or services?
  - The proposed Romen Subdivision will incorporate needed housing services into the community. The place type of Large-lot Residential has a primary land use of Single-Family Detached Residential and supporting land uses of Agriculture, Parks/Open Space, and limited Commercial Retail and Commercial Services. The proposed rezone supports this place type.

#### County Systems Considerations:

1. Is there existing infrastructure to which the development can connect? If so, what infrastructure exists? If not, are there existing or proposed plans to extend infrastructure to this area?
  - The proposed Romen Subdivision will be served by existing infrastructure to include electricity and roadways.
2. Does the development trigger the need for such infrastructure?
  - The proposed development does not trigger the need for new infrastructure as previous approvals contemplated the necessary infrastructure improvements.
3. Does the proposal trigger the need for pedestrian or multimodal connections and are those connections being provided?
  - The proposed Romen Subdivision will provide a 25-foot-wide reservation for trail easement, as per the request from El Paso Community Services Department.

Area of Change Designation: Minimal Change: Undeveloped The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall there will be no change to the prioritized rural and natural environments.

#### Analysis:

The proposed rezone is not located in an area which is expected to significantly change in character. The proposed map amendment (rezoning) is not likely to change the character of the area.

#### c. Key Area Influences

The subject property is not located within a Key Area.

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

The subject property is located within a Priority redevelopment Area.

#### El Paso County Water Master Plan:

The proposed Romen Subdivision, located in rural El Paso County with no municipal services located nearby, will rely upon proposed individual wells and individual septic systems. Romen Subdivision has obtained the Colorado State Engineer's sufficiency of water finding for both quantity and quality as part of the future final plat application.

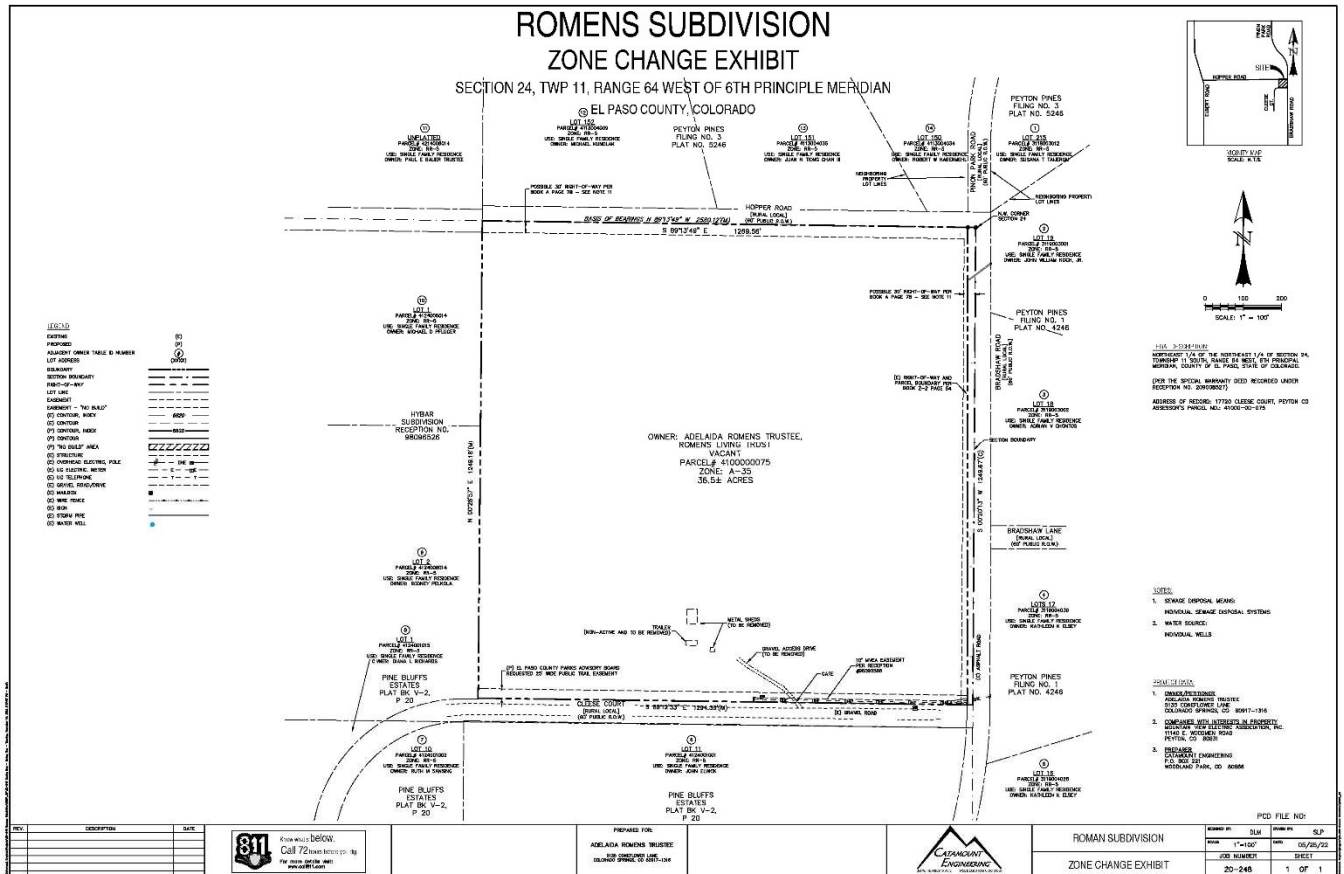
In addition, Romen Subdivision meets the stated Goals and Policies:

- Goal 1.2—Integrate water and land use planning
- Goal 4.2—Support the efficient use of water supplies through integrated master planning of site planning, landscape, and water resource best management practices.

**PARKS MASTER PLAN:** The site lies in northern El Paso County, approximately four miles north of Peyton, CO on the SW corner of Bradshaw and Hopper Rd. The site is on the Palmer Divide between Homestead Ranch Regional Park to the southwest and Peyton Pines Open Space to the east.

The 2013 County Parks Master Plan does shows a master-planned trail that would be impacted by the subdivision. The proposed Palmer Divide Regional Trail is an east to west trail alignment that follows the Palmer Divide. The trail connects rural properties in the northern part of El Paso County and would provide access to Homestead Ranch Regional Park. The proposed Palmer Divide Regional Trail is located along the south side and a portion of the east side of the proposed Roman Subdivision. County Parks has requested a reservation trail easement where development projects impact proposed County trails. As it pertains to this application, the County requests and the landowner is prepared to provide a 25-foot-wide public trail easement along the south side of the development, outside the drainage and utility easement, and from the SE corner of the development north to the intersection of Bradshaw Lane that allows for the construction and maintenance by El Paso County of the Palmer Divide Regional Trail. This 25.0' wide reservation trail easement has been provided on the zone change exhibit.

### ZONING MAP:



## ASSOCIATED DOCUMENTS

- Subsurface Investigation and Soils Report by RMG Engineers
- Certification of Notice to Mineral Estate Owners by Barron Land, LLC.
- Natural Features Report by Catamount Engineering
- Wetland Impact Letter by Catamount Engineering
- LP Propane Service Provider Commitment Letter
- Mountain View Electric Service Provider Commitment Letter
- Peyton Fire Protection District Service Commitment Letter
- Preliminary/Final Drainage Report for Pine View Estates prepared by Catamount Engineering
- Fire Protection Report, Report by Catamount Engineering
- Water Resources and Water Quality Reports by Ground Water Investigations LLC

## PROJECT CRITERIA

In keeping with the Land Use Code and Planning and Development processes for subdividing that have been established by El Paso, County the following technical elements will be highlighted in this Letter of Intent.

### COMMUNITY OUTREACH:

On May 25, 2022; a notice to all surrounding property owners was distributed (via certified mail), notifying all parties of the intent to develop the Romen parcel into proposed the Romen Subdivision. A detailed exhibit and contact information were provided by Catamount Engineering. All associated paperwork has been proved in the rezone submittal.

### WATER RESOURCES:

The proposed development is planned to consist of 7 residential properties which will be provided water services through individual residential wells drilled into the not-non-tributary Dawson Aquifer and wastewater served through individual on-site wastewater treatment systems (OWTS).

It is expected that each rural residential home in the proposed subdivision will require an average of 0.407 annual acre-feet of water (which uses represent annual allocations for domestic use, irrigation, replacement, and stock water).

This anticipated water demand is consistent with historic needs for nearby developments in the Black Forest area. Overall annual demand is anticipated to consist of an annual average of 2.85 AF/year between the 7 proposed lots.

The estimated annual depletion to the designated basins by the end of the 300-year period is modeled as 0.142 AF/year or 4.98% overall annual pumping within the development at full buildout. At full buildout, return flows from the septic fields are projected to return 0.126 AF/year between the 7 proposed lots at 90% of the domestic flows. *This exceeds the maximum depletion 0.142 acre-feet that is projected to occur in the 300<sup>th</sup> year. Flow meters will be required on each well to quantify annual use and ensure compliance with the replacement plan.* The Water Resources report was prepared by Julia Murphy MSPG of Ground Water Investigations, LLC. in Colorado Springs, Co.

#### DETERMINATION OF WATER RIGHTS:

On August 3, 2021, Joanna Williams, P. E. Water Resources Engineer sent a letter to Adeladia Romen (Romen Living Trust) that contained the Colorado Ground Water Commission's Findings and Order for Determination of Water Right No. 4278-BD, for the allocation of ground water in the Dawson Aquifer. Order: *In accordance with Section 37-90-107 (7), C.R.S. and the designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of rights to designed ground water in the Dawson Aquifer underlying 40 acres of land, generally described as part of the NE1/4 NE1/4 of Section 24, Township 11 South, Range 64 West of the 6th Principal Meridian is approved.* Conditions of the approval are found in the additional submittal documents for the Final Plat.

#### WATER QUALITY:

Ground Water Investigations, LLC. in Colorado Springs, Co. completed a comprehensive water analysis report for Romen Subdivision. A chemical analysis of the water to check for Bicarbonate, Calcium, Carbonate, Hydroxide, Langelier Index, ph, temperature, total alkalinity and total dissolved solids was conducted. The water quality in the Dawson Aquifer in this area has typically been suitable for residential potable use. Findings confirm water quality suitable for residential potable use.



#### DRAINAGE REPORT:

Romen Subdivision consists of unplatted land to be developed into 7 rural residential lots (RR-5 zoning). The parcel is located within the Bijou Creek drainage basin. The West Bijou Creek bisects the parcel and flows from west to east. The northerly portion of the parcel sheet flows south to West Bijou Creek within the RR-5 zoned parcel at slopes between 2% and 9%. The southerly portion of the parcel sheet flows north to West Bijou Creek within the parcel at slopes between 2% and 13%.

No portion of the site lies within an F.E.M.A. designated floodplain per FIRM 08041C0350 G and 08041C0375 G effective December 07, 2018. A firmette exhibiting the parcel has been included in the appendix of this report.

*The development of Romen Subdivision will not adversely affect downstream properties or facilities.* Additional information will be found in the Drainage Report prepared by: David Mijares of Catamount Engineering in Woodland Park, Co.

#### WILDFIRE HAZARD ASSESSMENT AND MITIGATION:

According to the Wildfire Hazard Area Map (WHAM) map developed by the Colorado State Forest Service in 1974, the property to be subdivided has a low hazard for trees and grass. This information is somewhat dated (though still relevant) . It has been essentially superseded by the 2012 Colorado Wildfire Risk Assessment: (CO-WRAP). The Fire Intensity Map indicates a Moderate fire intensity for the property. Overall, the mapped wildfire hazard is low to moderate.

Currently the parcel is used for grazing and that it is fully grass covered with scattered Ponderosa Pines throughout. Although the hazard on this parcel is relatively low, wildfires can occur and the opportunity for ignition remains.

#### TRAFFIC ENGINEERING:

Vehicular access as illustrated on the Concept Drawing with all driveways to be private, built to El Paso County standards. Intent for northerly 3 lots to utilize a single shared driveway access from Hopper Road, a gravel roadway designated as major collector. Development parcel is bisected by a drainage that is identified as a “no build area”. A single shared driveway providing access to the northern 3 lots is preferred to development of multiple flag lots crossing the existing drainage. The 4 remaining lots will have access from gravel local roadway Cleese Ct. bordering the southerly portion of the development. A Deviation for the vehicular access is presented elsewhere in this document. Traffic count increases will be minimal due to the proposed housing density and number of proposed residences.

#### FIRE PROTECTION:

Romen subdivision lies within and is served by the Peyton Fire Protection District. The district is a mixed paid and volunteer fire department providing fire, rescue and emergency medical services along with public education and covers an area of approximately 110 square miles at an average elevation of about 6500 feet in the north-central part of El Paso County. The district serves about 3500 buildings through one fire station. Personnel include 18 firefighters, all but 3 of whom are currently certified as EMT's or better.

#### PEYTON FIRE DEPARTMENT COMMITMENT LETTER:

Pine View Estates is in the Peyton Fire Protection District. District Manager David Solin confirmed on January 07, 2021 that service will be provided to the Romen subdivision and that mutual aid agreements exist with surrounding districts.

#### ELECTRIC PROVIDER SERVICE COMMITMENT:

Romen Subdivision is within the Mountain View Electrical Association (MVEA) certificated service area. MVEA has confirmed in January 2021 a commitment to serve Romen Subdivision according to their extension policy. MVEA has requested utility easements of ten (10) foot rear lot utility easement, (5) foot side lot utility easement, and (10) foot front line utility easement along with a twenty (20) foot exterior utility easement on plat. Additional easements may be required in order to serve the development. Garet Bohuslavsky, System Engineer for Mountain View Electric provided the commitment.

#### GAS PROVIDER SERVICE COMMITMENT:

Romen Subdivision is within the service area of multiple individual lot liquid propane (LP-gas) providers. Specifically, Glaser Energy Group, Inc. has provided a 'Commitment to Serve' letter, dated December 9, 2022.

#### NATURAL FEATURES/WETLAND IMPACT LETTER:

Assessed in this report are potential wetlands and waters of the U.S., natural landscape features, threatened and endangered species and wildlife. Human-derived cultural formation processes have left their mark on the land found in the proposed project area. Tree harvesting, farming and erosion control activities have heavily impacted and disturbed the modern ground surface and the vegetation community is now a mix of natural and introduced species.

The site is characterized by prairie grasslands with a few small deciduous volunteer trees and shrubs. Wildlife species which may be encountered include Preble's Meadow Jumping Mouse. Colorado Parks and Wildlife is currently responsible for reintroducing Grey wolf's species to the front range and thus the species is provided as nearby species list by the US Dept. of the Interior.

The site is located outside of the designated Preble's Meadows Jumping Mouse protection area. According to the Project Summary (Project Code: 2022-0047479) provided by the United States Department of the Interior, Fish and Wildlife Service, dated May 25, 2022, there are no critical habitats, refuges, or fish hatcheries within the proposed Romen Subdivision project area.

*A small portion of land representing the creek bed of West Bijou Creek is identified on the National Wetland Inventory as Freshwater Emergent (Palustrine) Wetland. An established reservation area has been delineated beyond the limits of the West Bijou Creek 100-year floodplain and the designated Emergent Wetland. There is no proposed development within this immediate area. Report provided by Catamount Engineering.*

#### SOILS AND GEOLOGY:

The proposed Romen development site was found to be suitable for the proposed subdivided lots. The location does not appear to be underlain with sand or gravel, so it is not a mineable site. Oil and gas wells are not located in the area, although sufficient information was not obtainable to determine the economic feasibility for oil and gas production at the site.

Geologic hazards encountered at the site include expansive soils/bedrock, potentially compressible soils, surface drainage, and potential radon. The geologic conditions of the site are relatively common given the site's locality to West Bijou Creek and mitigation can be accomplished by implementing common engineering and construction practices. None of these conditions are anticipated to preclude the proposed development (Soils, Geology and Geologic Hazard Study, prepared by RMG Engineering Inc. October 2020).

#### DEVIATION REQUESTS

Deviation Requests (see Deviation Request and Decision Forms):

##### 1) ROADWAYACCESS CRITERIA

Requested Deviation: 2.3.2 Design Standards by Functional Classification.

No Access permitted to major collector roadway.

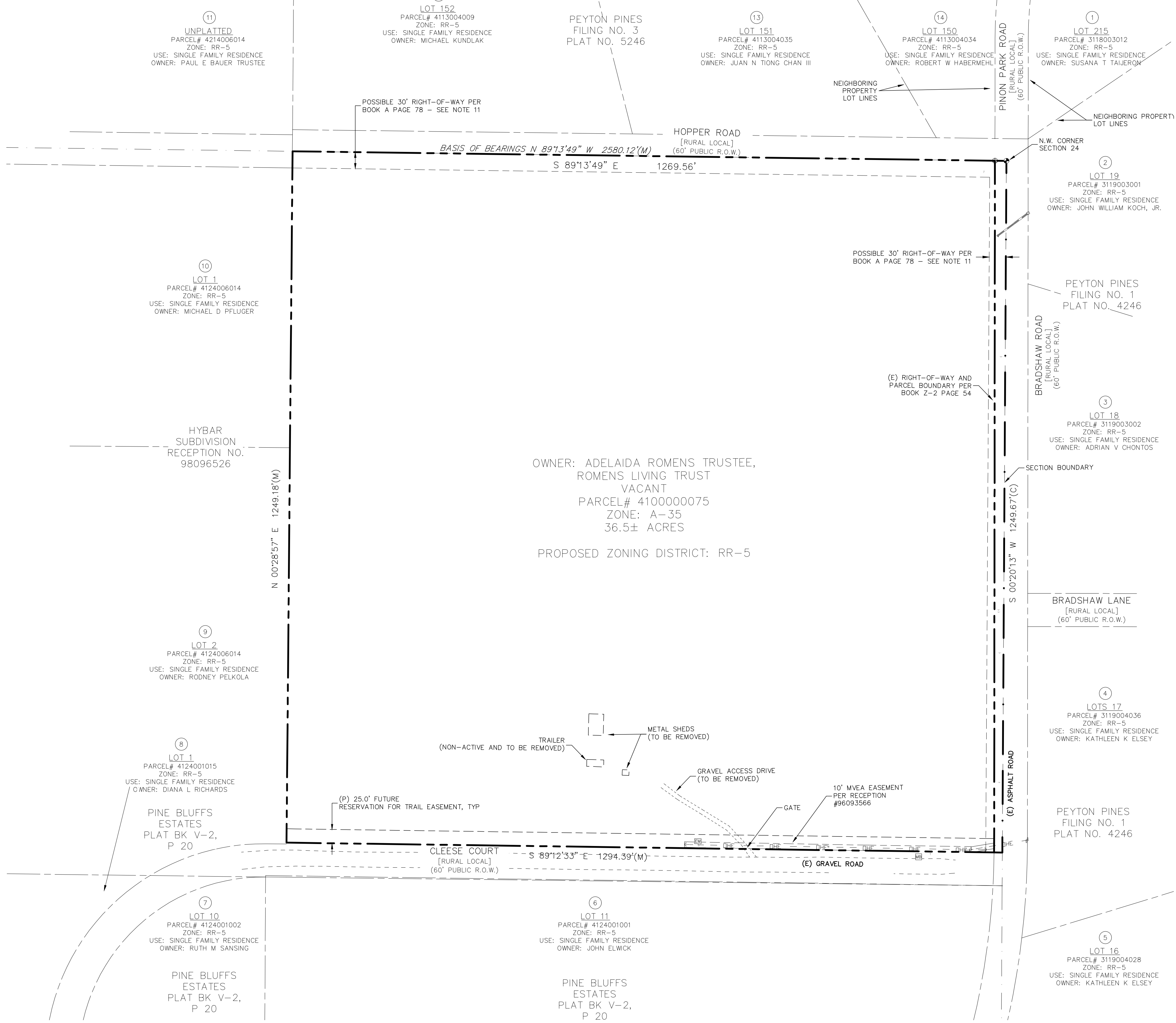
Justification: Intent for northerly 3 lots to utilize a single shared driveway access from Hopper Road, a gravel roadway designated as major collector. Development parcel is bisected by a drainage that is identified as a "no build area". A single shared driveway providing access to the northern 3 lots is preferred to development of multiple flag lots crossing the existing drainage. The 4 remaining lots will have access from gravel local roadway Cleese Ct. bordering the southerly portion of the development.

# ROMENS SUBDIVISION

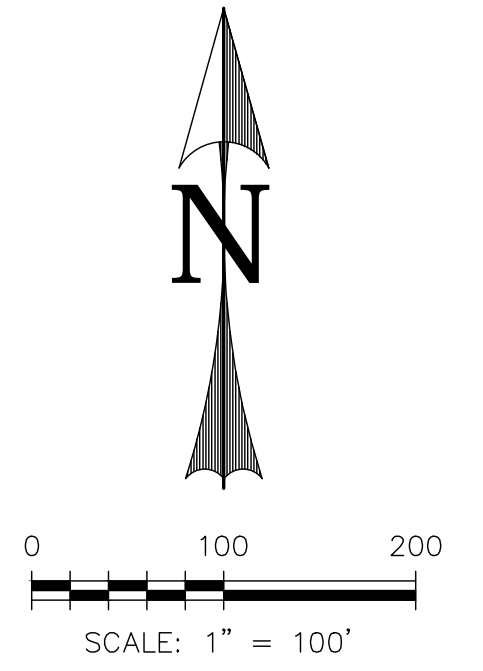
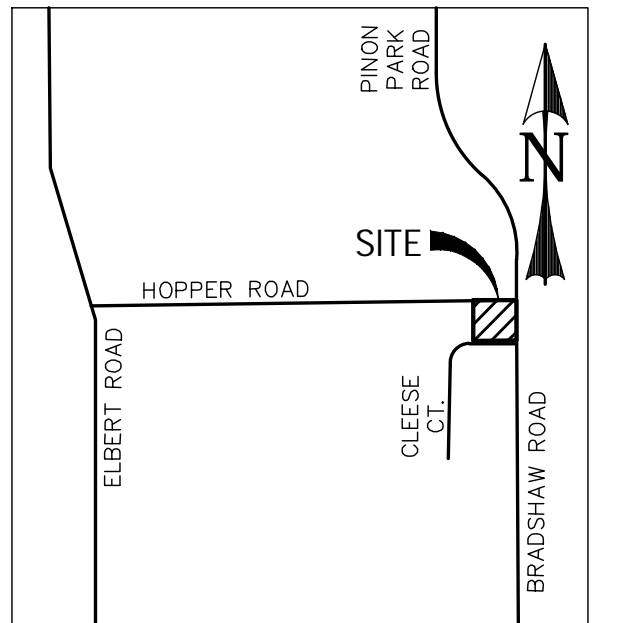
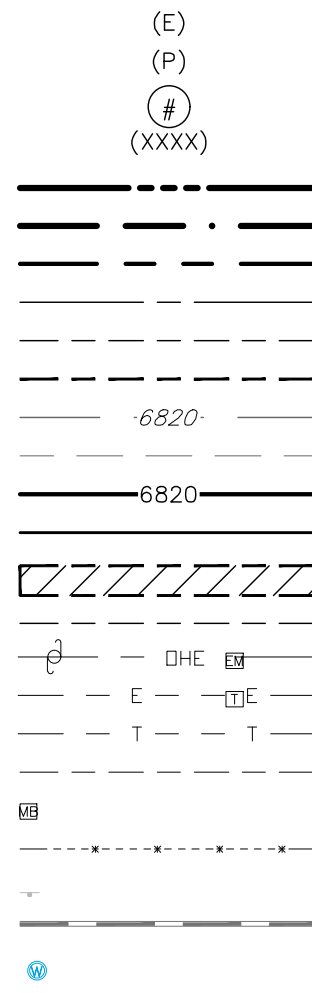
## ZONE CHANGE EXHIBIT

### SECTION 24, TWP 11, RANGE 64 WEST OF 6TH PRINCIPLE MERIDIAN

#### EL PASO COUNTY, COLORADO



- #### LEGEND
- EXISTING
  - PROPOSED
  - ADJACENT OWNER TABLE ID NUMBER
  - LOT ADDRESS
  - BOUNDARY
  - SECTION BOUNDARY
  - RIGHT-OF-WAY
  - LOT LINE
  - EASEMENT
  - EASEMENT - "NO BUILD"
  - (E) CONTOUR, INDEX
  - (E) CONTOUR
  - (P) CONTOUR, INDEX
  - (P) CONTOUR
  - (P) "NO BUILD" AREA
  - (E) STRUCTURE
  - (E) OVERHEAD ELECTRIC, POLE
  - (E) UG ELECTRIC, METER
  - (E) UG TELEPHONE
  - (E) GRAVEL ROAD/DRIVE
  - (E) MAILBOX
  - (E) WIRE FENCE
  - (E) SIGN
  - (E) STORM PIPE
  - (E) WATER WELL



#### LEGAL DESCRIPTION:

NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 64 WEST, 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO.

(PER THE SPECIAL WARRANTY DEED RECORDED UNDER RECEPTION NO. 209008527)

ADDRESS OF RECORD: 17720 CLEESE COURT, PEYTON CO ASSESSOR'S PARCEL NO.: 41000-00-075

- #### NOTES:
- SEWAGE DISPOSAL MEANS:  
INDIVIDUAL SEWAGE DISPOSAL SYSTEMS
  - WATER SOURCE:  
INDIVIDUAL WELLS

#### PROJECT DATA:

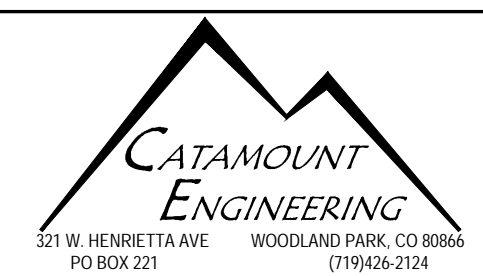
- OWNER/PETITIONER  
ADELAIDA ROMENS TRUSTEE  
5135 CONEFLOWER LANE  
COLORADO SPRINGS, CO 80917-1316  
(719) 591-4256  
ajolly@msn.com
- COMPANIES WITH INTERESTS IN PROPERTY  
MOUNTAIN VIEW ELECTRIC ASSOCIATION, INC.  
11140 E. WOODMEN ROAD  
PEYTON, CO 80831
- PREPARER  
CATAMOUNT ENGINEERING  
P.O. BOX 221  
WOODLAND PARK, CO 80866  
(719) 426-2124  
david@catamounteng.com

PCD FILE NO: P-22-010

REV.	DESCRIPTION	DATE



PREPARED FOR:  
**ADELAIDA ROMENS TRUSTEE**  
5135 CONEFLOWER LANE  
COLORADO SPRINGS, CO 80917-1316



**ROMAN SUBDIVISION**  
ZONE CHANGE EXHIBIT

DESIGNED BY:	DLM	DRAWN BY:	SLP
SCALE:	1"=100'	DATE:	05/25/22
JOB NUMBER	20-248	SHEET	1 OF 1

MAP AMENDMENT - REZONE (RECOMMEND APPROVAL)

\_\_\_\_\_ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. P-22-010

ROMENS REZONE

WHEREAS, Romens Living Trust did file an application with the El Paso County Planning and Community Development Department for an amendment of the El Paso County Zoning Map to rezone property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference, from the A-35 (Agricultural) zoning district to the RR-5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by this Commission on March 16, 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 amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, when approving a map amendment, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5.B (Map Amendment, Rezoning) of the El Paso County Land Development Code (2022):

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Romens Living Trust for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the A-35 (Agricultural) zoning district to the RR-5 (Residential Rural) zoning district be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
  
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
  
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

AND BE IT FURTHER RESOLVED that this Resolution and the recommendations contained herein be forwarded to the 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)

Brian Risley	aye / no / abstain / absent
Thomas Bailey	aye / no / abstain / absent
Tim Trowbridge	aye / no / abstain / absent
Becky Fuller	aye / no / abstain / absent



Sarah Brittain Jack	aye / no / abstain / absent
Jay Carlson	aye / no / abstain / absent
Eric Moraes	aye / no / abstain / absent
Joshua Patterson	aye / no / abstain / absent
Bryce Schuettpelz	aye / no / abstain / absent
Christopher Whitney	aye / no / abstain / absent
Brandy Merriam	aye / no / abstain / absent

The Resolution was adopted by a vote of \_\_\_to\_\_\_ by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 16<sup>th</sup> day of March 2023, at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: \_\_\_\_\_  
\_\_\_\_\_, Chair

DATED: March 16, 2023

EXHIBIT A

The Northeast 1/4 of the Northeast 1/4 of Section 24, Township 11 South, Range 64 West, 6th Principal Meridian, County of El Paso, State of Colorado.

Containing a calculated area of 1,591,627 square feet (36.539 acres) of land, more or less.

RESOLUTION NO.

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

APPROVAL OF MAP AMENDMENT (REZONE)  
ROMENS REZONE (P- 22-010)

WHEREAS Romens Living Trust did file an application with the El Paso County Planning and Community Development Department for an amendment to the El Paso County Zoning Map to rezone for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the A-35 (Agricultural) zoning district to the RR-5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on March 16, 2023, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on April 18, 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, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. That the application was properly submitted for consideration by the Board of County Commissioners.
2. That the proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. That the hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, that all pertinent facts, matters and

issues were submitted and reviewed, and that all interested persons were heard at those hearings.

4. That all exhibits were received into evidence.
5. That the proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.
6. That the proposed land use will be compatible with existing and permitted land uses in the area.
7. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.
8. That changing conditions clearly require amendment to the Zoning Resolutions.
9. That for the above-stated and other reasons, the proposed Amendment to the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, pursuant to Section 5.3.5 of the El Paso County Land Development Code, as amended, in approving this amendment to the El Paso County Zoning Map, the Board of County Commissioners considered one or more of the following criteria:

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and

4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the petition of Romens Living Trust to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from the A-35 (Agricultural) zoning district to the RR-5 (Residential Rural) zoning district;

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

#### CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

#### NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by

the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.

2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 18<sup>th</sup> day of April, 2023, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
County Clerk & Recorder

EXHIBIT A

The Northeast 1/4 of the Northeast 1/4 of Section 24, Township 11 South, Range 64 West, 6th Principal Meridian, County of El Paso, State of Colorado.

Containing a calculated area of 1,591,627 square feet (36.539 acres) of land, more or less.