

Meggan Herington, AICP, Executive Director  
El Paso County Planning & Community Development  
O: 719-520-6300  
MegganHerington@elpasoco.com  
2880 International Circle, Suite 110  
Colorado Springs, CO 80910

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

## SUMMARY MEMORANDUM

TO: El Paso County Board of County Commissioners  
FROM: Planning & Community Development  
DATE: 3/28/2024  
RE: MS206; Forest Heights Estates

### Project Description

A request by Jon Didleaux and Phyllis Didleau Revocable Trust for approval of a 32.618-acre Minor Subdivision creating four (4) single-family residential lots and two (2) tracts. The property is zoned RR-5 (Residential Rural), and is located at 8250 Forest Heights Circle, Colorado Springs, CO, 80908.

### Notation

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

### Discussion

The Minor Subdivision application was heard as a called-up consent agenda item at the March 7, 2024, Planning Commission hearing. Four citizens spoke in opposition. The opposition's discussion was primarily focused on trail access, dedication of land for trail easements, the applicant's waiver requests, and maintenance agreement for a private road. During the discussion, several of the Planning Commission members stated that they felt the opposition's concerns were not directly relevant to the review criteria or were not determined to be legally enforceable, and found that the proposal, including the proposed waivers, met the review criteria of the Land Development Code.

### Planning Commission Recommendation and Vote

Ms. Merriam moved / Mr. Schuettpelz seconded to recommend approval for the Minor Subdivision, utilizing the resolution attached to the staff report with nine (9) conditions, two (2) notations, two (2) waivers, and a finding of water sufficiency with regards to quality, quantity, and dependability, that this item be forwarded to the Board of County Commissioners for their consideration. The motion was unanimously **approved (9-0)**. The item was heard as a called-up consent agenda item.

### Attachments

1. Planning Commission Minutes from 3/7/2024.
2. Signed Planning Commission Resolution.
3. Planning Commission Staff Report.
4. Public Comments.
5. Draft BOCC Resolution.

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

O: 719-520-6300  
MegganHerington@elpasoco.com  
2880 International Circle, Suite 110  
Colorado Springs, CO 80910

**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

---

## **EL PASO COUNTY PLANNING COMMISSION**

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

Planning Commission (PC) Meeting  
Thursday, March 7, 2024  
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:** THOMAS BAILEY, SARAH BRITAIN JACK, JIM BYERS, BECKY FULLER, BRANDY MERRIAM, ERIC MORAES, BRYCE SCHUETTPELZ, WAYNE SMITH, AND CHRISTOPHER WHITNEY.

**PC MEMBERS VIRTUAL AND VOTING:** NONE.

**PC MEMBERS PRESENT AND NOT VOTING:** NONE.

**PC MEMBERS ABSENT:** JAY CARLSON, JEFFREY MARKEWICH, KARA OFFNER, AND TIM TROWBRIDGE.

**COUNTY STAFF PRESENT:** MEGGAN HERINGTON, JUSTIN KILGORE, RYAN HOWSER, KYLIE BAGLEY, SCOTT WEEKS, DANIEL TORRES, ED SCHOENHEIT, VICTORIA CHAVEZ, MIRANDA BENSON, AND LORI SEAGO.

**OTHERS PRESENT AND SPEAKING:** DAVE GORMAN, LARRY FARISS, NANCY REINHARDT, CHERYL PIXLEY, JUDITH VON AHLEFELDT, DOUG DIDLEAU, ARTHUR GONZALES, ADAM LANCASTER, AND JASON NELSON.

#### **1. REPORT ITEMS**

**Ms. Herington** updated the board regarding the anticipated Land Development Code update. PCD has entered into a contract with a Colorado-based planning and law firm, Clarion Associates. In addition to involvement from herself and Mr. Kilgore, Kylie Bagley will be the project manager. Ms. Bagley will be scheduling meetings with PC members and stakeholders. Once the plan is established, PCD will bring Clarion before the PC for more information. Additionally, PCD staff is working on a Master Plan implementation report. Ryan Howser will be the project manager for that report. She anticipates a presentation to the PC by this summer. The next PC Hearing is Thursday, March 21, 2024, at 9:00 A.M.

#### **2. CALL FOR PUBLIC COMMENT FOR ITEMS NOT ON THE HEARING AGENDA (NONE)**

**3. CONSENT ITEMS**

**A. Adoption of Minutes for meeting held February 15, 2024.**

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

**B. SF2215**

**BAGLEY**

**FINAL PLAT  
PAIR-A-DISE SUBDIVISION FILING NO. 1**

A request by Aaron Atwood for approval of a 5.04-acre Final Plat creating two single-family lots. The property is zoned RR-2.5 (Residential Rural) and is located at 515 Struthers Loop, one-third of a mile south of the intersection of West Baptist Road and Leather Chaps Road. (Parcel No. 7136002005) (Commissioner District No. 3)

**NO PUBLIC COMMENT OR DISCUSSION**

**PC ACTION: MS. FULLER MOVED / MR. MORAES SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3B, FILE NUMBER SF2215, FOR A FINAL PLAT, PAIR-A-DISE SUBDIVISION FILING NO. 1, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH ELEVEN (11) CONDITIONS, TWO (2) NOTATIONS, ONE (1) WAIVER, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).**

**C. MS237**

**BAGLEY**

**MINOR SUBDIVISION  
GRAUPNER SUBDIVISION**

A request by M.V.E., Inc. for approval of a 41.37-acre Minor Subdivision creating four single-family lots. The property is zoned RR-5 (Residential Rural) and is located at 14710 Tanner Trail, 0.64 miles south of the intersection of Woodlake Road and Tanner Trail. (Parcel No. 4132000010) (Commissioner District No. 1)

**NO PUBLIC COMMENT OR DISCUSSION**

**PC ACTION: MR. SCHUETTEL MOVED / MS. BRITTAIN JACK SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3C, FILE NUMBER MS237 FOR A MINOR SUBDIVISION, GRAUPNER SUBDIVISION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TEN (10) CONDITIONS, TWO (2) NOTATIONS, ONE (1) WAIVER, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).**

**D. SF235**

**HOWSER**

**FINAL PLAT  
CRAWFORD APARTMENTS**

A request by Aime Ventures, LLC for approval of a 1.157-acre Final Plat creating one multi-family lot to accommodate 22 multi-family units. The property is zoned RM-30 (Residential Multi-Dwelling) and is

located on the north side of Crawford Avenue, approximately 350 feet west of Grinnell Boulevard. (Parcel No. 6513125009) (Commissioner District No. 4)

**NO PUBLIC COMMENT**

**DISCUSSION**

**Mr. Bailey** recognized that public comments had been received and provided to the board.

**Mr. Moraes** expressed gratitude for the public comments. He further stated that the zoning on the property is already RM-30, so the owner has the legal right to build up to 30 units per acre on their property. There will be further steps before the structure is built. He encouraged the public to work with PCD to stay engaged and follow the process.

**Ms. Fuller** reiterated that Final Plat is further along in the process than the zoning decision. She encouraged members of the public to review the criteria of approval for project types to understand what the PC is required to look at when making their recommendation.

**PC ACTION: MS. BRITTAIN JACK MOVED / MS. MERRIAM SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3D, FILE NUMBER SF235 FOR A FINAL PLAT, CRAWFORD APARTMENTS, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH NINE (9) CONDITIONS, TWO (2) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).**

**E. MS206**

**HOWSER**

**MINOR SUBDIVISION  
FOREST HEIGHTS ESTATES**

A request by Jon Didleaux and Phyllis Didleau Revocable Trust for approval of a 32.62-acre Minor Subdivision creating four single-family residential lots and two tracts. The property is zoned RR-5 (Residential Rural) and is located at 8250 Forest Heights Circle. (Parcel Nos. 5209000050, 5209000120, and 5209000121) (Commissioner District No. 1)

**PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER MS. FULLER.**

**4. CALLED-UP CONSENT ITEMS**

**3E. MS206**

**HOWSER**

**MINOR SUBDIVISION  
FOREST HEIGHTS ESTATES**

A request by Jon Didleaux and Phyllis Didleau Revocable Trust for approval of a 32.62-acre Minor Subdivision creating four single-family residential lots and two tracts. The property is zoned RR-5 (Residential Rural) and is located at 8250 Forest Heights Circle. (Parcel Nos. 5209000050, 5209000120, and 5209000121) (Commissioner District No. 1)

**STAFF & APPLICANT PRESENTATIONS**

**Mr. Moraes** asked where the private road would begin.

**Mr. Daniel Torres**, with DPW Development Services (Engineering), answered that the private road begins where Forest Heights Circle (private) meets Herring Road (public).

**Mr. Smith** asked why an applicant would choose a private road over a public road.

**Mr. Torres** explained that opting for a private road would give the developer additional allowances regarding right-of-way (ROW) width or paved cross-sections, as examples.

**Mr. Whitney** asked why more people aren't opting for private roads.

**Mr. Torres** replied that there are various reasons, but provided maintenance as one example.

**Mr. Whitney** reiterated that upkeep is the owner's responsibility if it's a private road. He then asked if the County has a preference between public or private so long as the road meets the criteria.

**Mr. Torres** clarified that County staff does review the proposed road to ensure it is sufficient. That process was completed in this case and the 20-foot cross-section was agreed upon.

**Mr. Smith** asked if a private road could restrict public access (to trails, for example).

**Mr. Torres** answered that it would depend on what the access easement identifies. If a gate were put on the road, that could restrict access. He further stated that most private roads remain open to the public. The staff presentation concluded. The applicant's presentation began.

**Mr. Bailey** asked for clarification regarding whether a trail easement was being requested on the northern side of the proposed Lot 1.

**Mr. Dave Gorman**, with M.V.E. Inc., representing the applicant, stated they are not proposing an easement in the location. He explained that the property owners are not comfortable with having a public trail on or leading directly to their mother's backyard (8250 Forest Heights Circle). He further explained that fencing along the property line has been in existence since the 1980s.

**Mr. Bailey** expressed his position that nothing compels a property owner to grant an easement. He recognizes that someone has asked for it but Mr. Gorman has explained why the family did not grant that access. He recognizes that that is the applicant's choice.

**Mr. Gorman** added that nothing prevents future discussion between the property owners. As trails extend, other doors may open. The presentation continued.

**Mr. Whitney** asked for verification that the applicants had no issue with the Black Forest Trail easement running along Forest Heights Circle.

**Mr. Gorman** confirmed. The easement can be placed on the roadway. He added that there is another resident who owns connecting land, so they would need to approach them to see if they are agreeable. Regarding the land included on this Final Plat, that easement is acceptable.

**Mr. Byers** clarified that they were just discussing the east to west trail that would lay over the roadway. He then asked about the platted easement that runs north to south.

**Mr. Gorman** explained that the north to south utility easement is for a gas line and a trail easement runs over it as well.

**Mr. Byers** asked why trails were being dedicated when there is no apparent connectivity.

**Mr. Gorman** answered that the County Parks Department asked for the trail dedication, knowing there was no current connectivity outside the subject plat, with the hopes and/or expectation that there would be trail connections in the future.

**Mr. Byers** asked if there was a current trail connection to the south.

**Mr. Gorman** replied that there is no connection. He added that he's not sure if unofficial trails exist.

**Mr. Bailey** reiterated that the utility easement exists regardless of an additional trail easement.

**Mr. Byers** pointed out that that parcel of land excluded from the subject plat (in the center) does not have the trail easement. The trail is not continuous through the property.

**Mr. Gorman** confirmed. The current applicant cannot grant that easement as they are not the owner of that parcel. Even though there is no current connection, the applicant complied with the dedication requested by the Parks Department.

**Ms. Fuller** asked about the current shape of the overall parcel.

**Mr. Gorman** explained that over time, pieces of land were carved out and sold off by a previous owner before the State's subdivision law. The applicant's proposal attempts to create parcels that each have road access.

**Mr. Bailey** asked PCD staff if this subdivision created legal lots where there currently are none.

**Mr. Howser** confirmed.

**Mr. Gorman** noted that often in those cases, there are existing homes on the "illegal" lots, but there are no houses on the proposed lots of this subdivision.

## **PUBLIC COMMENTS**

**Mr. Bailey** began the public comment period by asking for the LDC approval criteria to be presented and asked that public comments be limited to the criteria. He pointed to item 8 on the list, "Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM." He stated that the criteria does not call for any other organization's need to approve easements. The PC cannot consider points that are not relevant to the LDC criteria of approval.

**Mr. Larry Fariss** spoke in opposition. He mentioned that trails are important to him, that there are many dirt road/trail connections in the area that go across people's properties, and that even his property had a trail between two adjacent dirt roads. He used these trails before the Black Forest fire, after which he became an "absent owner" (he still owns his property and lives in the region, but not on the same land that was burned). He was the president of the Black Forest Trails Association (BFTA) for 10-15 years, during which time he coordinated trail connectivity with private landowners, including the Didleau's. He believes the subject property to be a linchpin for the area's trail system. He then referred to the proposed Final Plat. He explained why a trail easement along the northern boundary of Lot 1 would create a connection from Meadow Glen Lane (to the north), down the utility easement, and west from Forest Heights Circle to Herring Road. If the Didleau family doesn't want a trail on or leading to their mother's property (which is directly east of Lot 1), he stated that the neighbors north of Lot 1 verbally agreed to allow a trail connection from Lot 1, across the corner of their property, to Meadow Glen Lane. He stated that as the next president of BFTA, he will target implementation of a trail connection in this area as a priority. He also requested that Forest Heights Circle not be gated so the public can walk along the road.

**Ms. Nancy Reinhardt** spoke in opposition. She previously lived south of Black Forest Section 16 Trail (which is south of the subject property). She described her previous use of trails in the area.

**Mr. Bailey** reiterated that the proposed Final Plat does not include an easement across Lot 1. He expressed that the board understands the issue - that other people want access to this landowner's private property - but that's not something the board can consider in review of this Final Plat request. He stated it is not the role of the PC to compel a landowner to grant public access to their property.

**Ms. Cheryl Pixley** spoke in opposition. She stated that the proposed plat notes already call for a 20' wide utility and drainage easement along the subdivision's boundary lines. As the northern lot line of Lot 1 is a subdivision boundary line, she is requesting that easement also be dedicated as a public trail easement. She stated that significant effort has been made since the Black Forest fire to reestablish trail connections. She stated that the Your El Paso Master Plan strategic plan goals could be accomplished by looking at the bigger picture of how the subject proposal serves the citizens. She stated this could be an example of cooperation between the County and the people it serves by respecting and securing for the future "historical amenities" used by other residents. She stated that she has no opposition to the Final Plat, but asks that the board use its discretion to recommend a plat modification and to recommend the following conditions of approval: 1) Designate a 20' wide multi-use, non-motorized trail easement along the 20' wide utility and drainage easement at the north lot line of Lot 1, starting from the regional trail in the gas pipeline easement and continuing to the northeast corner of Lot 1; and 2) Designate a public trail easement from Herring Road east along the length of the gravel road known as Forest Heights Circle.

**Ms. Judith von Ahlefeldt** spoke in opposition. She spoke about the history of the area. She was formerly the secretary for BFTA. She agreed that a trail easement across Lot 1 would be pivotal to BFTA's efforts in connecting dirt roads with private easements over the last 25 years. She continued to describe the history of the area. She then discussed the maintenance agreement for the road, which she did not sign because she did not feel protected. She described how the agreement was set up; the 2 elected administrators would make all decisions. She contributed financially to road maintenance in the past. She doesn't think the road needs the level of improvement proposed. She stated there are wetlands and springs on the subject property. She further stated Vollmer hill is the highest point east of the Rocky Mountains until the Mississippi River so there is not much watershed or flooding. She criticized County engineers' drainage report and suggestions, which she called "overkill". She dislikes the placement of the cul-de-sac because she believes the proposed location will have the maximum impact on wetlands and will incur a higher cost for the Didleau's. She thinks the cul-de-sac should be positioned further from her property, between proposed Lots 1 and 4, with only driveways leading east. As it is currently proposed, there will be a large ditch close to her property line. Her offer to purchase part of the Didleau's property so she could decide where the cul-de-sac and driveways were located was not entertained. She stated that she submitted multiple documents early in the subdivision process that discuss environmental impacts and the history of the property. She acknowledged that many of her issues were not resolved in the Final Plat process because they're not part of the review criteria. She referred to the Your El Paso Master Plan calling for each project in the forested key area to be reviewed on a case-by-case basis to determine impacts. She read additional considerations from a list on page 8 of 13 within a document she provided, which is uploaded to EDARP and part of the public comment record. She asked for the PC to recommend the applicants collaborate with BFTA to establish a trail easement and maintain connection to Meadow Glen Lane.

**Mr. Doug Didleau**, the applicant's son, provided rebuttal comments. He stated that a meeting with neighbors, BFTA, and Duncan Bremer (attorney) was held by his mother in May 2023. At that meeting, a trail was proposed traveling east from the cul-de-sac towards the Redtail Ranch subdivision, crossing Ms. von Ahlefeldt's property, then connecting back to Meadow Glen Lane with a trail on the northern lot line of 8250 Forest Heights Circle (his mother's property, not part of the current subdivision). This way, the trail would be in front of his mother's house, not behind. He

stated that Ms. von Ahlefeldt rejected that trail access on her property. He stated that his family did not feel like they should have 100% of a trail they don't want and won't use on their property when the advocate for the trail system doesn't want part of it on her own property. He stated that Ms. Pixley even made various suggestions to Ms. von Ahlefeldt, but they were all rejected. He provided photos of a fence that a previous owner of the property had installed in the 1980s, which are uploaded to EDARP and part of the record. He stated that recent work on the fence was only done as upkeep and repair. Anyone crossing that trail could only have done so after vandalizing the fence and trespassing. He further mentioned that his family had been victims of theft.

**Mr. Gorman** responded to the remarks about the road design. The road was designed to be as compliant as possible with the ECM for safety and durability and was reviewed by County staff. The U.S. Army Corps of Engineers was notified of the project, and they had no problems. He addressed the maintenance agreement even though it is a private matter. The co-administrators will be required to submit an annual budget report that must be approved by members of the agreement.

## DISCUSSION

**Ms. Merriam** asked who would be responsible for ensuring the safe public use within an easement if a trail were to be put on the property. Who would be responsible financially?

**Mr. Gorman** didn't know. (During this time, Mr. Howser approached Ms. Seago to discuss.)

**Mr. Bailey** noted that while interesting, the existence and/or details of a maintenance agreement are not relevant to the Final Plat request.

**Ms. Brittain Jack** stated there are many issues with people crossing private property. She is currently working with people in a similar situation; she doesn't think this applicant should be compelled to grant an easement. She mentioned there may be relevant legislation on the topic.

**Mr. Howser** stated that the County wouldn't be able to provide an answer to Ms. Merriam's question because it would not be a County easement. It would be a private matter between the property owners and BFTA.

**Mr. Whitney** agreed that a property owner shouldn't be made to do anything they don't want to do unless it's unlawful. Overall, the situation should be fixable, but the PC cannot order someone to give an easement.

**Mr. Bailey** reiterated that the PC is making a recommendation to the BoCC and is only considering the Final Plat request. He mentioned that once the lots are subdivided, it's possible that whoever purchases Lot 1 might agree to an easement along the northern lot line. He further mentioned that BFTA could purchase Lot 1. He stated that private property rights are important to the PC and BoCC. He agreed with Mr. Whitney's comments. There are other solutions to the problem.

**Ms. Fuller** asked about adding language to the Final Plat to dedicate Forest Heights Circle as a trail easement, as earlier discussed. She expressed that she will be in favor of the Final Plat. She doesn't think discussion of a maintenance agreement or location of the cul-de-sac are appropriate. She mentioned private property rights and remarked that if the Didleau's want to place it where they've proposed, then it's not up to the neighbor, who doesn't own the property and won't be paying for it, to change that decision. She expressed confidence in its design since it has gone through the review process. She agreed that there are likely other places to make a trail connection.



**UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH NINE (9) CONDITIONS, TWO (2) NOTATIONS, TWO (2) WAIVERS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).**

**5. REGULAR ITEMS**

**A. MP233**

**CHAVEZ**

**MASTER PLAN  
CO 83 ACCESS CONTROL PLAN**

The El Paso County Department of Public Works in conjunction with Colorado Department of Transportation (CDOT) and the City of Colorado Springs requests adoption of the CO 83 Access Control Plan as an element of the El Paso County Master Plan. With adoption, this Plan will become the principal plan for further planning and development of the CO 83 corridor access within unincorporated El Paso County and the City of Colorado Springs on this CDOT owned highway. The Plan encompasses CO 83 at Powers Boulevard (CO 21) to County Line Road (Palmer Divide Road). (All Commissioner Districts)

**STAFF & APPLICANT PRESENTATIONS**

**Ms. Victoria Chavez**, DPW Transportation Manager, introduced **Mr. Arthur Gonzales**, CDOT Access Manager. Mr. Gonzales began the presentation.

**Mr. Bailey** asked if any issues had been reported at Stagecoach after improvements were made.

**Mr. Jason Nelson**, CDOT Traffic Engineer, replied that Commissioner Williams had put him in contact with an HOA on the west side of Highway 83. He attended a large meeting with residents. He remarked that many items within the staff presentation were a result of that meeting. Flying Horse North made improvements on the east side of the road, but a study was conducted, a consultant is on board, and CDOT is looking to schedule a public open house. Opportunities for the intersection will be evaluated. There is no funding currently, but they are connecting with the public.

**Mr. Bailey** wondered if this was a situation where residents were worried about change but then pleasantly surprised after improvements were made.

**Mr. Nelson** sympathized with the residents' concerns that only half the intersection was improved.

**Mr. Gonzales** continued the presentation.

**Ms. Merriam** asked if traffic and incident reports were updated periodically given that so much change has taken place in the County and State. Numbers from 5 years ago may no longer be relevant in certain areas.

**Mr. Gonzales** used Stagecoach Road as an example. When changing traffic patterns are observed, or additional development occurs, CDOT does an operations evaluation to reassess that area.

**Mr. Nelson** further explained that there is a robust safety program and fatality investigations take place within 24 hours. CDOT tracks causation factors. He noted that El Paso County has a high crash rate. Regarding Highway 83, speeding and distracted driving are common causes.

**Ms. Merriam** suggested that updating reported numbers would be beneficial because only 5 years from adoption of this Plan, the statistics will be 10 years old.

**Mr. Nelson** replied that they could complete that update.

**Mr. Bailey** compared Ms. Merriam's observation to the situation the PC found themselves in when adopting the Your El Paso Master Plan. One segment of that Plan included an evaluation of "existing conditions". By the time the Plan was ready for adoption, the existing conditions had changed. He reiterated that CDOT is constantly monitoring data. He asked Ms. Merriam if she was requesting changes prior to adoption.

**Ms. Merriam** mentioned presentation slideshow page 7 and stated it might be better to include language that indicates continuous research. She doesn't see reference to ongoing data.

**Mr. Gonzales** understood the request and concluded the presentation.

## **NO PUBLIC COMMENTS**

## **DISCUSSION**

**Mr. Smith** asked how traffic is counted and monitored. He specifically asked about traffic congestion from southbound Highway 83 onto Powers Boulevard in. That traffic light is confusing for people who don't travel to that area often.

**Mr. Nelson** answered that CDOT has a yearly count program. He mentioned that over the last 5 year, CDOT has expanded a website called MS2 Data. All consultants and vendors in Colorado that do traffic counts are contributing to that database, so the info includes highways, rural roads, city streets, etc. If CDOT doesn't count a road every year, they'll grow it per year using a growth factor based on land-use. Overall, there's a robust data collection system in place. He then addressed the Highway 83/Powers Boulevard intersection. He explained that a second phase connection to Powers will move forward soon but is development funded. That intersection will change significantly in the future.

**Mr. Bailey** noted that traffic studies in the area will be artificially inflated as long as Voyager Parkway remains closed for improvements.

**Ms. Chavez** pulled up another presentation so that Mr. Gonzales could explain a change made because of public comment.

**Mr. Gonzales** reviewed the history of the change. There was a previous agreement with CDOT regarding where his property access would be located. That access had not been included in the initial Plan. They worked with the citizen to update the Plan.

**Ms. Chavez** pulled up other attachments included in the hearing packet. She explained that the IGA goes to the BoCC and is not signed by the PC. The chart shows updates made to the Plan. This Plan is used by PCD during EA meetings held with potential developers in the area.

**PC ACTION: MR. MORAES MOVED / MS. BRITTAIN JACK SECONDED TO APPROVE ADOPTION OF REGULAR ITEM 5A, FILE NUMBER MP233 FOR A MASTER PLAN, THE CO 83 ACCESS CONTROL PLAN, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS. THE MOTION TO APPROVE ADOPTION PASSED (9-0).**

## **6. NON-ACTION ITEMS (NONE)**

**MEETING ADJOURNED** at 11:40 A.M.

FINAL PLAT (RECOMMEND APPROVAL)

MERRIAM moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. MS206  
FOREST HEIGHTS ESTATES

WHEREAS, Jon Didleaux and Phyllis Didleau Revocable Trust did file an application with the El Paso County Planning and Community Development Department for approval of a Final Plat for the Forest Heights Estates Subdivision for the property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on March 7, 2024; 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.
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 Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code (as amended):

1. The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
2. The subdivision is in substantial conformance with the approved preliminary plan;
3. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;
4. Either a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code, or, with respect to applications for administrative final plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval;
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of the Code;
6. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];
7. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the ECM;
8. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM;
9. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;

10. The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code;
11. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code;
12. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;
13. The subdivision meets other applicable sections of Chapter 6 and 8 of the Code; and
14. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

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

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Jon Didleaux and Phyllis Didleau Revocable Trust for a final plat of Forest Heights Estates be approved by the Board of County Commissioners with the following conditions and notations:

#### CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of 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 species.

4. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
5. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
6. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 18-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 11/30/2023, as provided by the County Attorney's Office.
9. Applicant shall pay Kettle Creek drainage basin fees in the amount of \$17,632.00 at time of plat recordation.

NOTATIONS

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

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)

Thomas Bailey	<u>aye</u> / no / non-voting / recused / absent
Sarah Brittain Jack	<u>aye</u> / no / non-voting / recused / absent

Jim Byers	<u>aye</u> / no / non-voting / recused / absent
Jay Carlson	aye / no / non-voting / recused / <u>absent</u>
Becky Fuller	<u>aye</u> / no / non-voting / recused / absent
Jeffrey Markewich	aye / no / non-voting / recused / <u>absent</u>
Brandy Merriam	<u>aye</u> / no / non-voting / recused / absent
Eric Moraes	<u>aye</u> / no / non-voting / recused / absent
Kara Offner	aye / no / non-voting / recused / <u>absent</u>
Bryce Schuettpeiz	<u>aye</u> / no / non-voting / recused / absent
Wayne Smith	<u>aye</u> / no / non-voting / recused / absent
Tim Trowbridge	aye / no / non-voting / recused / <u>absent</u>
Christopher Whitney	<u>aye</u> / no / non-voting / recused / 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 7th day of March 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By:   
Thomas Bailey, Chair

EXHIBIT A

A Tract of land in the Southwest 1/4 of Section 9, Township 12 South, Range 65 West, of the 6th P.M. County of El Paso, State of Colorado, more specifically described as follows;

Commencing at the West 1/4 corner of Section 9,

Thence Along the North line of said Southwest 1/4, N89°55'03"E a distance of 1391.55 feet to the Point of Beginning of the parcel to be described hereby;

Thence continue along said North line, N89° 55'03"E a distance of 506.51 feet to the Northwest corner of that parcel described at Book 2318, Page 387, of the records of the El Paso County Clerk and Recorder;

Thence S00°03'25"W along the West line of said parcel a distance of 430.00 feet;

Thence N89°55'03"E parallel to said North line, a distance of 506.81 feet to the Northmost West line of the parcel described in Book 721, Page 970 of said records;

Thence S00°09'20"W a distance of 60.00 feet;

Thence S89°55'03"W along the line of said parcel 459.94 feet;

Thence S00°11'43"W along the West line of said parcel a distance of 829.70 feet;

Thence S89°54'44"W a distance of 1941.21 feet to a point on the East Right of Way line of Herring Road;

Thence N00°03'25"E" along said East line a distance of 327.80 feet to the South line of that parcel described in Book 2371 Page 388 of said records;

Thence N89°55'03"E along the South line of said parcel a distance of 434.00 feet;

Thence; N00°03'25"E along the East line of said parcel a distance of 501.84 feet to the South line of that parcel described in Book 2215 Page 559 of said records

Thence along said South line N89°55'03"E along said South line distance of 449.43 feet to the East line of said parcel;

Thence N00°03'25"E along said East line a distance of 60.00 feet;

Thence N89°55'03"E a distance of 506.51 feet,

Thence; N00°03'25"E a distance of 430.00 feet to the Point of Beginning, except that parcel described in Book 2645, Page 207.

EXCEPTION PARCEL: Book 2645, Page 207 of the records of El Paso County, Colorado

A tract of land in the Southwest 1/4 of Section 9, Township 12 South, Range 65 West of the 6th p.m. County of El Paso, State of Colorado more particularly described as follows;

Commencing at the West 1/4 corner of said Section 9,

Thence along the West line of Section 9, S00°03'25"W a distance of 490.00 feet;

Thence N89°55'03"E a distance of 1090.00 feet to the Point of Beginning of the tract described hereby;

Thence N89°55'03"E a distance of 610.00 feet;

Thence S00°03'25"W a distance of 325.00 feet;

Thence S89°55'03"W a distance of 610.00 feet;

Thence N00°03'25"E a distance of 325.00 feet to the Point of Beginning.

This description contains 34.528 acres (not including the exception parcel).

TRACT A



Tract in Northwest quarter of the Southwest quarter of Section 9, Township 12 South, Range 65 West, of the 6th P.M. County of El Paso, State of Colorado, described as follows:

Commencing at the West 1/4 corner of said Section 9, Thence along the west line of said Section 9 S00°03'25"W a distance of 430.00 feet;

Thence N89°55'03"E 30.00 feet to a point on the West Right of Way line of Herring Road and the Point Of Beginning (P.O.B.) of the Tract described hereby;

Thence N89°55'03"E a distance of 435.00 feet;

Thence S01°00'46"W a distance of 60.01 feet;

Thence S89°55'03"W a distance of 434.00 feet to a point on said West Right of Way line;

Thence N00°03'25"E a distance of 60.00 feet to the Point Of Beginning (POB).

Tract A contains 0.598 Acres, more or less.

THE TOTAL ACREAGE OF THIS SUBDIVISION PLAT IS 35.126 ACRES.

**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  
 Thomas Bailey, Chair

**FROM:** Ryan Howser, AICP, Planner III  
 Ed Schoenheit, Engineer I  
 Meggan Herington, AICP, Executive Director

**RE:** Project File Number: MS206  
 Project Name: Forest Heights Estates  
 Parcel Numbers: 5209000050, 5209000120, and 5209000121

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
Jon Didleaux; Phyllis Didleau Revocable Trust 8250 Forest Heights Circle Colorado Springs, CO, 80908	M.V.E., Inc. 1903 Lelaray Street, Suite 200 Colorado Springs, CO 80909

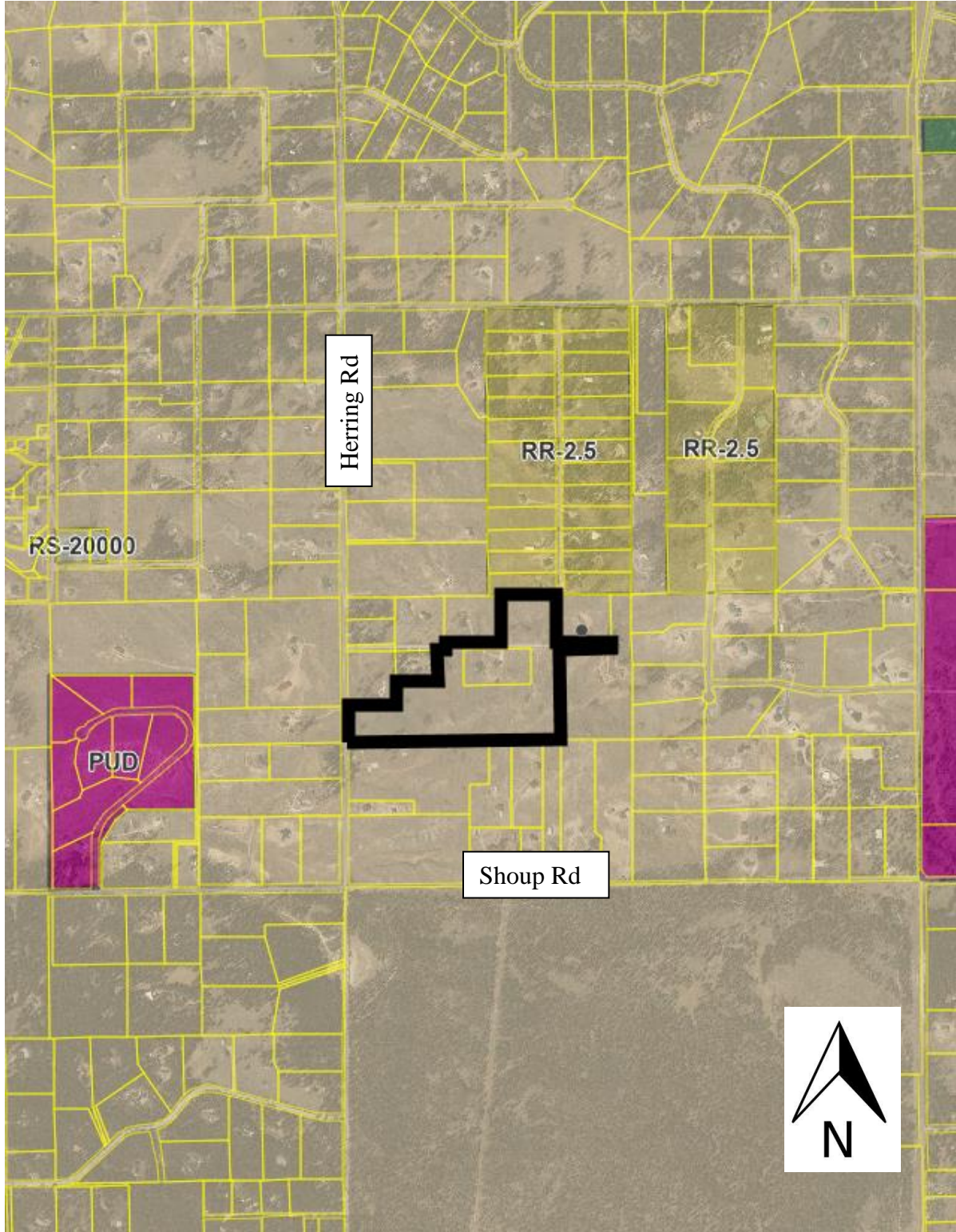
**Commissioner District: 1**

<b>Planning Commission Hearing Date:</b>	<b>3/7/2024</b>
<b>Board of County Commissioners Hearing Date:</b>	<b>3/28/2024</b>

**EXECUTIVE SUMMARY**

A request by Jon Didleaux and Phyllis Didleau Revocable Trust for approval of a 32.618-acre minor subdivision creating four (4) single-family residential lots and two (2) tracts. The property is zoned RR-5 (Residential Rural) and is located at 8250 Forest Heights Circle.

VICINITY MAP



2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

## A. WAIVERS AND AUTHORIZATION

### Waiver(s):

The applicant requests a waiver from Section 8.4.4.E of the Code to allow a private road to be constructed in lieu of a public road. Pursuant to Section 8.4.3.B.2.e, lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to a waiver granted under Section 8.4.4.E. Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the waiver. Private road waivers may only include design standards for the following:

- Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;
- Design speed where it is unlikely the road will be needed for use by the general public;
- Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;
- Maximum and minimum block lengths; and
- Maximum grade.

In approving a waiver for private roads, the Board of County Commissioners shall find that the waiver meets the criteria outlined in Section 8.4.4.E of the El Paso County Land Development Code (as amended).

The applicant requests a waiver from Section 8.4.7.B.4.e.iii of the Code to allow a four-lot subdivision without establishing an HOA. Specifically, the Code states: *For subdivisions with 4 lots or more whose water supply consists of wells, and particularly where there are water augmentation or replacement obligations, the applicant shall establish an HOA or other entity approved by the CAO that shall be responsible to carry out the obligations under the water court decree, Colorado Groundwater Determination, and any related augmentation or replacement plans.*

The County Attorney's Office (CAO) has reviewed the application and does not have any concerns regarding the creation of four (4) lots without establishment of an HOA. The applicant has provided covenants and designated an appropriate party to be responsible for carrying out the obligations under the water court decree.

In approving waivers from any of the subdivision design standards and requirements, the Board of County Commissioners shall find that the waivers meet the criteria for



approval outlined in Section 7.3.3 (Waivers) of the El Paso County Land Development Code (as amended):

- The waiver does not have the effect of nullifying the intent and purpose of this Code;
- The waiver will not result in the need for additional subsequent waivers;
- The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;
- The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;
- A particular non-economical hardship to the owner would result from a strict application of this Code;
- The waiver will not in any manner vary the zoning provisions of this Code; and
- The proposed waiver is not contrary to any provision of the Master Plan.

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

## B. APPROVAL CRITERIA

In approving a Minor Subdivision, the BoCC shall find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the Code (as amended):

- *The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.*
- *The subdivision is consistent with the purposes of the Code.*
- *The subdivision is in conformance with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analysis, studies, reports, plans, designs, documents, and other supporting materials.*
- *A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code.*
- *A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of the Code.*
- *All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)].*

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

- *Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual ("ECM") are provided by the design.*
- *The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development.*
- *Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County and in compliance with the Code and ECM.*
- *The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.*
- *Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.*
- *The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.*
- *The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.*
- *Off-site impacts were evaluated, and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code.*
- *Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.*
- *The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. § 34-1-302(1), et seq.].*



**C. LOCATION**

North:	RR-5 (Residential Rural)	Residential
	RR-2.5 (Residential Rural)	Residential
South:	RR-5 (Residential Rural)	Residential
East:	RR-5 (Residential Rural)	Residential
West:	RR-5 (Residential Rural)	Residential

**D. BACKGROUND**

The subject property was created on September 24, 1990, by deed. To be considered a legal lot, the parcel would have needed to have been created prior to July 17, 1972, or have been created legally through a subdivision action recognized by El Paso County pursuant to Section 7.2.1 of the Land Development Code and in conformance with C.R.S. Sections 30-28-133 through 139. Therefore, the parcel does not meet the definition of a "Legal Lot" as defined in Section 1.15 of the Land Development Code. Pursuant to Section 1.13.3 of the Code, no building permits may be authorized for a parcel of land that has not been included within a final plat action or otherwise exempted by the Code.

The applicant is now requesting approval of a Minor Subdivision to allow the creation of four (4) new single-family residential lots. If the application for Minor Subdivision is approved, the resulting lots will be considered legal lots.

**E. ANALYSIS**

**1. Land Development Code and Zoning Analysis**

The Minor Subdivision application meets the submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the El Paso County Land Development Code (as amended).

The proposed Minor Subdivision creates four lots with a minimum lot size of 5 acres. Two of the four proposed lots are greater than 5 acres; these are proposed to be 7.6 acres and 12.10 acres in size. These larger lots are proposed to be located on the south side of the property, proximate to larger properties to the south of the subject property. The smaller lots are proposed to be located adjacent to smaller lots to the north and west of the subject property.



## F. MASTER PLAN COMPLIANCE

### 1. Your El Paso County Master Plan

#### a. Placetype Character: Large-Lot Residential

*The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more and are generally large and dispersed throughout the area so as to preserve a rural aesthetic. The Large-Lot Residential placetype generally supports accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote than Rural areas. Large-Lot Residential neighborhoods typically rely on well and septic, but some developments may be served by central water and waste-water utilities. If central water and wastewater can be provided, then lots sized less than 2.5 acres could be allowed if; 1.) the overall density is at least 2.5 acres/lot, 2.) the design for development incorporates conservation of open space, and 3.) it is compatible with the character of existing developed areas.*

*Conservation design (or clustered development) should routinely be considered for new development within the Large-Lot Residential placetype to provide for a similar level of development density as existing large-lot areas while maximizing the preservation of contiguous areas of open space and the protection of environmental features. While the Large-Lot Residential placetype is defined by a clear set of characteristics, the different large-lot areas that exist throughout the County can exhibit their own unique characters based on geography and landscape.*

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

##### Primary

- *Single-family Detached Residential (Typically 2.5-acre lots or larger)*

##### Supporting

- *Parks/Open Space*
- *Commercial Retail (Limited)*
- *Commercial Service (Limited)*
- *Agriculture*

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM



**Analysis:**

The property is located within the Large-Lot Residential placetype. The Large-Lot Residential placetype supports the rural character of the County while providing unique and desirable neighborhoods. Relevant goals and objectives are as follows:

**Goal LU1** – *Ensure compatibility with established character and infrastructure capacity.*

**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 HC1-5** – *Focus detached housing development in Large-Lot Residential and Suburban Residential areas given the increasing infrastructure and environmental constraints associated with such development to help maintain the established character of rural communities.*

**Goal HC2** – *Preserve the character of rural and environmentally sensitive areas.*

**Goal HC-2 Specific Strategy** – *Maintain existing and expand the Large-Lot Residential placetype in Black Forest/North Central area in a development pattern that matches the existing character of the developed Black Forest community.*

The proposed Minor Subdivision is consistent with the recommended density of the Large-Lot Residential Placetype.

**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.*



**Analysis:**

The character of the surrounding area is consistent with the Area of Change designation, which identifies that existing vacant land may be developed in the future. Since the subject property is surrounded primarily by developed land, it is unlikely that the character of the area may change substantially in the future. The current Minor Subdivision proposal is consistent with the Area of Change designation and with the current development pattern of the surrounding properties.

**c. Key Area Influences: Forested Area**

*This Key Area includes parts of the County where natural forests are the predominant feature such as Black Forest, areas north of Peyton, and areas along Highway 115 as well as lands within Pike National Forest. Pike National Forest is one of the County's largest natural amenities and tourist destinations. Continued coordination with the U.S. Forest Service is critical to ensuring future development in areas adjacent to the Forest do not negatively impact the natural environment. There are also many established communities within Pike National Forest particularly in Ute Pass and along Highway 115. New development and any redevelopment in these locations should be of a lower intensity to mitigate any impacts on the Forest, properly manage stormwater, provide safe access to major roads and state highways for the traveling public and emergency response vehicles and adhere to the strictest building codes to prevent any hazards such as fires and soil erosion related to poor planning, design, and construction.*

*Managed residential growth, along with supportive commercial uses, have helped the other forested areas preserve their natural amenities while supporting the daily needs of a thriving local community. The seamless connection between the natural environment and small-scale, low intensity development is critical to their identity. All new development and redevelopment in this Key Area should strictly adhere to the transportation and infrastructure, stormwater requirements, built form, and transition guidelines outlined in their appropriate placetypes. Each development proposal should also be reviewed on a case-by-case basis to determine its specific impact on the forested area and the established character of the individual community.*



**Analysis:**

The property is located within the Forested Area. A relevant specific strategy is as follows:

**Goal LU1 Specific Strategy** – *New development and any redevelopment in Forested Areas should be of a lower intensity to mitigate any impacts on the Forest, properly manage stormwater, provide safe access to major roads and state highways for the traveling public and emergency response vehicles and adhere to the strictest building codes to prevent any hazards such as fires and soil erosion related to poor planning, design, and construction.*

The lot sizes proposed with the Minor Subdivision are consistent with the existing development pattern in the area, which consists of lots and unplatted parcels varying in size. The property is directly adjacent to lots and unplatted parcels between 2 and 3 acres in size, as well as larger properties exceeding 15 acres in size to the south.

**2. Water Master Plan Analysis**

The El Paso County Water Master Plan (2018) has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

**Goal 1.1** – *Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.*

**Policy 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.*

**Goal 4.3** – *Collaborate with the State and other stakeholders to extend the economic life of the Denver Basin aquifers.*



The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 2 of the Plan; however, it is not located in an area anticipated to experience growth by 2040 and is not proposed to be served by a central water provider. See the Water section below for a summary of the water findings and recommendations for the proposed subdivision.

### **3. Other Master Plan Elements**

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

The Master Plan for Mineral Extraction (1996) does not identify deposits in the area of the subject 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**

No hazards were identified that would preclude development if mitigation were to occur. The applicant's Soils & Geology Report identified seasonally high groundwater and potentially high seasonal groundwater in the vicinity of the proposed lots; however, these areas are being designated as drainage easements and as such, are designated as no-build areas on the plat.

**2. Floodplain:** The property is not located within a floodplain as determined by a review of the Federal Insurance Rate Map number 08041C0320G effective December 7<sup>th</sup>, 2018. The property is in Zone "X" which is an area of minimal flood hazard determined to be outside the 500yr flood zone. The plat has designated drainage easements and "no build" areas as applicable.

**3. Drainage and Erosion:** The property is in the Kettle Creek drainage basin. Drainage basin fees in the amount of \$17,632.00 will be due at time of plat recordation. Kettle Creek basin has no current bridge fees. Drainage on the site generally flows from the northeast to the southwest along Herring Road into the Burgess River and eventually upper reaches of Kettle Creek. No public drainage improvements are proposed with the development. The existing private road providing access to the subdivision (Forest Heights Circle) will have new drainage

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

culverts installed and grading improvements along the private roadway. A drainage report prepared by MVE Inc. was included with the application. The drainage report concluded that the development will not have negative impact to adjacent or downstream properties with respect to stormwater runoff.

- 4. Transportation:** The property is located along Herring Road, a county maintained rural major collector paved road. The subdivision will obtain access to Herring Road from Forest Heights, an existing private gravel local road. The development is expected to generate approximately 38 daily trips to the local road network. A Traffic Impact Study was not required per Engineering Criteria Manual Section B.1.2.D. A private road waiver has been requested for the existing private road to serve the new four (4) lots created by this subdivision and the existing six homes along Forest Heights. The private road will provide a shared 60-foot-wide access easement and maintenance agreement for current and new lot owners along Forest Heights. As part of the subdivision the private road will be improved with a 26-foot cross-section travel width from its current condition with a cul-de-sac. Road turn-off areas and a cul-de-sac have been provided as part of the road design as originally requested by the Fire District. No public road improvements are proposed with the plat. The property is subject to the El Paso County Road Impact Fee Program with fees to be paid at time of building permit. Two deviation requests were submitted for approval with the private road waiver and both were approved. The Fire District did not object to the extended cul-de-sac length.

## **H. SERVICES**

### **1. Water**

Water sufficiency has been analyzed with the review of the proposed subdivision. The applicant has shown a sufficient water supply for the required 300-year period. The State Engineer and the County Attorney's Office have recommended that the proposed minor subdivision has an adequate water supply in terms of quantity and dependability. El Paso County Public Health has recommended that there is an adequate water supply in terms of quality.

### **2. Sanitation**

Wastewater is provided by on-site wastewater treatment systems (OWTS). The applicant submitted an OWTS report which indicated that the lots are suitable for the construction of these systems.

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

**3. Emergency Services**

The property is within the Black Forest Fire Protection District. The District was sent a referral for the Minor Subdivision and has no outstanding comments.

**4. Utilities**

Mountain View Electric Association (MVEA) will provide electrical service and Black Hills Energy (BHE) will provide natural gas service to the subject property. Both utility providers were sent referrals for the Minor Subdivision; MVEA has no outstanding comments and BHE did not provide a response.

**5. Metropolitan Districts**

The property is not located within the boundary of a metropolitan district.

**6. Parks/Trails**

Fees in lieu of park land dedication in the amount of \$1401.00 for regional fees (Area 2) will be due at the time of recording the Final Plat. Urban park fees are not applicable to this application.

**7. Schools**

Fees in lieu of school land dedication in the amount of \$918.00 shall be paid to El Paso County for the benefit of Academy School District No. 20 at the time of recording the Final Plat.

**I. APPLICABLE RESOLUTIONS**

See attached resolution.

**J. STATUS OF MAJOR ISSUES**

There are no major issues.

**K. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (as amended) staff recommends the following conditions and notations:

**CONDITIONS**

- 1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of 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 species.
4. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
5. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
6. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 18-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

8. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 11/30/2023, as provided by the County Attorney's Office.
9. Applicant shall pay Kettle Creek drainage basin fees in the amount of \$17,632.00 at time of plat recordation.

#### **NOTATIONS**

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

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

The Planning and Community Development Department notified 30 adjoining property owners on February 15, 2024, for the Planning Commission and Board of County Commissioner meetings. Responses will be provided at the hearing. Correspondence from local residents regarding this application is available via EDARP.

#### **M. ATTACHMENTS**

Map Series  
Letter of Intent  
Plat Drawing  
State Engineer's Letter  
County Attorney's Letter  
Public Comments  
Draft Resolution

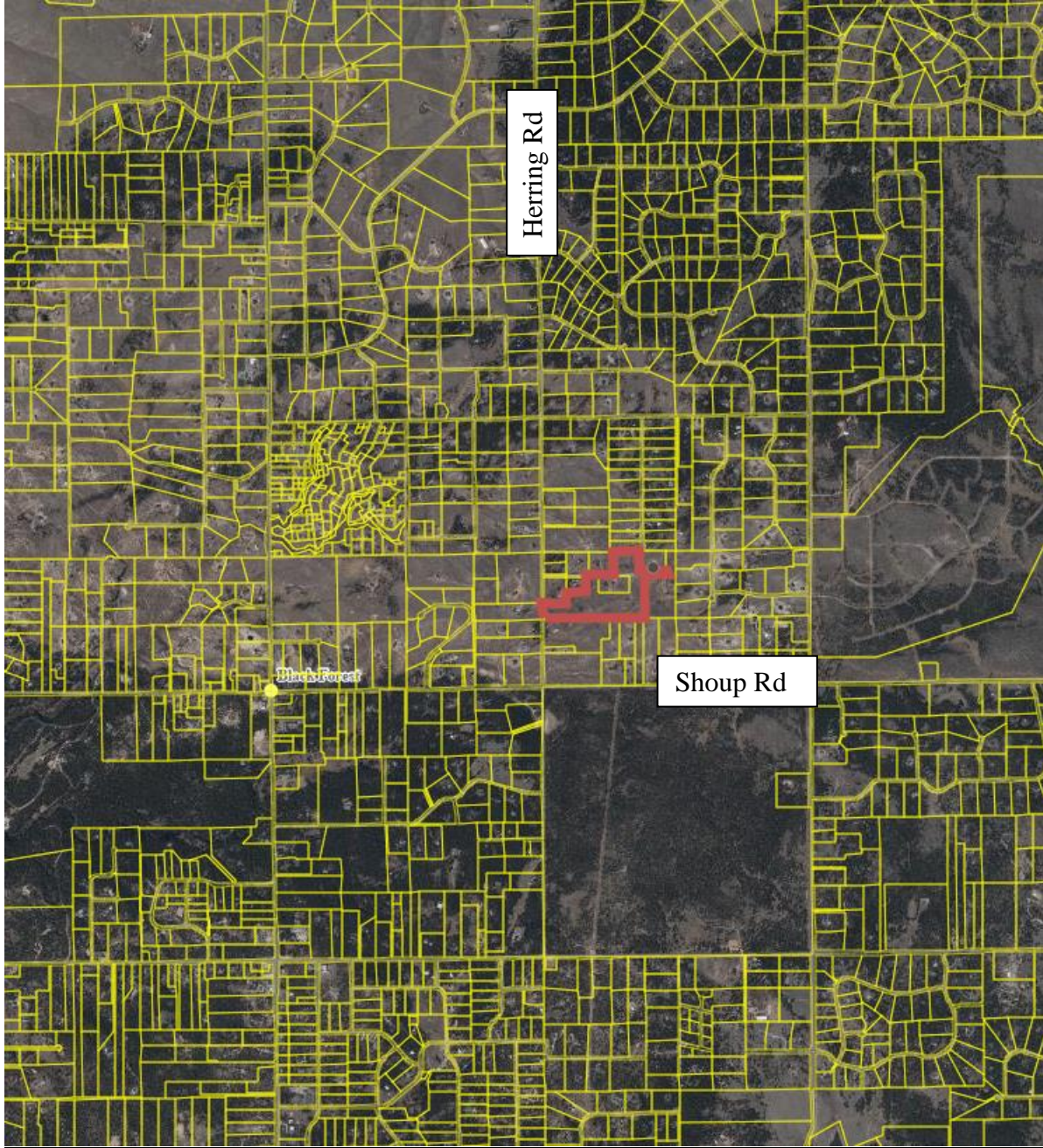
2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



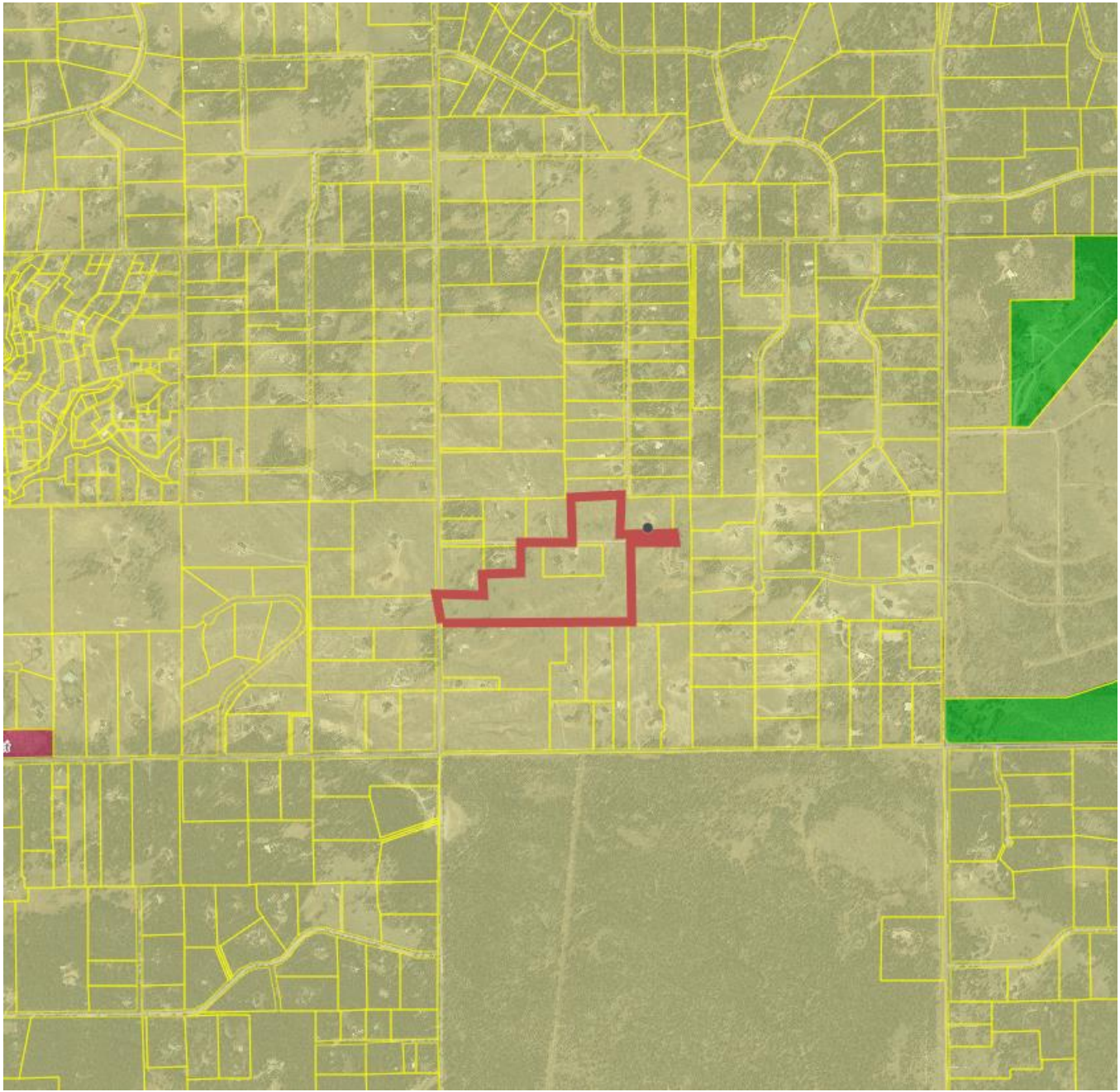
COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM















# Map Exhibit #1: Context



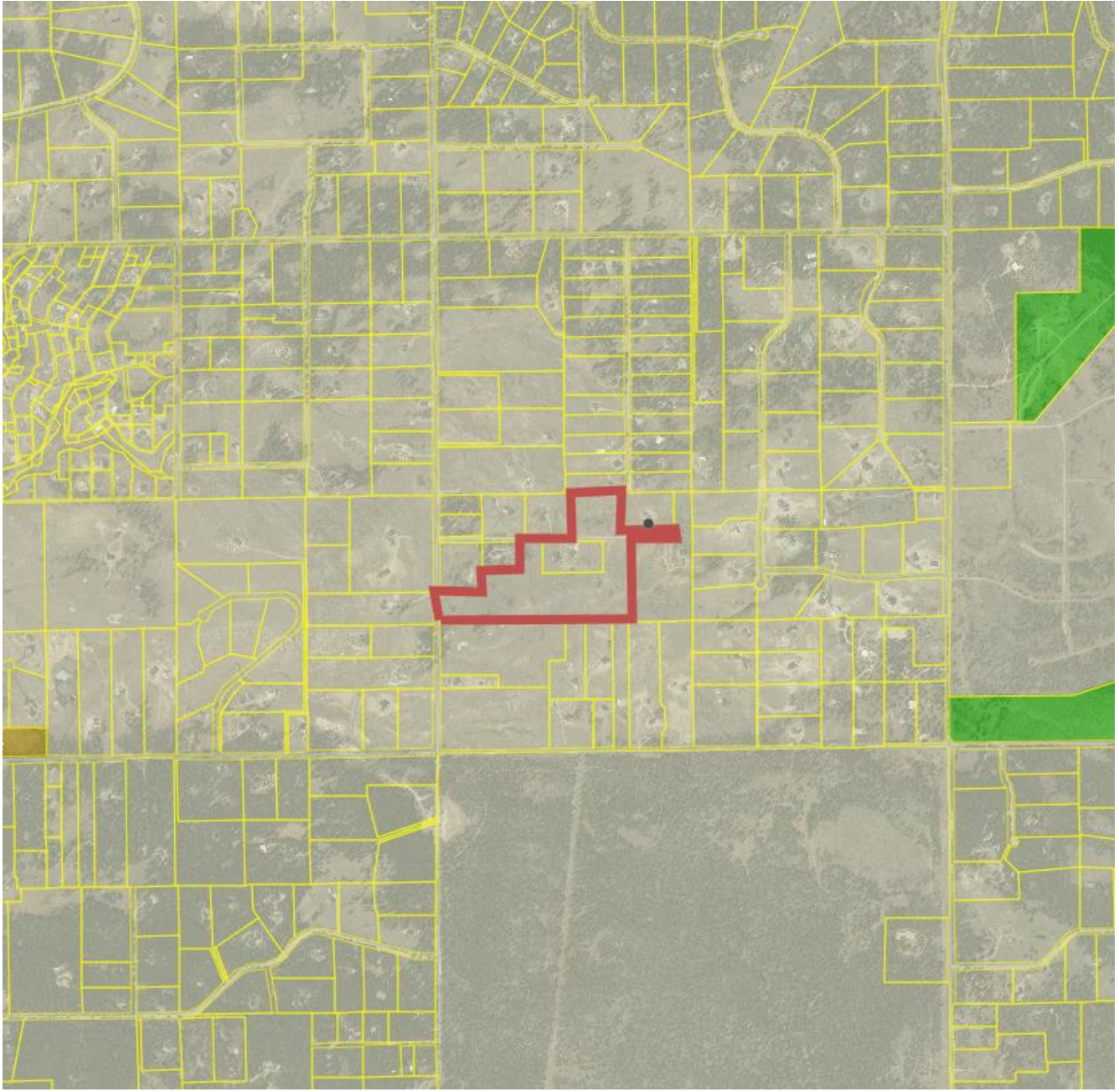
# Map Exhibit #2: Placetype








## Legend

- |   |   |
|---|---|
|  Rural                 |  Employment Center   |
|  Large-Lot Residential |  Regional Open Space |
|  Suburban Residential  |  Mountain Interface  |
|  Urban Residential     |  Military            |
|  Rural Center          |  Utility             |
|  Regional Center       |  Incorporated Area   |

# Map Exhibit #3: Area of Change

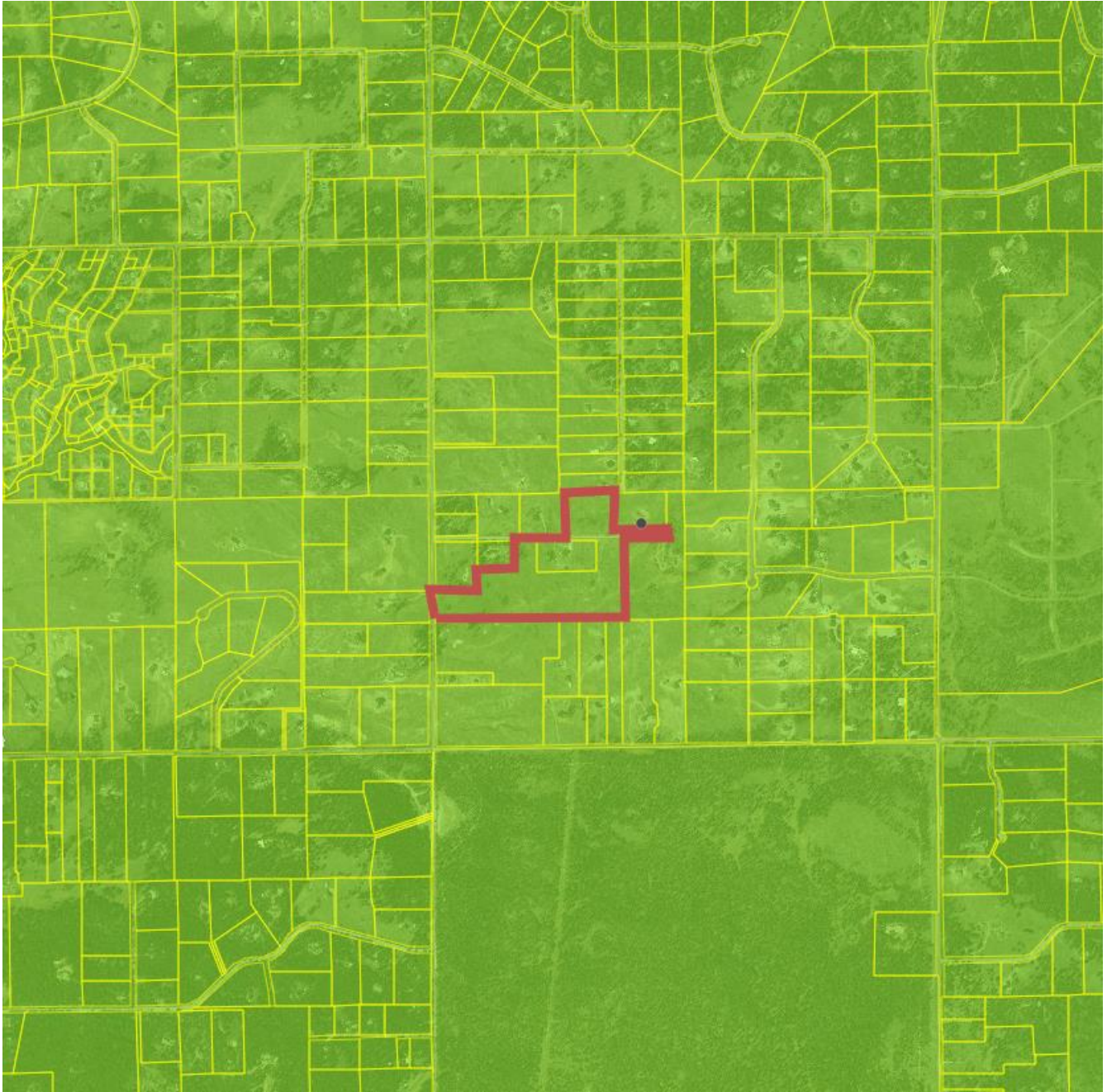


## Legend

-  Protected/Conservation Area
-  Minimal Change: Undeveloped
-  Minimal Change: Developed
-  New Development
-  Transition



# Map Exhibit #4: Key Area



## Legend

- Military Installations
- Potential Areas for Annexation
- Enclaves or Near Enclaves
- Small Towns & Rural Communities
- Fountain Creek Watershed Flood Control & Greenway District
- Forested Area
- Pikes Peak Influence Area
- Tri-Lakes Area
- Colorado Springs Airport/Peterson Field
- Uncommon Natural Resources





September 19, 2023

PCD File No.: MS-206

**LETTER OF INTENT  
FOREST HEIGHTS  
MINOR SUBDIVISION**

**Owner/Applicant:**

Jon P. Ditleaux and Phyllis J. Ditleau Revocable Trust  
7935 Forest Heights Circle  
Colorado Springs, CO 80908

**Consultant:**

M.V.E., Inc.  
1903 Lelaray Street, Suite 200  
Colorado Springs, CO  
(719) 635-5736  
David Gorman  
[daveg@mvecivil.com](mailto:daveg@mvecivil.com)

**Site Location Size and Zoning:**

The proposed minor subdivision to be known as “Forest Heights Estates” is located within the Southwest ¼ of Section 9, Township 12 South, Range 65 west of the 6th principal meridian in El Paso County, Colorado. The site is situated on the east side of Herring Road, north of Shoup Road. The site consists of two unplatted parcels having El Paso County Tax ID Numbers 52090-00-120 and 52090-00-121 with total acreage of 32.168 acres. The property is zoned RR-5 (Residential Rural 5 acre). The site is undeveloped except for an existing gravel private road extending east from Herring Road with an existing 50' long asphalt apron located at the Herring Road access point.

**Request and Justification:**

The request is for approval of the Minor Subdivision of the property to create four (4) rural residential single family lots and two (2) tracts. Lots 1 through 4 will range in size from 5.000 acres to 12.108 acres. Tracts A and B will contain the private roadway and allow access to the four new lots as well as the existing adjacent parcels that use the private road for access.

The Minor Subdivision application for Forest Heights Estates is consistent with the requirements of the land development and zoning requirements such as: land use (single-family residential), lot size (5 acres or greater), minimum building setbacks, water supply sufficiency, and wastewater disposal. The proposed lots are compatible with the surrounding land uses and neighborhood. The proposed land use coincides with the adjacent zoning and platted lot sizes found in all directions being approximately 5 acres or larger. Each of the four proposed lots will be illegible for development of a single family residence in accordance with the Land Development Code and can be served by individual well & septic systems.

*Engineers • Surveyors*

*1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736*

*Fax 719-635-5450 • e-mail [mve@mvecivil.com](mailto:mve@mvecivil.com)*

Access for proposed Lots 1-4 shall be by way of the existing private gravel road named Forest Heights Circle, which extends to the east from Herring Road. Existing Forest Heights Circle currently serves as access to six existing single family residences that are adjacent to the subject property. Improvements will be made to the the existing private road to enhance the accessibility of the site and adjacent properties.

The El Paso County Land Development Code (LDC) states that “*A division of land shall have a minimum of 60 feet frontage on a public road*” as found in Section 8.4.3(A)(1). One of the proposed lots has more than 60 feet of frontage on Herring Road. However, it is desired that all four individual lots take access from private Forest Heights Circle which connects to Herring Road at proposed Tract B. Therefore, a waiver is requested from LDC Sections 8.4.3(A)(1) and 8.4.3(B)(2)(e) “*Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to waiver granted under Section 8.4.4 (E)*”. The applicant requests a private road waiver to allow the proposed lots access by way of a private road. LDC 8.4.4(E)(2) allows for consideration of private road with provision of a Private Road Maintenance Agreement between the subject lot owners. The applicant also requests alternative design standards according to LDC 8.4.4(E)(3) to allow modified Right-of-way width, design speed and pavement type. The responsibility and maintenance of said access shall be carried out as described in the separate private access maintenance agreement. The private road waivers are addressed below, following the general subdivision justification.

This application meets the Minor Subdivision submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivisions in Chapter 8 of the El Paso County Land Development Code (2021) with the consideration of the requested waivers. Minor Subdivisions are reviewed and approved in consideration of the review criteria found in the El Paso County Land Development Code. Each criteria is listed below followed by the appropriate justification.

1. *The subdivision is in conformance with the goals, objectives, and policies of the Master Plan. “Your El Paso Master Plan” (2021) is a comprehensive document communicating a vision for many factors that influence the quality of in El Paso County, including Land Use. The Master Plan provides a strategy to achieve the vision by putting forth goals and policies that can be used as a framework for decision-making regarding development of the County.*

The site is located in the Key Area designated “Forested Area” of the county located east of Black Forest Road, north of Shoup Road, and south of Hodgen Road. The property is also located within an area of Minimal Change: Undeveloped. The proposed plat is in keeping with the established zoning and compatibility with the surrounding land use. The site is designated as a Large-Lot Residential Placetype. The Primary Land Use of this placetype is Single Family Detached Housing with Agriculture, Commercial Retail, Commercial Service, and Parks/Open Space as Supporting Land Uses. The location of this site and existing infrastructure is suited to single family residential use. In the Land Use category, Goal 1.1 is “*Ensure compatibility with established character and infrastructure capacity*”. This area of the County is conducive to rural residential development that allows residential use of property but preserves the natural character of the landscape. The proposed subdivision is compatible and identical to the existing neighborhood and surrounding development. The existing community character is preserved with this proposed plat. The proposed density is less than allowed by zoning. The proposed density is unlikely to overburden the existing roadway infrastructure or capacity of the land to support the water and wastewater needs of the development. The proposed Minor Subdivision will not create the need for additional public roadways or facilities. Goal 2.2 is “*Preserve the character of rural and environmentally sensitive areas*”. The proposed subdivision will keep the forested nature of the area intact. The five-acre lot density has reduced impact on environmental conditions.

***M.V.E., Inc. • Engineers • Surveyors***

***1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736***

***Fax 719-635-5450 • e-mail mve@mvecivil.com***

Density and land use are compatible with the surrounding area and the natural features of the site will remain preserved, even with the addition of three more residences on the site. The private driveways to be used for access will have minimal impact on the existing terrain.

No new public roads are proposed with this subdivision since access for these lots are through an existing private road that will be improved to allow proposed Lots 1 through 4 to have access to public Herring Road. In this way, lot access is provided while eliminating the need for additional access points and additional public roadway. The existing private road presents a reduced impact on the natural terrain, land forms, and vegetation. Therefore, this project's access road maintains the rural character of site and neighborhood.

The proposed subdivision is in compliance with the **2040 Major Transportation Corridors Plan (MTCP)**. Access to the site will be by way of Forest Heights Circle, an existing private gravel road. Improvements are planned for the private roadway. Forest Heights Circle connects to Herring Road, a paved two-lane county road designated as a collector in the 2040 Major Transportation Corridors Plan. The proposed subdivision will not significantly impact the traffic on this roadway. Traffic impacts are further discussed below.

The proposed Minor Subdivision is in compliance with the **Parks Master Plan (2022)**. A secondary regional trail is shown on the Parks Masterplan through the subject property. The applicant is concerned about potential establishment of a public trail through the private property of the residential lots in the subdivision on the grounds of resident personal safety, resident privacy, protection of resident private property rights, and sanitation. However to comply with the masterplan, an because the proposed lots are 5 acres and greater, a 25' wide trail easement in the location of an existing gas line easement is included on the plat as requested by Parks Advisory Board. Any required park fees will be paid at the time of plating. The proposed subdivision is also in compliance with the Master Plan for Mineral Extraction and the severed mineral right owners for this property have been notified.

The proposed subdivision is in compliance with the **El Paso County Water Master Plan (2018)**. The District Court, Water Division 2 Colorado, has decreed certain water rights and approved a plan for augmentation as necessary to allow the drilling of four wells in this subdivision in Case No. 22CW3060 recorded under reception number 223022220 of the records of El Paso County. The owner seeks a finding of sufficiency from the Colorado Division of Water Resources and the eventual granting of the four well permits based on the decreed water rights.

Forest Heights Estates is located within Region 2 in the Water Master Plan. The region is comprised of the northwest corner of the county including the tri-lakes area. The site is not located in a designated Growth Area as determined in the Water Master Plan. The Water Master Plan contains estimates of the demands and available supply by region at the years 2018, 2040 and 2060 Build-Out. The 2018/2040/2060 demands in Region 2 are estimated to be 7,532 acre-feet per year, 11,713 acre-feet per year, and 13,254 acre-feet per year, respectively. The 2018/2040/2060 supplies in Region 2 are estimated to be 13,607 acre-feet per year, 20,516 acre-feet per year, and 20,756 acre-feet per year, respectively, indicating a surplus of supply for the region at each time. However, a significant portion of the supply is derived from non-renewable Denver Basin groundwater. Considering only Forest Heights Estates, demands are estimated to be 3.08 acre-feet of water per year for the current, 2040 and 2060 time frames, respectively. Water supply available by decree to the subdivision is 7.56 acre-feet per year for each of the current, 2040 and 2060 time frames. The decree allows up to 0.57 acre-feet of water per year per lot for irrigation of lawns and gardens for watering of livestock. In practice, every lot owner may

*M.V.E., Inc. • Engineers • Surveyors*

*1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736*

*Fax 719-635-5450 • e-mail mve@mvecivil.com*

not keep livestock and residents in the county limit water use for landscape irrigation in favor of natural grasses.

A listing of some of the policies of the Water Master Plan that are supported by the proposed development follow: *Policy 4.1.3 – Support enhanced monitoring of sources of surface and tributary groundwater in the County.* The referenced decree requires use of metering for the wells to insure compliance with the terms of the permit; *Policy 6.2.1.2 – Encourage re-use of treated wastewater for irrigation and other acceptable uses when feasible.* Both the existing residence and the new single-family residences on all proposed lots will utilize onsite wastewater treatment systems which will provide “Return Flows” to the environment as a condition of the groundwater findings and order and the well permit.

2. *The subdivision is in substantial conformance with the approved preliminary plan.*  
This is a proposed Minor Subdivision and requires no Preliminary Plan for Plat approval. The subdivision will be developed in accordance with the currently proposed land use applications.
3. *The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.*  
The proposed Minor Subdivision Plat is prepared in accordance with applicable subdivision design standards. No public improvements are required for this subdivision. This application includes request for waivers to allow private roads and alternate roadway design standards as discussed below.
4. *A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code.*  
Water service is to be provided by individual on site wells operated under a State approved Water Augmentation Plan.
5. *A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of this Code.*  
Wastewater is intended to be treated via individual on site septic systems designed, constructed and operated under State and County Health Department rules and regulations and in accordance with the Water Decree.
6. *All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)].*  
A soils report has been prepared for the site and the owner will comply with the recommendations of the report. Areas were encountered where the geologic conditions will impose some constraints on development and land use. These include areas of potentially seasonal shallow and shallow groundwater and expansive soils, all of which can be satisfactorily mitigated through avoidance or proper engineering design and construction practices. Based on the proposed plat, it appears that these areas will have minor impacts on the development. These conditions are discussed in

***M.V.E., Inc. • Engineers • Surveyors***

***1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736***

***Fax 719-635-5450 • e-mail mve@mvecivil.com***



further detail in the Soil, Geology, and Geologic Hazard Study produced by Entech Engineering, Inc.

7. *Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM.*

The proposed Minor Subdivision is consistent with the submitted Final Drainage Report. There are no public drainage facilities needed or proposed with this development. Private road culverts will be installed in the private road by the applicant and any required private driveway culverts will be installed by the future lot owners. The owner/applicant will comply with the requirements of the drainage report.

8. *Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM.*

With the approval of requested waivers, Forest Heights Estates Lots 1-4 shall have access to private Forest Heights Circle connecting to Herring Road. The private road is contained within proposed Tracts A and B and 60 foot wide access easement as well as an access easement. The roadway will be maintained by the lot owners in accordance with an Access and Maintenance Agreement established for the subdivision and adjacent existing residences.

9. *Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.*

The site is located within the jurisdiction of the El Paso County Sheriff's Office. The sheriff's office currently provides police protection for the site and surrounding area. The site is located within the Black Forest Fire Protection District which already provides fire protection for the site and has agreed to serve this subdivision. Water and sanitary sewer provisions are discussed in items 4 & 5 above. The property is located within the service areas of Mountain View Electric Association, Blackhills Energy Corporation, and Lewis Palmer School District 38 which will serve the subdivision. Transportation is being facilitated by the existing adjacent roadway system and an improved private road.

10. *The Minor Subdivision plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code.*

Foprest Heights Estates is located within the Black Forest Fire Protection District which is providing fire protection for the site and the surrounding area. The district has agreed to serve this subdivision. Building permits for each structure shall be in accordance with the requirements of the fire district as administered by the Pikes Peak Regional Building Department.

11. *Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8.*

All offsite impacts are determined to be insignificant with the platting of four residential lots. The applicants will be responsible to pay park, school and drainage fees. Future lot owners will pay Traffic Impact Fees at time of building permit.

12. *Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.*

***M.V.E., Inc. • Engineers • Surveyors***

***1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736***

***Fax 719-635-5450 • e-mail mve@mvecivil.com***

There are no public facilities or infrastructure required or proposed for this subdivision. The private roadway is proposed to be improved by the applicants with the required facilities as needed for access. The platting of the site will include the collection of the applicable School Fees, Park Fees, Drainage Fees and Traffic Impact Fees due for this project.

13. *The subdivision meets other applicable sections of Chapter 6 and 8.*

Upon approval of waivers to the LDC Section 8.4.3 (A)(1) stating “*A division of land shall have a minimum of 60 feet frontage on a public road*” and 8.4.3(B)(2)(e) stating “*Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to waiver granted under Section 8.4.4 (E)*”, the subdivision will meet the requirements of the Land Development Code. The subdivision is in accordance with the Land Development Code with respect to zoning, lot size, building setbacks, provision of utilities and storm drainage. The waiver is requested with this application to allow access by each of the four proposed lots via a private road without the required 30 feet of frontage on a public road for each lot. The code allows consideration of access by private roads by waiver according to Section 8.4.4(E)(2) and consideration of certain alternative road design standards according to Section 8.4.4(E)(3). The waivers are more fully discussed below.

14. *The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et seq.].*

A search of El Paso County Clerk and Recorder's records revealed the existence of no severed mineral estate owners.

**Requested Waiver:**

As previously mentioned, a waiver from LDC Section 8.4.3(A)(1) “*Minimum Frontage for Division of Land: A division of land shall have a minimum of 60 feet frontage on a public road.*” along with Section 8.4.3(B)(2)(e) is requested. The referenced code provision requires that “*Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC*”. Proposed Lots 1-4 will gain access by way of the existing private road, Forest Heights Estates, connecting the site to Herring Road in the northwestern portion of the site. The responsibility and maintenance of said access shall be carried out as described in a separate private access maintenance agreement. Additional code references for the requested waiver are Section 8.4.4(E)(2) “*Private Roads Require Waiver. The use of private roads is limited and allowed only by waiver. In granting a waiver to allow private roads, the BoCC shall make written findings supporting the use of private roads and may require the owner to enter into a Private Road Maintenance Agreement or create covenants whereby the lot owners are required to maintain the private roads.*” and Section 8.4.4(E)(3) “*Private Roads to Meet County Standards. Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the waiver. Private road waivers may only include design standards for the following:• Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;• Design speed where it is unlikely the road will be needed for use by the general public;• Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;• Maximum and minimum block lengths; and• Maximum grade.*”

Proposed Lots 1-4 are proposed to be connected to Herring Road by private roadway located in proposed Tracts A and B along with an access easement. Existing private road named Forest Heights which is

***M.V.E., Inc. • Engineers • Surveyors***

***1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736***

***Fax 719-635-5450 • e-mail mve@mvecivil.com***

already located in proposed Tracts A and B currently provides access to existing developed parcels that are adjacent to the site. The existing roadway will be improved to facilitate access to proposed Lots 1-4.

The applicant and adjacent residential owners wish to maintain the private character of the development by keeping the road within the neighborhood private. They also wish to maintain the rural residential character of the neighborhood by having a narrower gravel road. The private road for this development is appropriate as a public road is not needed for convenience or safety of the general public due to the small number of residential lots that will utilize it. The road will be maintained by the four new lot owners of Forest Heights Estates, and six other adjacent lot owners that currently access using the existing private road for a total of 10 lots. Since the code allows for access by private road through waiver, it is most practical for proposed Lots 1-4 to be able to access by the existing private roadway, rather than extending a public roadway into the site. The arrangement eliminates the need for additional public right-of-way and additional public maintenance to serve the 10 rural residential single family lots. The allowance of private roads, coupled with private maintenance agreements have been shown to be effective and efficient modes of access within the county. The proposed private road with approved alternative road design characteristics will also have a diminished impact on the natural terrain and landscape of the site compared to a public roadway which would be much larger dedication and require far more disturbance than a smaller private road.

LDC 8.4.4.E Private Roads to Meet County Standards - A waiver is requested from Land Development Code Section 8.4.4.E in consideration of the provisions of Section 8.4.4(E)(3) to allow modification of certain standards, to be considered with the Private Road Waiver. Modifications to right-of-way/road width, design speed, standard section thickness minimums and pavement type, block lengths and maximum grade are allowed as part of the private road waiver.

The applicant requests a narrower roadway surface consisting of two 12' wide drive lanes and 1' wide shoulders to promote the preservation of the existing natural terrain at the site and to highlight the private and rural nature of the development. The narrower width serves to preserve existing trees, natural vegetation and terrain. The proposed private roadway is low volume, serving only 10 potential residential lots. The narrower roadway is adequate to allow two-way traffic on this low volume roadway. Additionally, two turn-out area with wider surface will be provided as requested by Black Forest Fire Department.

The applicant requests a lower design speed of 20 mph for the private road. The lower design speed will allow further preservation of existing natural features and terrain by allowing the improved road surface to remain closer in elevation to the existing road surface and prevent unnecessary disturbance of the roadsides. The roadway is relatively short, promoting lower speeds and will be stop controlled at the connection with Herring Road. The road will be posted with a 20 mph speed limit sign.

The applicant requests the use of the existing gravel surface for the roadway. The existing gravel surface has proved adequate, reliable and stable over the several years. The existing asphalt apron extending 50 feet into the site from paved public Herring Road will remain in place, providing an appropriate transition from the paved public way. The private roadway surface will be maintained by the residents as noted above.

Each criteria for approval of waivers as stated in section 7.3.3 of the El Paso County Land Development Code (2021) is listed below followed by the appropriate justification.

1. *The waiver does not have the effect of nullifying the intent and purpose of this code;* The request for a waiver of the referenced LDC sections does not go against the intent and purpose of this

***M.V.E., Inc. • Engineers • Surveyors***

***1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736***

***Fax 719-635-5450 • e-mail mve@mvecivil.com***

code. This request is in line with the provisions and requirements set forth in the LDC, and the private roadway will comply with the applicable design standards as modified by the request.

2. *The waiver will not result in the need for additional subsequent waivers;* With the approval of the referenced waivers, the lots will each be provided the required access necessary for their development. There is no known need for additional waivers as all applicable requirements of the El Paso County Land Development Code will be met.
3. *The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;* The private road will be improved to provide safe and reliable access to each lot on the site and adjacent users. The responsibility and maintenance of said driveway shall be carried out as described in a private access maintenance agreement. The driveway will not pose a threat to the public safety, health, or welfare, nor will it be injurious to any other property.
4. *The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;* This site has an existing private road that is in use by the applicants and adjacent residents. The parties desire that the road remain private with the platting of Forest Height Estates and that the roadway improvements create only minimum disturbance and modification to the existing natural terrain and vegetation. Therefore, due to very limited number of residences that will utilize the road and the agreement reached with adjacent owners, the waiver to allow the private road is preferable access to the entire site in lieu of a public road.
5. *A particular non-economical hardship to the owner would result from a strict application of this code;* With strict application of this code, the subdivision would be required to access by a public roadway in a 60-foot right-of-way constructed to El Paso County standards. The public road would significantly increase disturbance of the natural terrain and forest as well as the impervious area of the site while increasing the maintenance responsibility of the county. A public paved roadway would detract from the existing rural residential character of the site and intrude upon the property against the wishes of the residents.
6. *The waiver will not in any manner vary the zoning provisions of this code;* The proposed private road will comply with all zoning provisions of this code and does not produce violations.
7. *The proposed waiver is not contrary to any provision of the master plan;* The proposed private road is in harmony with the goals of the master plan with regard to preserving place type characteristics and preserving natural features.

#### **Existing and Proposed Facilities:**

Forest Heights Circle is an existing private gravel road used for access by residents of currently developed parcels adjacent to the site. The proposed subdivision establishes Tracts A and B to contain the existing private roadway. The applicants will make improvements to the roadway which is planned to be a private gravel roadway in accordance the proposed waivers mentioned above. The necessary road culverts will be replaced as part of the improvements.

*M.V.E., Inc. • Engineers • Surveyors*

*1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736*

*Fax 719-635-5450 • e-mail mve@mvecivil.com*

**Total Number Of Residential Units And Densities:**

The gross area of Forest Heights Estates 32.618± acres and the site is proposed to contain four single-family residential units. Residential lots range in size from 5.000 to 12.108 acres. The average lot size for the four proposed lots is 7.48 acres. The gross density of the site is 0.12 units per acre.

**Fire Protection:**

The site is located within the Black Forest Fire Protection District. The Black Forest Fire Protection District already serves the property and surrounding residences and has provided a Service Commitment Letter for the proposed lots. The lots and homes are subject to the codes and policies adopted by the said district regarding fire protection.

**Proposed Access Locations:**

Access for proposed Forest Heights Estates Lots 1-4 shall be by way of the existing private gravel road, Forest Heights Circle, which connects to the east side of existing Herring Road with an existing 50' long asphalt apron at the connection point. Forest Heights Circle is to undergo modification and improvement according to construction plans prepared as part of the subdivision application but will remain a gravel road with the existing asphalt apron to remain in place. The private roadway will be contained within two tracts and access easements. Maintenance of the private roadway will be provided by the lot owners and in accordance with a Access and Maintenance Agreement, Herring Road is a paved two-lane public road designated a rural collector in the 2040 Major Transportation Corridors Plan. There are no topographical or alignment challenges limiting safety of the existing or proposed private road access to the proposed lots.

**Traffic Impact and Traffic Impact Fees:**

The four new single family rural residential lots will access private Forest Heights Circle and public Herring Road. The development is expected to generate a total of 38 trips per day (Average weekday trips ends) and 4 trips in the peak hour based on 9.44 trips per unit for Single Family Detached Housing (according to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers). This number of trips is below the County threshold of 100 trips per day or 10 trip during the peak hour. Therefore, a full Transportation Impact Study (TIS) is not required for the project. This development is subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 19-471. The owners have elected to not be included in a Public Improvements District. Traffic Impact Fees will be paid at time of building permit.

Based on the current conditions of Herring Road and the low traffic volumes to be generated by the site, no new improvements to Herring Road or nearby area roadways. are required to serve this development. Where the site is adjacent to Herring Road, an additional 15 feet of road right-of-way will be dedicated by the subdivision plat document as required due to the classification of Herring Road as a collector road.

Z:\61197\Documents\Letter of Intent\61197-LetterOfIntent-Minor Sub.odt

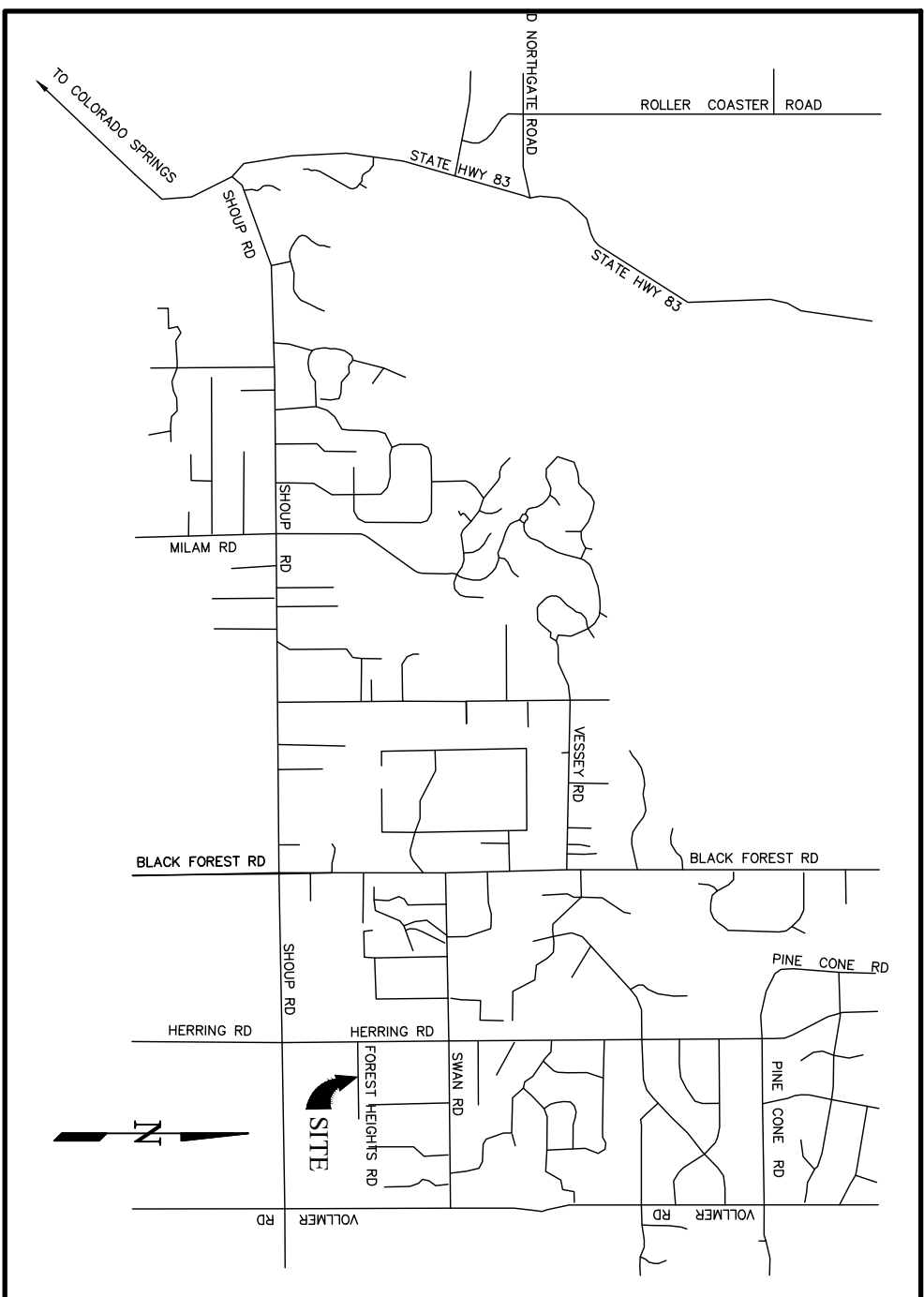
***M.V.E., Inc. • Engineers • Surveyors***

***1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736***

***Fax 719-635-5450 • e-mail mve@mvecivil.com***

# FOREST HEIGHTS ESTATES

FINAL PLAT  
PART OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M.  
COUNTY OF EL PASO, STATE OF COLORADO



## KNOW ALL MEN BY THESE PRESENTS:

That Phyllis J. Dideau and Jon Dideau, being the owners of the following described tract of land:  
A Tract of land in the Southwest 1/4 of Section 9, Township 12 South, Range 65 West, of the 6th P.M. County of El Paso, State of Colorado, more specifically described as follows:  
Commencing at the West 1/4 corner of Section 9,  
Thence Along the North line of said Southwest 1/4, N89°55'03"E a distance of 1391.55 feet to the Point of Beginning of the North line of said Southwest 1/4, N89°55'03"E a distance of 506.51 feet to the Northwest corner of that parcel described in Book 2318, Page 387, of the records of the El Paso County Clerk and Recorder;  
Thence continue along said North line, N89°55'03"E a distance of 4350.00 feet;  
Thence S89°52'37"E along the West line of said parcel a distance of 4350.00 feet;  
Thence S89°52'37"E along the West line of said parcel a distance of 506.51 feet to the Northwest West line of the parcel described in Book 1271, Page 970, of said records;  
Thence S00°09'20"W a distance of 60.00 feet;  
Thence S89°55'03"W along the line of said parcel 459.94 feet;  
Thence S00°11'43"W along the West line of said parcel a distance of 829.47 feet;  
Thence S89°54'44"W a distance of 1941.21 feet to a point on the East Right of Way line of Herring Road;  
Thence N00°03'25"E along said East line a distance of 327.80 feet to the South line of that parcel described in Book 2371, Page 388 of said records;  
Thence N89°55'03"E along the South line of said parcel a distance of 424.00 feet;  
Thence: N00°03'25"E along the East line of said parcel a distance of 215.85 feet to the Southeast corner of that parcel described in Book 1951 at Page 432 of said records;  
Thence N89°55'03"E along the West line of said parcel a distance of 381.00 feet to the Southeast corner of that parcel described in Book 1951 at Page 432 of said records;  
Thence N00°03'25"E along the South line of said parcel a distance of 381.00 feet to the Southeast corner of that parcel described in Book 2215 Page 559 of said records;  
Thence N00°11'21"E along the East line of said parcel a distance of 286.00 feet to a point on the South line of that parcel described in Book 2215 Page 559 of said records;  
Thence along said South line N89°55'03"E along said South line a distance of 67.27 feet to the East line of said parcel;  
Thence N00°03'25"E along said East line a distance of 60.00 feet;  
Thence: Thence N89°55'03"E a distance of 506.51 feet,  
Thence: N00°03'25"E a distance of 430.00 feet to the Point of Beginning, except that parcel described in Book 2645, Page 207.

**EXCEPTION PARCEL:** Book 2645, Page 207 of the records of El Paso County, Colorado.  
A tract of land in the Southwest 1/4 of Section 9, Township 12 South, Range 65 West of the 6th p.m. County of El Paso, State of Colorado more particularly described as follows:  
Commencing at the West 1/4 corner of said Section 9,  
Thence along the West line of Section 9, S00°03'25"W a distance of 490.00 feet;  
Thence along the West line of Section 9, S00°03'25"W a distance of 1090.00 feet to the Point of Beginning of the tract described hereby;  
Thence N89°55'03"E a distance of 610.00 feet;  
Thence S00°03'25"W a distance of 325.00 feet;  
Thence S89°55'03"W a distance of 610.00 feet;  
Thence N00°03'25"E a distance of 325.00 feet to the Point of Beginning.  
This description contains 34,529 acres (not including the exception parcel).

**TRACT A**  
Tract in Northwest quarter of the Southwest quarter of Section 9, Township 12 South, Range 65 West, of the 6th P.M. County of El Paso, State of Colorado, described as follows:  
Commencing at the West 1/4 corner of said Section 9,  
Thence along the west line of said Section 9 S00°03'25"W a distance of 430.00 feet;  
Thence N89°55'03"E 30.00 feet to a point on the West Right of Way line of Herring Road and the Point Of Beginning (POB), of the Tract described hereby;  
Thence N89°55'03"E a distance of 630.00 feet;  
Thence S89°55'03"W a distance of 434.00 feet to a point on said West Right of Way line;  
Thence N00°03'25"E a distance of 60.00 feet to the Point Of Beginning (POB).  
Tract A contains 0.598 Acres, more or less.  
THE TOTAL AGREACE OF THIS SUBDIVISION PLAT IS 32,618 ACRES.  
**DEDICATION:**  
The undersigned, being all the owners, mortgagees, beneficiaries of deeds of trust and holders of other interests in the land described herein, have laid out, subdivided and platted said lands into lots, tracts, and easements as shown herein under the name and subdivision of FOREST HEIGHTS ESTATES. The utility easements shown hereon are hereby dedicated for public utilities and communication systems and other purposes as shown hereon. The entities responsible for providing the services for which the easements are shown hereon shall be the responsibility of the owner of the land to which the easements apply. The properties for installation, maintenance, and replacement of utility lines and related facilities.

By: \_\_\_\_\_ Phyllis J. Dideau, Trustee  
Phyllis J. Dideau Revocable Trust  
STATE OF COLORADO }  
COUNTY OF EL PASO } SS  
Acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_ by Phyllis J. Dideau  
as Trustee of Phyllis J. Dideau Revocable Trust.  
MY COMMISSION EXPIRES \_\_\_\_\_

WITNESS MY HAND AND OFFICIAL SEAL \_\_\_\_\_ NOTARY PUBLIC  
By: \_\_\_\_\_  
Jon P. Dideau  
Owner  
STATE OF COLORADO }  
COUNTY OF EL PASO } SS  
ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 202\_\_\_\_ by Jon P. Dideau.  
MY COMMISSION EXPIRES \_\_\_\_\_  
WITNESS MY HAND AND OFFICIAL SEAL \_\_\_\_\_ NOTARY PUBLIC

Tract A shall be utilized as a Private Road. Ownership of Tract A shall be vested with the owner of Lot 4.  
Tract B shall be utilized as a Private Road. Ownership of Tract B shall be vested with the owner of Lot 1.  
Maintenance of Tract A and Tract B shall be vested to the parties that are signatory and designated in the "ACCESS EASEMENT GRANT AND MAINTENANCE AGREEMENT FOR FOREST HEIGHTS CIRCLE AND RESTRICTIONS COVENANTS FOR LOTS 1, 2, 3 & 4 FOREST HEIGHTS ESTATES SUBDIVISION" and their successor and assigns.

## NOTES (cont.):

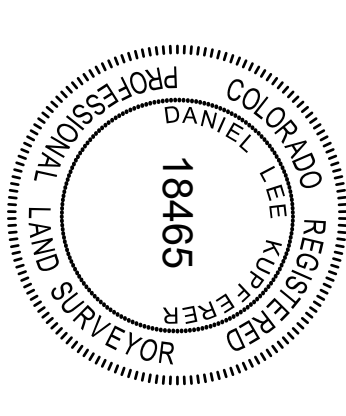
- The area encompassed by the Forest Heights Estates subdivision has been found to be impacted by geologic hazards:
  - Seasonally high groundwater.
  - Potentially high seasonal groundwater.
- Mitigation measures and a map of the hazard area can be found in the report "Soil, Geology, and Geologic Hazard Study "Dideau Subdivision" by Entech Engineering Inc. Dated March 10, 2020 in file MS-20-004 available at the El Paso County Planning and Community Development Department.
- The private road as shown on this plat will not be maintained by El Paso County until, and unless the road is constructed in conformance with the El Paso County standards in effect at the date of request for dedication and maintenance.
- Forest Heights Estates subdivision is Subject to the ACCESS EASEMENT GRANT AND MAINTENANCE AGREEMENT FOR FOREST HEIGHTS CIRCLE UNDER RESERVATION COVENANTS FOR LOTS 1, 2, 3 & 4 FOREST HEIGHTS ESTATES SUBDIVISION as recorded under Reservation No. \_\_\_\_\_ of the records of the El Paso County Clerk and Recorder
- NO BUILD AREAS: No permanent structures shall be within No Build Areas shown hereon. Fences, driveways and portable structures may be placed within the No Build Areas. Components of onsite wastewater treatment systems may be placed within No Build Areas and outside of any drainage easements as determined by the system designer.
- DRAINAGE EASEMENTS: Public drainage easements as specifically noted on the plat shall be maintained by the individual lot owners unless otherwise indicated. Structures, fences, materials or landscaping that could impede the flow of runoff shall not be placed in drainage easements. Components of onsite wastewater treatment systems shall not be placed in drainage easements.
- All Property within Forest Heights Estates subdivision is subject to a Declaration of Covenants as recorded under Reservation No. \_\_\_\_\_ of the records of the El Paso County Clerk and Recorder
- The Developer is responsible for extending Roadway Access and utilities to each Lot.

## EASEMENTS:

Unless otherwise shown, both sides of all side lot lines and common rear lot lines are hereby platted with a ten (10) feet wide public utility and drainage easement on each side and a ten (20) feet wide public utility and drainage easement on the subdivided boundary lines of said easements. The easements are hereby dedicated to the public for installation and maintenance of public utilities and drainage facilities as shown hereon, with the sole responsibility for maintenance being vested with the property owners.

## SURVEYOR'S CERTIFICATION:

I Daniel L. Kupferer, a duly registered Professional Land Surveyor in the State of Colorado, do hereby certify that this plat correctly represents the results of a survey made on (date of survey), by me or under my direct supervision and accurately shows the subdivision and that no monuments exist on or under the subdivision. The horizontal and vertical control used in this survey was established by me or under my direct supervision in full compliance with all applicable provisions of the El Paso County Land Development Code, and that the requirements of Title 36 of the Colorado Revised Statutes, 1973 have been met to the best of my professional knowledge, belief and opinion and that it is accordance with applicable standards of practice and this is not a warranty or warranty either expressed or implied.



Daniel L. Kupferer  
Colorado Professional Land Surveyor No. 18465  
For and on behalf of LDC, Inc

## BOARD OF COUNTY COMMISSIONERS CERTIFICATE:

This plat of FOREST HEIGHTS ESTATES was approved for filing by the El Paso County, Colorado Board of County Commissioners on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, subject to any notes specified hereon and any conditions included in the resolution of approval.

Chair, Board of County Commissioners \_\_\_\_\_ Date \_\_\_\_\_

## APPROVALS:

This subdivision was approved by the El Paso County Planning and Community Development Department this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A.D.

Director, Planning and Community Development Department \_\_\_\_\_

## RECORDING:

STATE OF COLORADO }  
COUNTY OF EL PASO } SS  
I hereby certify that this instrument was filed for record in my office at \_\_\_\_\_ o'clock \_\_\_\_\_ M. this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A.D., and is duly recorded under Reception No. \_\_\_\_\_ of the records of El Paso County, Colorado.  
Chuck Braeman, Recorder  
By: \_\_\_\_\_ Deputy

SURCHARGE: \_\_\_\_\_  
FEE: \_\_\_\_\_

## FEES:

Park Fee: \_\_\_\_\_  
Bridge Fee: \_\_\_\_\_  
Drainage Fee: \_\_\_\_\_  
School Fee: \_\_\_\_\_

PCD File No. MS206

CALL BEFORE YOU DIG ...  
811  
DIAL 811  
48 HOURS BEFORE YOU DIG. CALL UTILITY LOCATORS FOR LOCATING AND MARKING GAS, ELECTRIC, WATER AND WASTEWATER.

REVISIONS			
No.	Description	By	Date
1	LOT REVISIONS	DAS	02/23/2022
2	ROAD REVISIONS	DAS	04/12/2022
3	EPC REVIEW COMMENTS	MVE	9/26/2023

H Scale: N/A  
V Scale: N/A  
Designed By: XXX  
Drawn By: JLG  
Checked By: DLK  
Date: 5/01/2020

Land Development Consultants, Inc.  
PLANNING • SURVEYING  
www ldc-inc.com • TEL: (719) 528-6133 • FAX: (719) 528-6848  
3898 MAIZELAND ROAD • COLORADO SPRINGS, CO 80909

FOREST HEIGHTS ESTATES  
FINAL PLAT.  
SW 1/4 SECTION 9, T12S, R65W, 6TH PM  
COUNTY OF EL PASO, STATE OF COLORADO  
Project No.: 18070  
Sheet: 1 of 2





November 1, 2023

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

RE: Forest Heights Estates Subdivision  
SW1/4 of the Sec. 9, Twp. 12S, Rng. 65W, 6<sup>th</sup> P.M.  
Water Division 2, Water District 10  
CDWR Assigned Subdivision No. 27462

To Whom It May Concern,

We have received the submittal to subdivide a 32.168-acre property into 4 single-family residential lots and 2 tracts. The water supply to these lots will be provided by four proposed wells with wastewater being disposed of through individual on-lot septic disposal systems. This office previously provided comments on the proposed subdivision in a letter dated June 13, 2022. The comments in this letter shall supersede those previously provided.

### **Water Supply Demand**

The Water Supply Information Summary, included with the submittal, estimated a total annual use for the subdivision of 3.08 acre-feet per year pursuant to Division 2 Water Court Case No. 22CW3060. The decree allows for the use of four wells to each pump up to 0.77 acre-feet per year for use in one single-family dwelling and outdoor uses for irrigation of lawns and gardens, stock water, and fire protection.

Please note that standard water use rates, as found in the Guide to Colorado Well Permits, Water Rights, and Water Administration, are 0.3 acre-foot/year for each ordinary household, 0.05 acre-foot/year for four large domestic animals, and 0.05 acre-foot/year for each 1,000 square feet of lawn and garden irrigation (2.2 acre-foot/year/acre).

### **Source of Water Supply**

The anticipated source of water is to be provided by four on-lot wells. These wells will produce from the Dawson aquifer. The wells will operate pursuant to the amended augmentation plan decreed in case no. 22CW3060, which amended the decree in case no. 18CW3026 (Division 2)/18CW3057 (Division 1). The water underlying this property was adjudicated and the applicant is the owner of the Dawson, Denver, Arapahoe, and Laramie Fox-Hills aquifers.

According to the decree in case no. 22CW3060, the following amounts of water shown in Table 1, below, were determined to be available underlying the 35 ± acre tract of land owned by the applicant:





**Table 1 - Denver Basin Ground Water Rights**

Aquifer	Tributary Status	Volume (AF)	Annual Allocation 100 Year (AF/Year)	Annual Allocation 300 Year (AF/Year)
Dawson	NNT	2,270*	25.7*	7.56*
Denver	NNT 4%	2,130	21.3	7.10
Arapahoe	NT	1,450	14.5	4.83
Laramie-Fox Hills	NT	951	9.51	3.17

The plan for augmentation decreed in case no. 22CW3060 allows for annual diversion of 3.08 acre-feet from the Dawson aquifer for the uses proposed in the subdivision referral.

The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. The State Engineer’s Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to 37-90-137(4)(b)(I), C.R.S., “Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years.” Based on this **allocation** approach, the annual amounts of water decreed is equal to one percent of the total amount available as determined by Rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those amounts for a maximum of 100 years.

In the El Paso County Land Development Code, effective November, 1986, Chapter 5, Section 49.5, (D), (2) states:

“-Finding of Sufficient Quantity – The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of three hundred (300) years.”

The State Engineer’s Office does not have evidence regarding the length of time for which this source will “meet the average annual demand of the proposed subdivision.” However, treating El Paso County’s requirement as an **allocation** approach based on three hundred years, the annual estimated demand, for the entire subdivision, is a maximum of 3.08 acre-feet as allowed by the augmentation plan. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

**State Engineer’s Office Opinion**

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that the anticipated water supply can be provided without causing material injury to decreed water rights so long as the applicant obtains well permits issued pursuant to C.R.S. 37-90-137(4) and the plan for augmentation noted herein, for all wells in the subdivision and operates the wells in accordance with the terms and conditions of any future well permits.

Our opinion that the water supply is **adequate** is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according

to the statutory **allocation** approach, for the proposed uses is greater than the annual amount of water required to supply the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Division 2 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decrees, pending actual geophysical data from the aquifer.

**The amounts of water in the Denver Basin aquifers, and identified in case no. 18CW3026 (Division 2)/18CW3057 (Division 1) and amended in case no. 22CW3060 was calculated based on estimated current aquifer conditions. For planning purposes, the county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 300 years used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply. Furthermore, that applicant will need to apply for, and obtain a new well permits issued pursuant to Section 37-90-137(4) C.R.S.**

Should you or the applicant have questions regarding any of the above, please contact me at this office.

Sincerely,



Kate Fuller, P.E.  
Water Resource Engineer

cc: Rachel Zancanella, Division 2 Engineer

County Attorney

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

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

November 30, 2023

MS-20-6 Forest Heights Estates  
Minor Subdivision

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

**WATER SUPPLY REVIEW AND RECOMMENDATIONS**

Project Description

1. This is a proposal by Jon P. Didleau and Phyllis J. Didleau Revocable Trust (“Applicant”) for subdivision of 4 single-family lots on an existing 32.62-acre parcel of land (the “property”). The property is zoned RR-5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary (“WSIS”), the water demand for the subdivision is 3.08 acre-feet/year, comprised of .26 acre-feet/year for household use for each of the 4 residential lots totaling 1.04 acre-feet/year, 0.27 acre-feet per year for 2,175 square feet of irrigation per lot for a total of 1.08 acre-feet, and 0.06 acre-feet/year per head for stock watering of up to 16 head for a total of 0.96 acre feet per year. Based on this total demand, Applicant must be able to provide a supply of 924 acre-feet of water (3.08 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from the not-nontributary Dawson aquifer as provided in the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 2018CW3026. Applicants sought to amend this original plan for

**ASSISTANT COUNTY ATTORNEYS**

NATHAN J. WHITNEY  
CHRISTOPHER M. STRIDER

STEVEN A. KLAFFKY  
TERRY A. SAMPLE

LORI L. SEAGO

BRYAN E. SCHMID  
STEVEN W. MARTYN

MERI GERINGER  
DOREY L. SPOTTS

augmentation in the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 2022CW3060 (“Decree”). The groundwater decreed underlying the property includes 2,270 acre-feet of water in the Dawson aquifer, 2,130 acre-feet of water in the Denver aquifer, 1,450 acre-feet of water in the Arapahoe aquifer and 951 acre-feet of water in the Laramie-Fox Hills aquifer. The Decree approved the pumping of up to 3.08 acre-feet per year for 300 years and 924 acre-feet total of Dawson aquifer water. The Court further awarded a vested right to use up to 4 wells on the property.

The approved augmentation plan has a term of 300 years and requires that non-evaporative septic system return flows be used for augmentation during the pumping period for the 4 approved wells. Applicant must reserve 943 acre-feet of its water rights in the Laramie-Fox Hills aquifer for the replacement of post-pumping depletions.

### State Engineer’s Office Opinion

5. In a letter dated November 1, 2023, the State Engineer reviewed the proposal to subdivide the 32.168 +/- acre parcel into 4 single-family residential lots. The State Engineer stated that “[t]he anticipated source of water is to be provided by four on-lot wells. These wells will produce from the Dawson aquifer. The wells will operate pursuant to the augmentation plan decreed in case no. 22CW3060, which amended the decree in case no. 18CW3026 (Division 2)/18CW3057 (Division 1). The water underlying this property was adjudicated and the applicant is the owner of water rights in the Dawson, Denver, Arapahoe, and Laramie Fox-Hills aquifers.” The State Engineer identified the total estimated water requirement at 3.08 acre-feet/year (0.77 acre-feet/year/lot).

The State Engineer stated that “[b]ased on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(l), that the anticipated water supply can be provided without causing material injury to decreed water rights so long as the applicant obtains well permits issued pursuant to C.R.S. 37-90-137(4) and the plan for augmentation noted herein, for all wells in the subdivision ....”

### Recommended Findings

6. Quantity and Dependability. Applicants’ water demand for Forest Heights Estates subdivision is 3.08 acre-feet per year from the Dawson aquifer for a total demand of 924 acre-feet for the subdivision for 300 years. The Decree allows for 4 wells to withdraw water from the Dawson aquifer up to 3.08 acre-feet per year, for a total of 924 acre-feet over 300 years, which equals the current demand.

**Based on the water demand of 3.08 acre-feet/year for the Forest Heights Estates subdivision and the Decree permitting withdrawals in that amount, the County Attorney’s Office recommends a finding of sufficient water quantity and dependability for Forest Heights Estates.**

7. Quality. The water quality requirements of Section 8.4.7.B.10 of the Land Development Code must be satisfied. **El Paso County Public Health shall provide a recommendation as to the sufficiency of water quality.**

8. Basis. The County Attorney's Office reviewed the following documents in preparing this review: a Water Resources Report dated July 28, 2023, the Water Supply Information Summary, the State Engineer Office's Opinion dated November 1, 2023, and Findings of Fact, Conclusions of Law, Ruling of the Referee and Judgement and Decree in Division 2 Case No. 2022CW3060. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

**REQUIREMENTS:**

A. Applicants and their successors and assigns shall comply with the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Case No. 22CW3060, specifically, that water withdrawn from the Dawson aquifer by each of the proposed four wells permitted shall not exceed 0.77 annual acre-feet, based on a total combined annual withdrawal of 3.08 acre-feet. Depletions during pumping shall be replaced by individual on-lot non-evaporative septic systems.

B. Applicants must create a homeowners' association ("HOA") for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water determinations and replacement plans for the property.

C. Applicants shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision, their successors and assigns, and the HOA regarding all applicable requirements of the Findings of Fact, Conclusions of Law, Ruling of the Referee and Judgment and Decree in Division 2 Case No. 2022CW3060, including the limitations on diversions and use of water for each well and lot, the requirement to meter and record all well pumping, and information on how records are to be recorded.

Covenants shall specifically address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 924 acre-feet of Dawson aquifer water and 943 acre-feet of Laramie-Fox Hills aquifer water pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 2022CW3060 to satisfy El Paso County's 300-year water supply requirement for the 4 lots of Forest Heights Estates. The Covenants shall further identify that 231 acre-feet (0.77 acre-feet/year) of Dawson aquifer water is allocated to each of the 4 lots. Said reservations shall not be separated for transfer of title to the property and shall be used exclusively for primary water supply.

2) Advise of responsibility for costs. The Covenants shall advise the HOA, lot owners and their successors and assigns of their obligations regarding the costs of operating the plans for augmentation, which include pumping of the Dawson wells in a manner to replace depletions during pumping and the cost of drilling Laramie-Fox Hills aquifer wells in the future to replace post-pumping depletions.

3) Require non-evaporative septic systems and reserve return flows from the same. The Covenants shall require each lot owner to use a non-evaporative septic system to ensure that return flows from such systems are made to the stream system to replace actual depletions during pumping and shall state that said return flows shall not be separately sold, traded, assigned, or used for any other purpose. The Covenants shall also include the following or similar language to ensure that such return flows shall only be used for replacement purposes: "Return flows shall only be used for replacement purposes, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose."

4) Address future lot conveyances. The following or similar language shall be included in the Covenants to address future conveyances of the lots subsequent to the initial conveyance made by Applicants/Declarant:

"The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Case No. 2022CW3060 and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

5) Advise of monitoring requirements. The Covenants shall advise the HOA, future lot owners of this subdivision and their successors and assigns of their responsibility for any metering and data collecting that may be required regarding water withdrawals from Dawson or Laramie-Fox Hills aquifers.

6) Require well permits. The Covenants shall require that well permits be obtained pursuant to the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 22CW3060 and C.R.S. § 37-90-137(4) and (10).

7) Address amendments to the covenants. The Covenants shall address amendments using the following or similar language:

“Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Forest Heights Estates pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Case No. 2022CW3060. Further, written approval of the proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney’s Office. Any amendments must be pursuant to an Order from the Division 2 Water Court approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such adjudication.”

8) Address termination of the Covenants. The Covenants shall address termination using the following or similar language:

“These Covenants shall not terminate unless the requirements of the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Case No. 22CW3060 are also terminated by order of the Water Court and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

D. Applicants and their successor and assigns shall reserve in any deeds of the property Dawson aquifer water in the decreed amount of 231 acre-feet (0.77 acre-feet per year) per lot, as well as 943 acre-feet of Laramie-Fox Hills aquifer water. Said reservation shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply.

E. Applicants and their successors and assigns shall convey by recorded warranty deed these reserved Dawson aquifer water rights at the time of lot sales. Specifically, applicant and future lot owners shall convey sufficient water rights in the Dawson aquifer underlying the respective lots to satisfy El Paso County’s 300-year water supply requirement.

Any and all conveyance instruments shall recite as follows:

For the water rights and return flows conveyed for the primary supply (Dawson aquifer):  
“These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year supply, replacement during pumping, and replacement of post-pumping depletions for each lot of Forest Heights Estates. The water rights so conveyed, and the return flows therefrom, shall be appurtenant to each of the respective lots with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in

part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

F. Applicant shall convey to the HOA by recorded warranty deed the reserved 943 acre-feet of Laramie-Fox Hills water rights for use in the augmentation plan to replace post-pumping depletions. Applicant shall recite in the deed that this water shall be used exclusively for augmentation supply and shall not be sold, conveyed, traded, bartered, assigned, or encumbered in whole or in part for any other purpose.

G. Applicants and their successors and assigns shall submit a Declaration of Covenants, Conditions, and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney’s Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney’s Office prior to recording the final plat. Said Declaration shall cross-reference Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 2022CW3060 and shall identify the obligations of the individual lot owners thereunder.

H. Applicants and their successors and assigns shall record all applicable documents, including but not limited to agreements, assignments, warranty deeds regarding the water rights, and Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

I. The following plat note shall be added that addresses the State Engineer’s admonition to advise landowners of potential limited water supplies in the Denver Basin:

“Water in the Denver Basin aquifers is allocated based on a 100-year aquifer life; however, for El Paso County planning purposes, water in the Denver Basin aquifers is evaluated based on a 300-year aquifer life. Applicant and all future owners in the subdivision should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than either the 100 years or 300 years used for allocation indicated due to anticipated water level declines. Furthermore, the water supply plan should not rely solely upon non-renewable aquifers. Alternative renewable water resources should be acquired and incorporated in a permanent water supply plan that provides future generations with a water supply.”

cc: Ryan Howser, Project Manager, Planner



**From:** Benjamin Malcolm <brmalcolm@outlook.com>  
**Sent:** Tuesday, February 20, 2024 4:50 PM  
**To:** PCD Hearings; Ryan Howser  
**Subject:** Forest Heights 162002 Adjacent Property Owner Comments

CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.

To whom it may concern,

On February 20, 2024 we received a notice of the March 28, 2024 public hearing on the Forest Heights minor subdivision (#162002). As adjacent property owners, we fully support the project after reviewing the project documents online. We also would like to state for the hearing that the documentation required is excessive and extremely burdensome for a minor subdivision. Our opinion comes from the perspective of an electric utility engineer and physician - who are very familiar with "red tape."

Thank you,

Benjamin R. Malcolm, P.E. & Regan E. Malcolm, M.D.  
12030 Meadow Glen Lane  
Colorado Springs, CO 80908  
Cell: (402)-750-2763

**From:** Ryan Howser  
**Sent:** Wednesday, February 28, 2024 4:07 PM  
**To:** PCD Hearings  
**Subject:** FW: Request remove Forest Heights Estates MS206 from PC Consent List for 2024-03-08  
**Attachments:** Assessor Map Context.pdf; Plat Map with Wetlands .pdf

---

**From:** Judith von Ahlefeldt <blackforestnews@earthlink.net>  
**Sent:** Wednesday, February 28, 2024 4:06 PM  
**To:** Ryan Howser <RyanHowser@elpasoco.com>  
**Cc:** EXTERNAL Black Forest News <EXTERNALBlackForestNews@elpasoco.com>  
**Subject:** Request remove Forest Heights Estates MS206 from PC Consent List for 2024-03-08

**CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.**

---

Feb. 28, 2024 Wednesday 4:05 pm

Hello Ryan,

This is Judith von Ahlefeldt, owner of EPC Parcel:**5209000108**

**8255 FOREST HEIGHTS CIR Colorado Springs, CO 80908**

in Forest Heights Estates, M S206 which is on the Consent Calendar for the March 8, 2024 Planning Commission.

**I am requesting that Forest Heights Estates be removed from the upcoming Thursday March 8 Planning Commission Consent Calendar to status as Regular Hearing item.** MS 206 proposal has not been previously presented at public hearing.

My ownership of this parcel began in November, 1969. It is adjoining (contiguous with) either Forest Hts Circle itself or adjoining a lot line of new parcels presented on EDARP as of 8 am Feb. 22, 2024 - the day after MS 206 was posted for Planning Commission and BoCC scheduling on Wed., Feb. 21, 2024).

My property was purchased in 1969 from Robert Wells, a previous owner who purchased 80 acres in 1948. My 14.5 ac parcel is the largest existing parcel along Forest Hts Circle affected by the subdivision proposal. I am also the only adjoining owner who must use the entire length of Forest Hts Circle to reach Herring Rd. My deed contains ingress and egress rights for Forest Heights Circle.

Over 2400 linear feet of my property boundary borders this subdivision proposal: the entire east side of new parcel Lot 2, the south side of the east end of Forest Hts Circle, and two sides (south and east) of the proposed cul de sac.

My property, with two tributaries of Burgess River, has significant high-watershed subirrigated shallow swale wetlands. All subwatersheds of Forest Heights Estates of minimal size and in good condition. Within Section 9 some of the other subwatersheds have incised into the landscape, especially on Lot 1 and the southern portions of Lots 2 and 3.

In Forest Heights Estates, several subwatersheds, all tributary to Burgess River, cross trending southwest, and they cross all of the proposed lots. The swales are well vegetated with grasses, sedges and rushes, and where the alluvium is thicker, also had tree areas. The trees were burned off in the June, 2013 catastrophic Black Forest Fire, but the wetlands themselves were fully recovered by early Fall. There is scattered tree re-growth along Forest Heights Circle and near patches of surviving ponderosa pines.

Where Burgess River crosses Forest Heights Circle near the east end of the Road where it reaches my property, and where Forest Heights Circle's old roadcuts from 1954 encounters thin alluvium with springs, there is current wetland vegetation including peachleaf willow, narrowleaf cottonwood, aspens and New Mexican locust which all resprouted after the fire and are now sizeable trees.

It is important to me and current residents to conserve and respect these wetlands.

**I have never had any objection to the subdivision into the proposed four lots , but I do have issues with the Road positioning and design and ECM hardscape requirements (and have submitted previous comments - See EDARP.**

When Version 1 of the subdivision proposal was submitted in late 2020, I assisted Phyllis Didleau in organizing a Neighbors meeting at her home, and prepared minutes which she approved and I sent to all existing lot owners (See the first 2020 entry on EDARP under Additional Documents). **Other documents, submitted by myself and Jack Yonce in 2021 for the first review are in the same part of the same EDARP list, but not posted until July 16, 2022 after the Agency Reviews for Version 1 were completed. Please ask the Planning Commissioners to read these with the View Link.**

Version 5 of this project is now the one which is being considered as a Consent Item at March 8, 2024 Planning Commission. These have had long debate during 2021,2022, and 2023. There are nearly 150 documents on EDARP for this Minor Subdivision.

In my review of the EDARP Documents available on the EDARP Public Site I find there is:

- incomplete vetting of some of the issues;
- non-recognition of some things important to Neighbors, but not required to be addressed by the ECM or Code so not addressed;
- not appearing at all for consideration;
- not satisfactorily answered, or have not had interactive vetting with affected parties
- required before plat recording but not appearing and EDARP for information or discussion

The Developers have hired a new planning firm since mid-2023 and they have not reached out to the neighbors.

**The most concerning items for me with regard to my property are:**

- lack of identification of Utility easements for the four new lots on the Plat
- the Maintenance Agreement and Covenants,
- the road engineering and stormwater hardscape requirements causing destruction of wetland trees, destabilization of sensitive soils, high expense for the Developers, and unknown future maintenance issues for all the private landowners.

**In the bigger picture I am concerned with:**

- the disintegration of the Forest Heights Neighborhood Non-motorized Trail System, already built on private land with verbal permission, 2016 - 2018. During the 2022-2024 portion of the Review Period for Forest Heights Estates (per Developer's choices) these trails were blocked. One of these trails was enjoyed by residents since the 1950s and was restored after the fire in 2016, and the other built new in 2018, also after the fire, to connect to Red Tail Ranch Subdivision (2018). All were built with landowner permission. Red Tail Ranch Subdivision has non-motorized trails (maintained by Black Forest Trails Association [BFTA 501(c)(3)] on its approved plat, coincident with the Platted Lot Perimeter utility easements. The Forest Heights Trail system connected to this, with the intention of providing See 2121 EDARP Additional Documents submissions)

Please see documents on **EDARP (2021 Additional Documents** about these trails, all submitted before the trails were damaged and fenced off per the Property Owners'/Developer choice.

To assist with familiarizing planning Commissioners with the bigger picture, I have attached two pdfs: An **Annotated Assessor Map** of Section 9, and also one of the Review Final **Plat map with Wetlands** showing no build constraint areas (with comments) from EDARP. These are downloaded on Thursday Feb. 22, 2024.

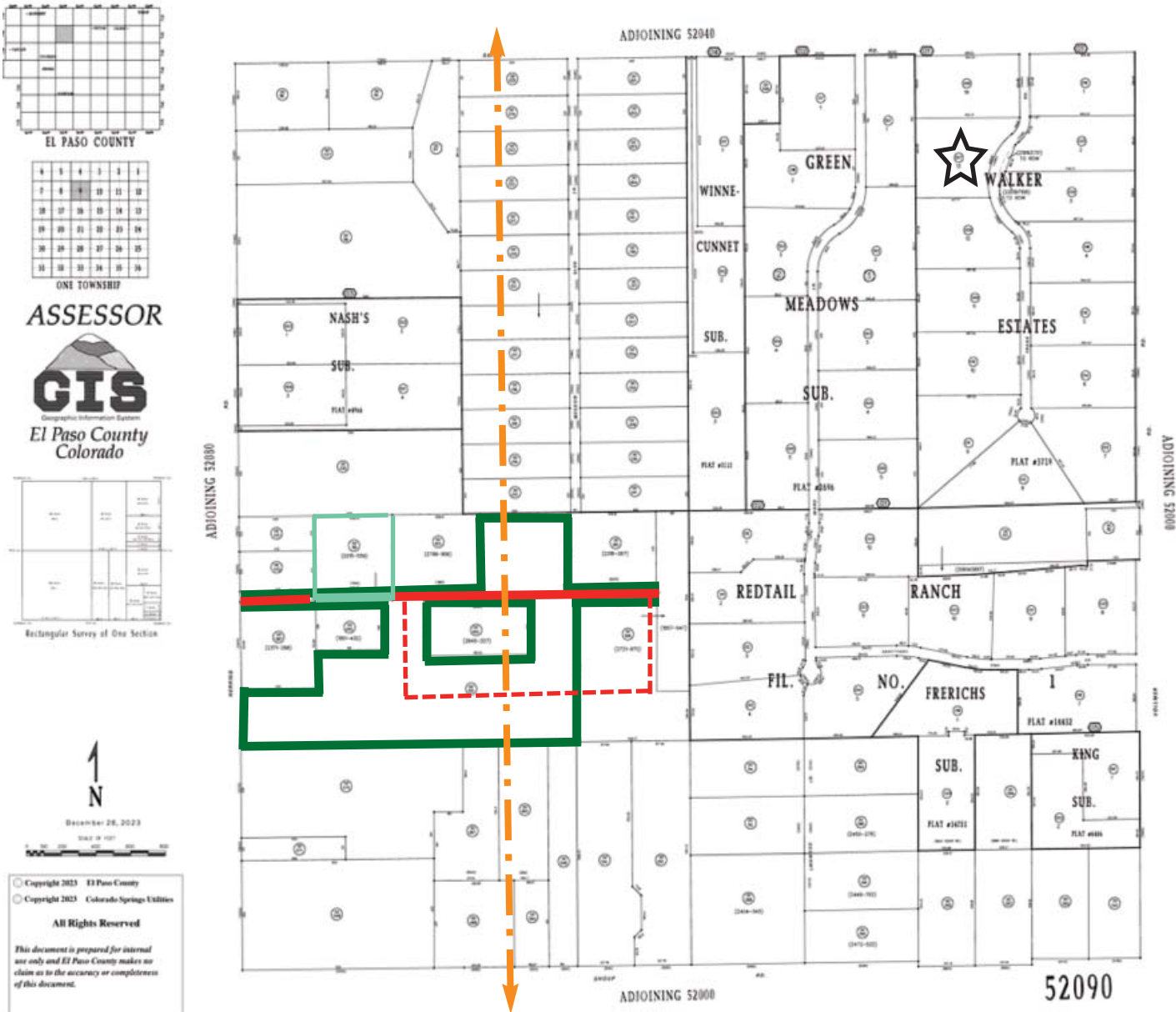
Please post all of this request including the maps into EDARP and include it in the Packet for the Planning Commission.

Thank you,

Judith von Ahlefeldt

Owner of Parcel 5209000108 8255 Forest Heights Circle, Colorado Springs, CO 80908

# LANDSCAPE AND DEVELOPMENT CONTEXT OF FOREST HEIGHTS ESTATES MS206 See Plat Map for Wetlands.



## LANDSCAPE AND HISTORICAL CONTEXT

When El Paso County was formed in the early 1870s, Forest Heights Estates was owned by the Colorado Pinery and Land Company (General Palmer). After his death in 1909 it was sold to Edgar Lumber and Box Company. After WWI, Shoup Rd was built in early 1920s, and large parcels of Section 9 were sold. In 1928 the Colorado Interstate Gas Line was built from TX to WY.

Robert Wells purchased 80 acres from Edith Wolford (*the N1/2 of the SW quarter of Section 9*).

**BOCC Report Packet**  
**Page 61 of 89**

Forest Heights Estates was part of this former 80 acre post -WWI parcel off Herring Rd. in 1948. Forest Heights Circle (red dotted line) was cut in from Herring Rd. after WWII, in 1954, as a loop. Wells also built a spec house in 1955 at NE corner of Forest Hts. Cir. and Herring Rd.

When this part of Black Forest was Administratively Zoned to 5 acre minimum in 1965, Forest Hts Circle became a stub cul de sac (solid red line).

Three existing parcels with deeded access each are north of Herring Rd. and three are south.

**Key to T12S R65W SECTION 9**  
**Bordered by: North - Swan Rd.**  
**South - Shoup Rd.**  
**West - Herring Rd.**  
**East - Vollmer Rd.**

☆ Top of Vollmer Hill 7704' Forest Hts Estates Bndry

— Forest Hts. Circle MS206

— Yonce ownership

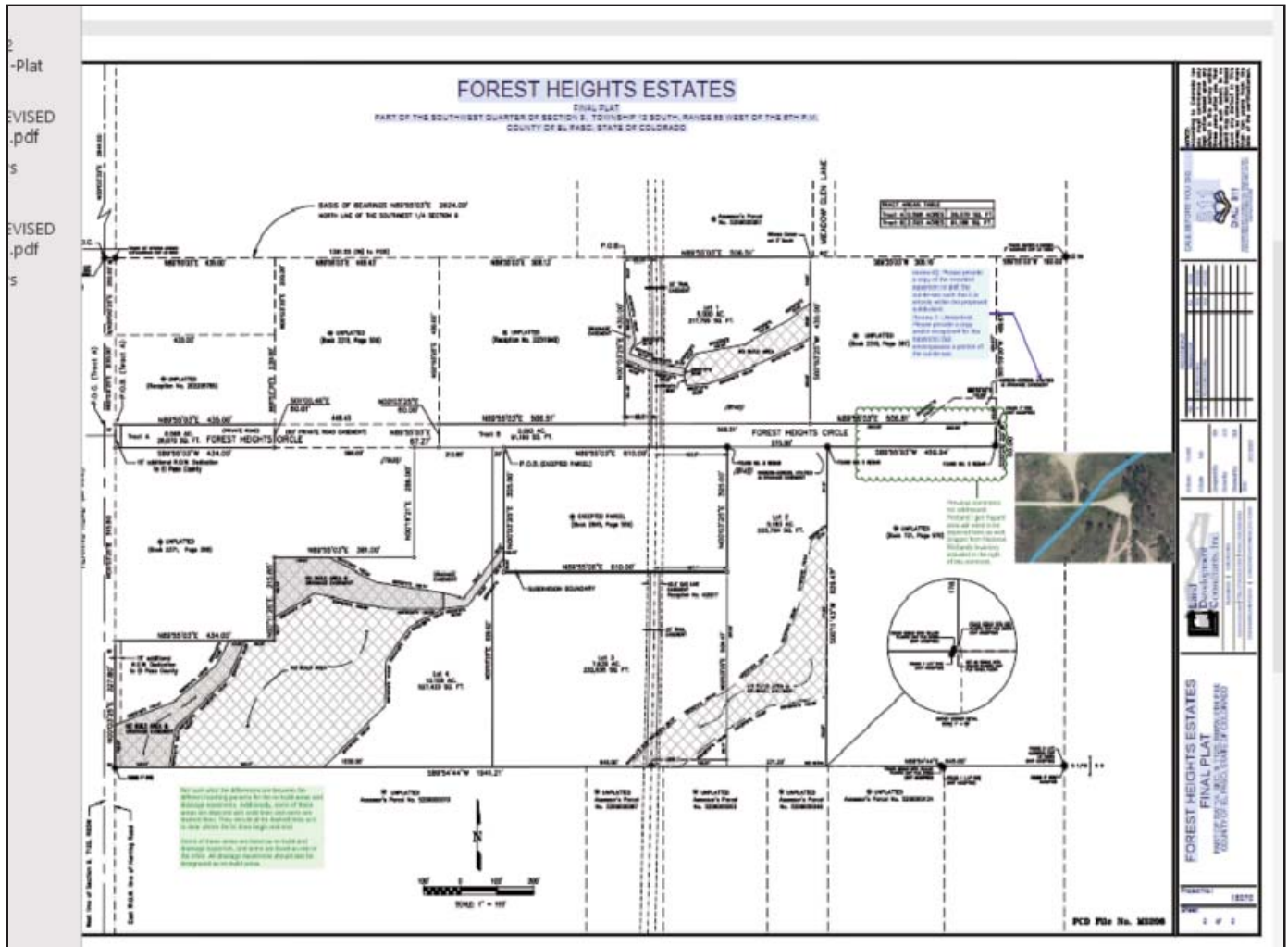
↔ Interstate Pipeline

# Forest Heights Estates Plat from EDARP - Feb. 22, 2024 (Final Review)

No Utility Easements shown along property boundaries

KM Gasline is shown north to south with 25' EPC Regional Trail Easement dedication are indicated on the Review Plat.

Wetland building constraint areas are shown, but not all wetlands in the 80 ac context are shown.



As shown here there is no access to KM Pipeline other than north from Forest Hts Circle with the proposed subdivision. The KM (formerly CIG) Gas/Oil has been on the EPC Regional Trail Master Plan since 2006 (first County Parks Master Plan). In Section 9 all existing parcels crossed by the Pipeline have homes built. In Section 9 some parcels are 2.5 ac or less, and there are wetland issues (large crosshatch areas on this Plat Map). Not all areas for expressed 2024 ECM stormwater concerns are shown on this plat map.

Miranda Benson2

---

**From:** PCD Hearings  
**Sent:** Thursday, February 29, 2024 11:17 AM  
**To:** PCD Hearings  
**Subject:** FW: Forest Heights Estates, MS 206, Planning Commission Hearing 3/8/2024  
**Attachments:** Forest Heights BFTA Review pdf Comments Revised.pdf; Forest Hts Feb. 28 Trails.pdf

---

**From:** Cheryl Pixley <[cheryl@cherylpixley.com](mailto:cheryl@cherylpixley.com)>  
**Sent:** Thursday, February 29, 2024 9:19 AM  
**To:** Ryan Howser <[RyanHowser@elpasoco.com](mailto:RyanHowser@elpasoco.com)>  
**Subject:** Forest Heights Estates, MS 206, Planning Commission Hearing 3/8/2024

**CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.**

---

Dear Ryan,

Attached are comments submitted in June, 2022 by the Black Forest Trails Association. I have not seen the concerns addressed by the applicant in any communication posted on EDARP. The trail situation is still of great concern, as the Forest Heights Estates subdivision is a strategic location for connecting trails in all directions. These trails have been in use, some for 50 years and longer, and need to be documented to be preserved.

Please be sure our comments go out in the information packet for the Planning Commission members, as this situation is critical.

Your assistance is greatly appreciated.

Respectfully,

Cheryl Pixley  
Vice President  
Black Forest Trails Association **Error! Filename not specified.**  
719-338-0117



Virus-free. [www.avast.com](http://www.avast.com)



# BLACK FOREST TRAILS ASSOCIATION

02/28/24

## Subject: Forest Heights Estates Minor Subdivision (MS-206)

On June 1, 2022 the El Paso County Planning & Community Development Department, commenting on this proposal, stated "Parks staff have identified a proposed Black Forest Trails Association (BFTA) equestrian trail impacted by this project. Parks staff recommends the applicant reach out to BFTA to discuss conveyance of a trail easement." To that end the Black Forest Trails Association is endeavoring to work with the applicants to maintain neighborhood access with trails connecting Herring Road to Meadow Glen Lane. We submitted review comments in June, 2022, summarized here, and requesting the applicant provide:

- 1) A 10' non-motorized, multi-use public trail easement on or along the length of Forest Heights Circle from Herring Road to its easternmost termination point and
- 2) Starting from the 25' non-motorized, multi-use public trail easement platted in the existing gas pipeline easement from Forest Heights Circle north to Lot 1's northern boundary, a 20' easement easterly on the 20' utility easement along the northern edge of Lot 1 to Meadow Glen Lane, connecting Forest Heights Circle with Meadow Glen Ln.
- 3) A 15' non-motorized, multi-use public trail easement from applicant Phyllis Ditleau, platted to connect Lot 1 trail easement, ending at Northwest corner of Lot 1, with Meadow Glen Lane

The final subdivision of lots along Forest Heights Circle affords a unique and excellent opportunity for the County to partner with citizens for the common goal of connecting citizens to Parks and Open Space amenities with cooperative efforts that will create a lasting non-motorized trail system and facilitate emergency egress routes. Black Forest Trails Association looks forward to working with the applicants and developer to achieve this end.

BFTA has a long history partnering with property owners on Forest Heights Circle and Meadow Glen Lane as Section 9 is in a unique position to provide non-motorized trail connectivity among BFTA local trails and Regional Parks and Open Spaces. One such trail has long connected Herring Road, Forest Heights Circle and Meadow Glen Lane by a Black Forest Trails Association sponsored non-motorized trail that utilized Forest Heights Circle and paralleled the Eastern boundary of proposed Lot 1. This trail segment was an informal social trail dating back to the mid-1950s.

This trail was expanded in 2020, with applicant Phyllis Ditleau's permission, to add an east-west extension, continuing the trail across the north edge of her adjacent property immediately east of the proposed Lot 1 as part of a BFTA effort to connect Meadow Glen Lane to Ward Lane.

This trail continues east, into Redtail Ranch, where public trail easements are platted over utility easements, designed to establish a non-motorized trail route from the Forest Heights and Meadow Glen Neighborhoods to both the Pineries Open Space and Section 16. This links to the future Regional Trail along Vollmer Road, which is part of the Regional Trail System connecting Pineries Open Space and Section 16 trails. These private property land easements provide local residents much needed access to both The Section 16 Trail and to the Pineries Open Space.

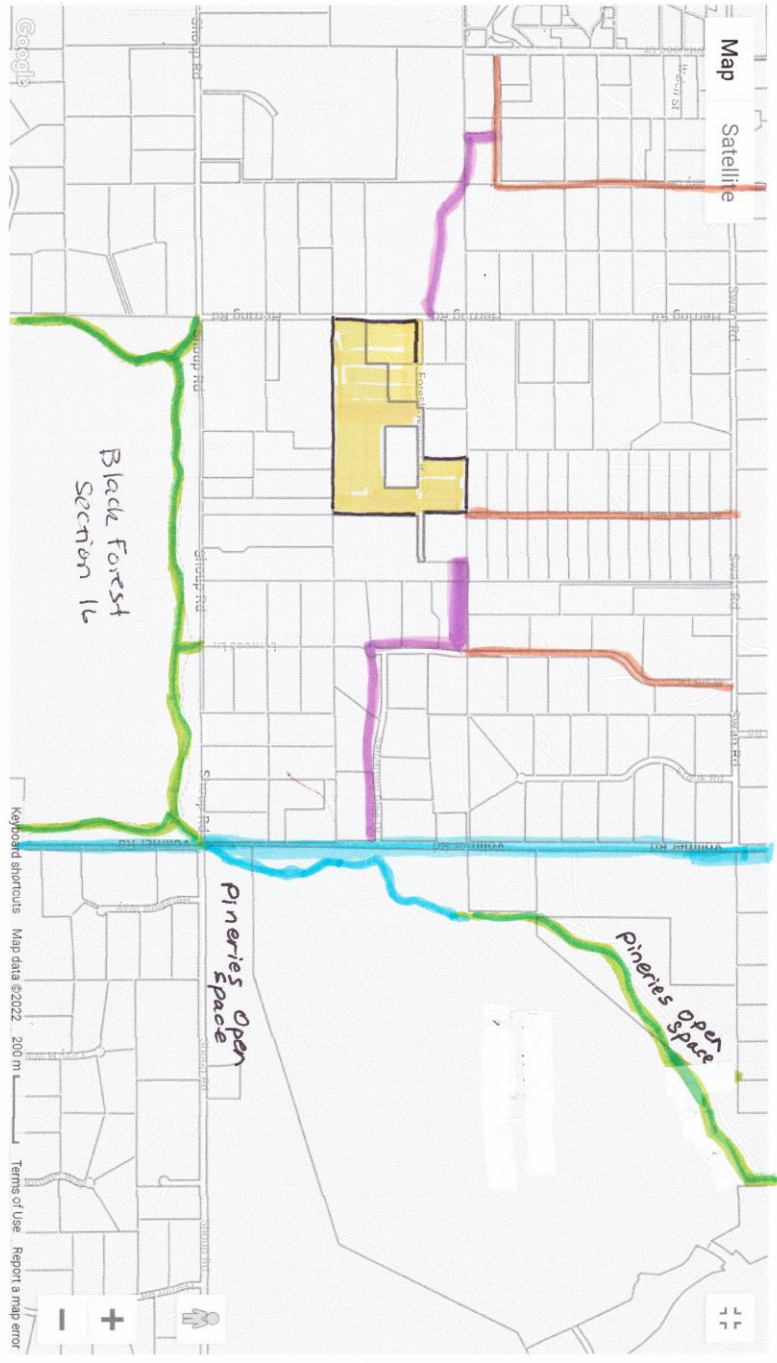
### BACKGROUND:

Black Forest Trails Association, a 501(c) (3) non-profit corporation, was established in 1995 and, seeks to encourage the use of gravel roads as non-motorized trails. BFTA also encourages private landowners and developers to create trails on easements connecting the gravel roads with the Regional Trails to form an integrated system to reach nearby County Parks and Open Spaces. Also, since 2013, BFTA has sought to build trails on easements with a width of 15' to accommodate emergency vehicular egress from dead end roads in the case of future wildfires. As a result, BFTA has provided local neighborhoods with non-motorized trails that not only access the County Trail system safely on foot, horseback or bicycle but simultaneously facilitate emergency egress.

The attached maps show the routes of trails surrounding proposed Forest Heights Estates and illustrates the importance of maintaining public trails in the subdivision



- █ Trails on gravel roads
- █ Regional Trail route
- █ Public Trails on private property
- █ Internal park trail



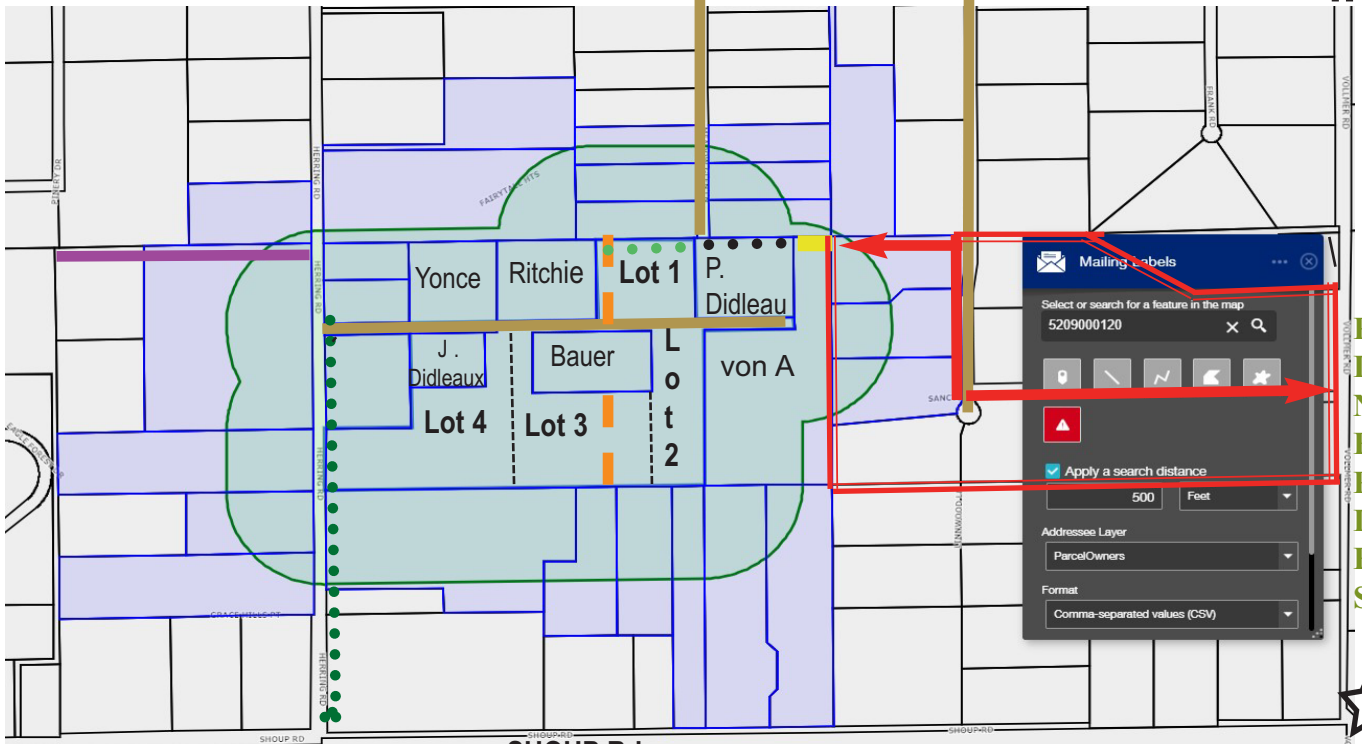
# Forest Hts Estates Key Trails

Approx Entrance to Pineries Open Space - Vollmer Rd

To Swan Rd./New Discovery

Meadowglen

Ward Ln



PINERIES OPEN SPACE

## KEY

- Redtail Ranch Plat
- REG TRAIL-gasline
- Gravel Roads
- BFTA-vonA
- P. Didleau-Request reopen
- REQUEST PLAT NOTE FOR UTILITY EASEMENT. ALREADY HAS FORCE BROAD BAND CABLE - request for BFTA Easement on Plat - BFTA Maintains (like Redtail Ranch)
- Existing BFTA Trail - McDermott- Verbal
- Potential BFTA Trail - Herring Rd. in Additional 15' MTCP Preserved ROW
- Section 16 Neighborhood Existing Access
- Planned Pineries OS Trail

SECTION 16 Partnership Trail  
El Paso County Tier I Trail 4 miles  
T12S R65W Sec. 9

Miranda Benson2

---

**From:** Ryan Howser  
**Sent:** Thursday, March 7, 2024 11:29 AM  
**To:** Miranda Benson2  
**Subject:** FW: request to El Paso CO Planning Commission for Black Forest trails protection and planning

---

**From:** johnrtrcka@gmail.com <johnrtrcka@gmail.com>  
**Sent:** Thursday, March 7, 2024 8:35 AM  
**To:** Ryan Howser <RyanHowser@elpasoco.com>  
**Subject:** RE: request to El Paso CO Planning Commission for Black Forest trails protection and planning

**CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.**

---

Hey Sir, thanks for your quick reply!

I support owner/developer rights as long as they preserve the large lot precedent in the area. I do ask for planning commission support toward incorporating legal rights-of-way in developments to preserve access to historical trails and to provision connecting trails for access to public open space.

I don't know all the details regarding the application you referenced below, but from my cursory review it looks like something I would support. Tho, I have to say I'm disappointed to learn that access to my sons' trails in this vicinity is currently blocked.

I like the Black Forest Trails Association (BFTA) plan for trails in this area.

Thanks for your consideration and support in this area,  
John

---

**From:** Ryan Howser <[RyanHowser@elpasoco.com](mailto:RyanHowser@elpasoco.com)>  
**Sent:** Thursday, March 7, 2024 8:13 AM  
**To:** [johnrtrcka@gmail.com](mailto:johnrtrcka@gmail.com)  
**Subject:** RE: request to El Paso CO Planning Commission for Black Forest trails protection and planning

John,

Thanks for your email. I would like to make sure your comments are acknowledged. Is this in reference to today's hearing regarding case no. MS206 for the subdivision plat for Forest Heights Estates? Are you wishing to express opposition or support for this application?

---

**From:** [johnrtrcka@gmail.com](mailto:johnrtrcka@gmail.com) <[johnrtrcka@gmail.com](mailto:johnrtrcka@gmail.com)>  
**Sent:** Thursday, March 7, 2024 8:10 AM  
**To:** Ryan Howser <[RyanHowser@elpasoco.com](mailto:RyanHowser@elpasoco.com)>  
**Subject:** request to El Paso CO Planning Commission for Black Forest trails protection and planning

**CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.**

---

Mr. Howser and members of our El Paso County Planning Commission,

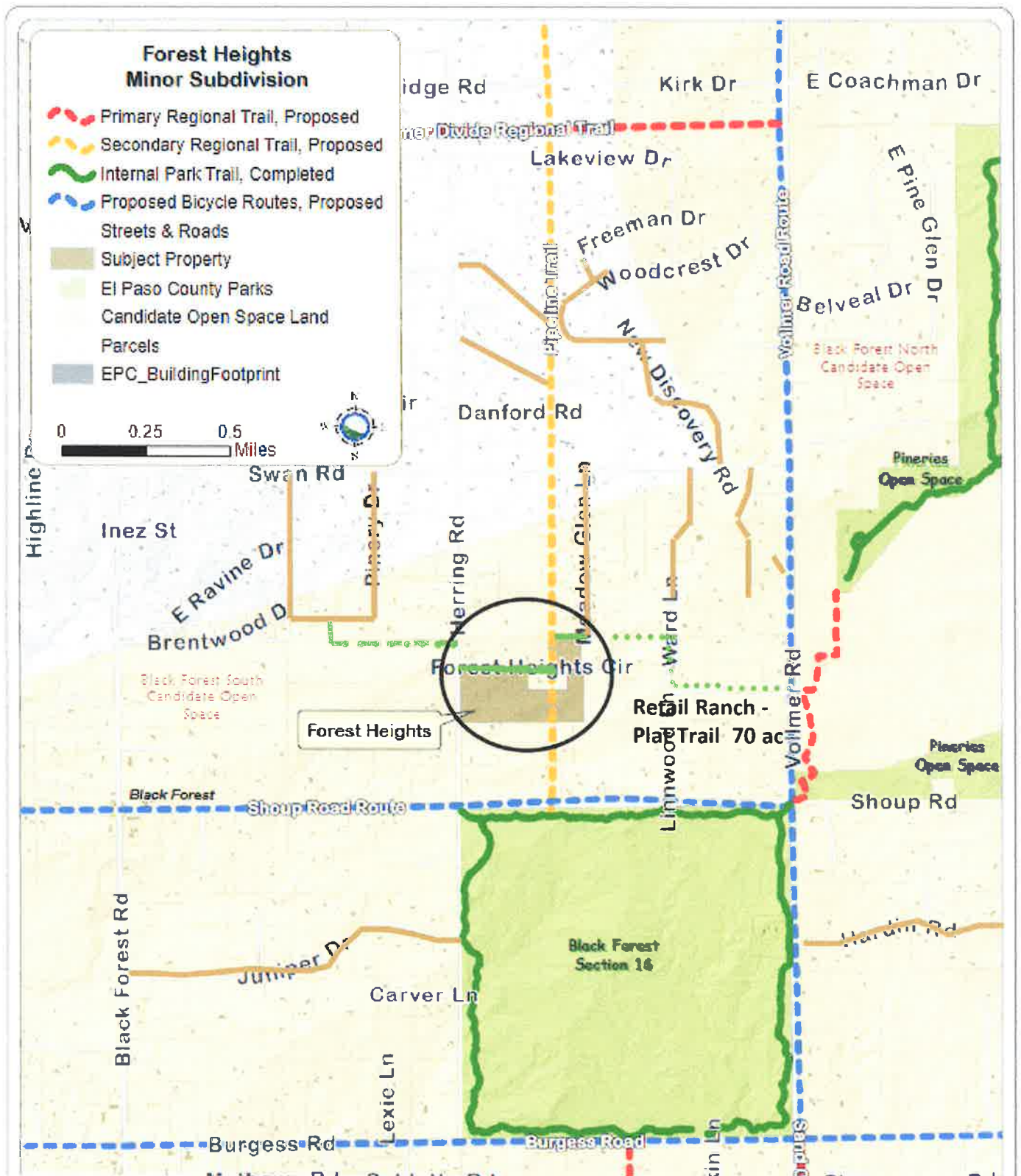
I'd like to respectfully submit my request to the El Paso County Planning Commission to ensure natural areas are protected. As an almost 20-year resident of the Black Forest area of Colorado Springs, I am convinced that what makes our region and county so great for its current and future residents is its natural beauty and the access we all have to the land and viewsheds that realize the enjoyment of that beauty. I feel connected to the land. It inclines me to imagine those who've gone before shaping the history we are invited explore and learn from. Such reality amplifies my appreciation for our existing open spaces and my desire to seek protecting and caring for them.

Two of my three Eagle Scout sons built access trails in the Black Forest near Forest Heights Circle and Meadow Glen Lane. This service enabled my boys and their troopmates to give back to our land and neighbors, internalizing their appreciation for the trails and open spaces we have, and our need to preserve them. These trails served dual purpose: 1) facilitate community access to open spaces and 2) improve emergency ingress/egress to areas with limited access.

I'm afraid that there are forces in our community solely driven by profit (often time in-excess), and that those voices end up as the only ones heard by government officials such as yourselves. Please know that there is a silent majority here in El Paso County that needs leaders who stand up and fight to preserve the precious open spaces we have, being a champion for less when it comes to development. As we all know, people are more important than dollars.

Very Respectfully,

John Trcka  
4970 Sierra Ridge Trail  
Black Forest, Colorado Springs, CO 80908  
719-502-1094

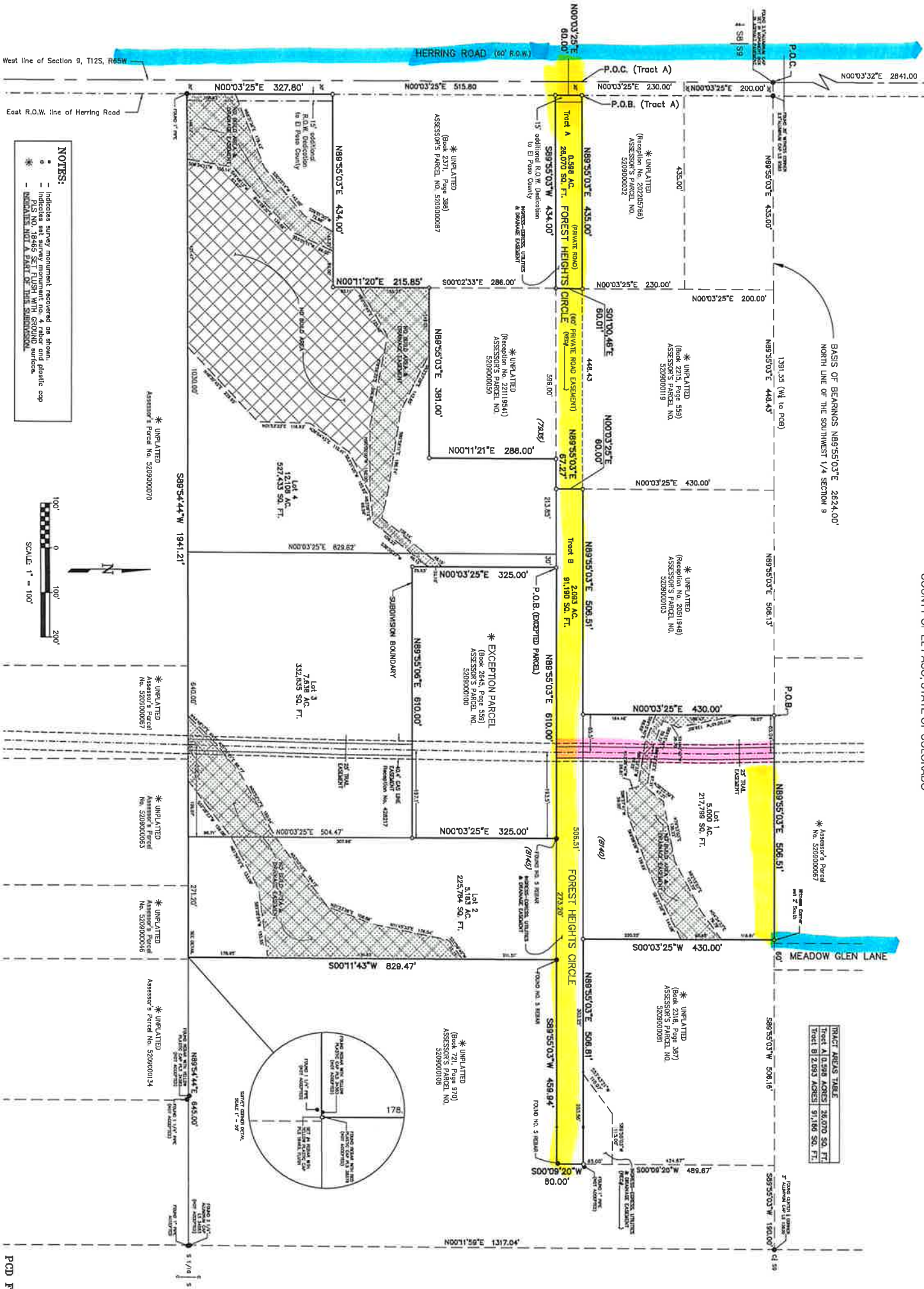


**El Paso County Parks Map Update (EDARP- March 6) showing Forest Heights Circle Pipeline Easement (Oval Circled Area - not to include exempted Area of Bauer lot). The Black Forest Trails Association Local Trail System is a key Non-Motorized Trail Access for Section 9 properties and other Forested Key Areas, Large Lot Rural Residential Placetypes.**

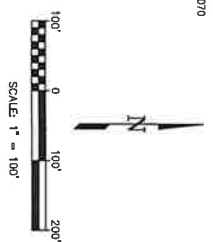
# FOREST HEIGHTS ESTATES

FINAL PLAT

PART OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M.  
COUNTY OF EL PASO, STATE OF COLORADO



- NOTES:**
- indicates survey monument recovered as shown.
  - indicates set survey monument with 4 rebar and plastic cap.
  - ☆ indicates set survey monument with ground surface.
  - indicates and a part of the subdivision.



**FOREST HEIGHTS ESTATES**  
**FINAL PLAT**  
PART OF SW 1/4, SEC. 9, T12S, R65W, 6TH P.M.  
COUNTY OF EL PASO, STATE OF COLORADO

**Land Development Consultants, Inc.**  
PLANNING • SURVEYING  
www.ldcinc.com • TEL: (719) 528-6133 • FAX: (719) 528-6848  
3958 MAZZELL ROAD • COLORADO SPRINGS, CO 80901

H Scale: 1"=100'  
V Scale: N/A  
Designed By: N/A  
Drawn By: JLG  
Checked By: DLK  
Date: 5/01/2020

REVISIONS			
No.	Description	By	Date
1	LOT REVISIONS	DAS	02/29/20
2	ROAD REVISIONS	DAS	02/29/20
3	EPIC REVIEW COMMENTS	MVE	05/05/20

CALL BEFORE YOU DIG ...

**DIAL 811**

8H HOURS BEFORE YOU DIG, CALL 811 TO LOCATE UTILITIES FOR LOCATING AND MARKING OR ELECTRIC, WATER AND GAS SERVICES.

**NOTICE:** According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect; in no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification.

PCD File No. MS208

Project No.: 18070  
Sheet: 2 of 2

March 7, 2024 PLANNING COMMISSION  
FOREST HEIGHTS ESTATES MS206  
Adjacent Landowner (since 1969) Parcel 108

719-357-5918

JvA  
Judith von Ahlefeldt 8255 Forest Heights Circle

No objection to subdivision of Parcels 1-4

Strong Objection to:

- Positioning of cul de sac east of lots

Two private driveways would service two existing lots impacts wetland, gas line and electric/ phone lines. Road could be widened to Lot 081 drive way & existing culvert extended.

- no need to replace culvert.

- Positioning the new-built cul de sac at the turn -around at east end of "road", between two lots not in the subdivided new lot area causes impact to existing gas and phone lines, unnecessary (serviceable culvert) replacement, removal of mature trees on private land to north, unnecessary construction impacts to stable landscape, and causes extra hardscape disrupting native Burgess River wetland.

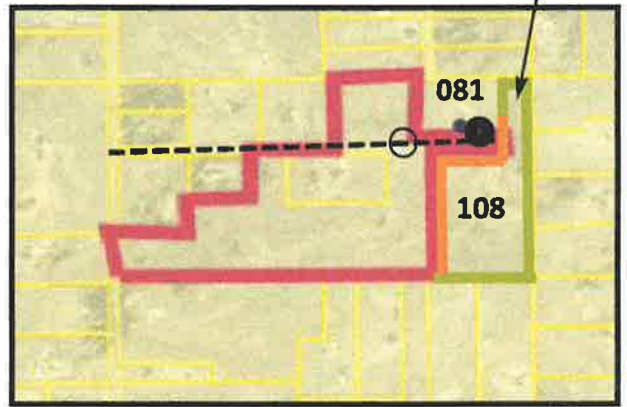
- Brings unnecessary subdivision traffic past Parcels 081 & 108.

- Unnecessary expense for developer per road costs.

- The existing turn-around is 85 feet wide and the driveway to Lot 108 on the south adds additional width.

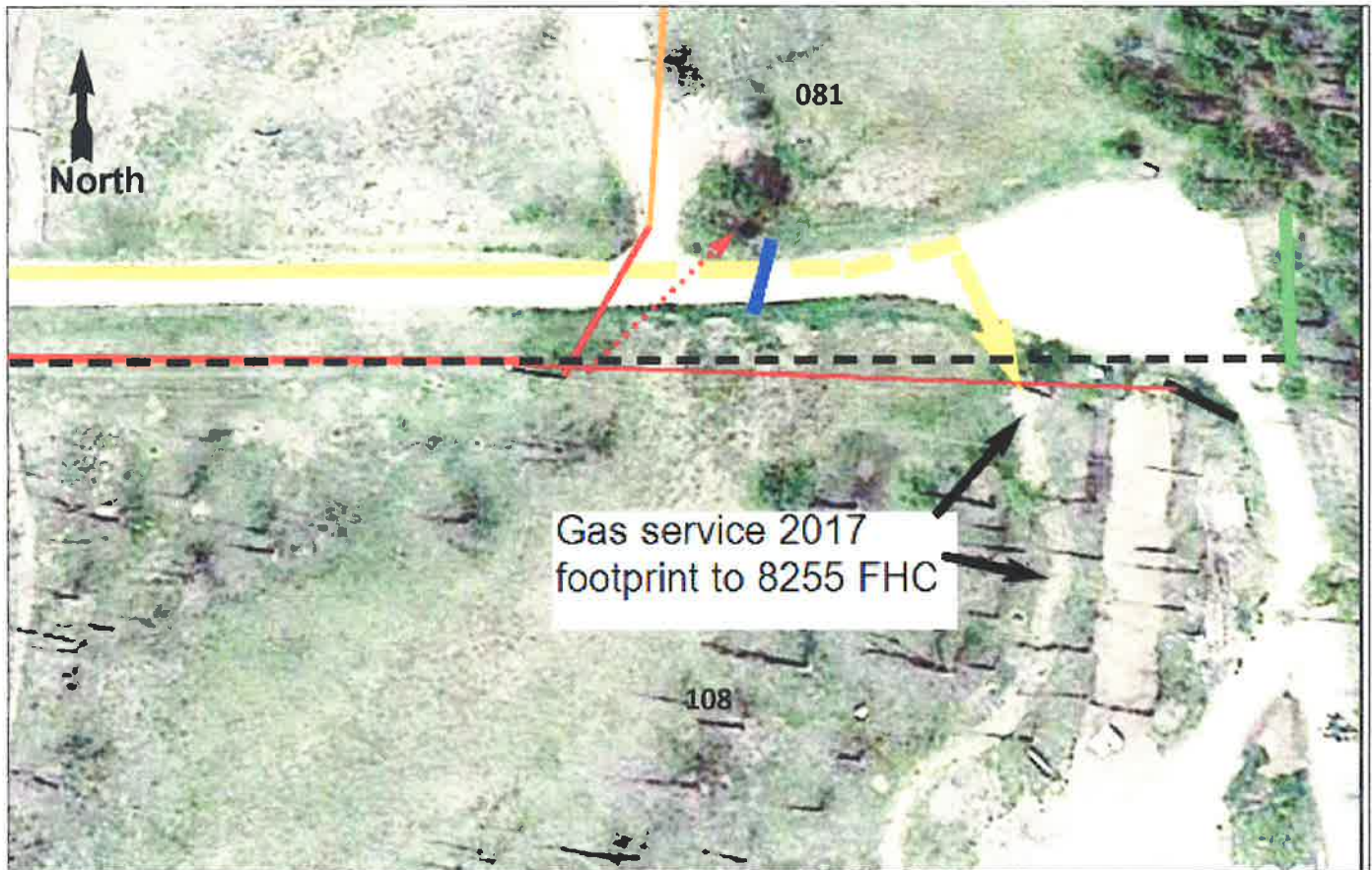
I offered to purchase the east end of Tract B so there could be a shared driveway off the cul de sac for the subdivision. to the west of these two private lots.

REQUEST: Please include the option to place the cul de sac required by ECM further west between Lots 1 and 4 and allow private driveways to access Lots 081 and 108 east of the cul de sac.



Annotated Context Map from FHE Staff Rept page 19

- Requested cul de sac position
- Proposed cul de sac position



**2017 annotated Google Earth orthophoto shows Natural Gas line on north edge of existing “road” and crossing to service 8255 Forest Hts Circle. Culvert is below gas line which crosses road to the east. Dashed line is property boundary and fence. Red line is overhead MVEA Electric line. The portion of Forest Hts Circle between Lots and 108 serves only as a driveway to these two lots.**



**Photo view to east along Forest Hts. Circle to existing turnaround. The road occupies only the north side of the 60’ ROW. Arrow indicates position of culvert from meadow on Parcel 081 to downstream Burgess River wetland on #108. My fenceline is just south of the utility pole. The small black arrows mark driveway for Parcel 081. That driveway is flanked by cottonwood and peachleaf willow trees, aspens and some pines which survived the 2013 fire. The land is flat and well vegetated.**



## **Strong Objection to the Maintenance Agreement and Covenants**

This document was created by Attorney Duncan Bremer early in the Submittal /Review Process and has been problematic since the start.

OCA had many specific objections to the Maintenance Agreement and Covenants from Spring of 2021 through Fall of 2024, but these do not appear in the final list of 90 EDARP Review Documents.

The only document presented on EDARP cited and dated as:

“Maintenance Agreement (MS Word version required attachments included) 1/30/2024 6:01:18 PM “

These entries are in the EDARP Review Comments as of 2024-03-06: ““

1. “County Attorney - Development Review Previous comments on Access Easement have not been addressed. 11/9/2023 12:57:33 PM”
2. “County Attorney - Development Review No further comments on Access Easement and Maintenance Agreement. 2/20/2024 9:57:15 AM “ Why no further comment?

---

The ACCESS EASEMENT GRANT AND MAINTENANCE AGREEMENT FOR FOREST HEIGHTS CIRCLE AND RESTRICTIVE COVENANTS FOR LOTS 1, 2, 3 & 4 FOREST HEIGHTS ESTATES SUBDIVISION is dated January 30, 2024 on EDARP.

I have a Ingress and Egress clause in my Warranty Deed to use Forest Heights Circle.

I am willing pay to help maintain the road, have given Jon Didleaux cash each year toward his expenses for snow removal and minor grading. However, I am not willing to sign the above document presented today.

I have always maintained there should be separate documents for Existing Lots (Yonce, Ritchie, and Didleau- Phyllis north of Forest Hts; and Didleaux - Jon, Bauer, von Ahlefeldt on the south) for Road Maintenance and from New Lot 1-4 HOA/Covenant requirements and Access Easements for them.

Lots 1- 4 are required by OCA to have an HOA for Water (see OCA Requirement page 36 of Staff Report, Requirement B which states:

“B. Applicants must create a homeowners’ association (“HOA”) for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water determinations and replacement plans for the property.”

I maintain that the entire Covenant Section (Items 6-10) of this Maintenance agreement, belongs in a Lots 1-4 HOA document and should include other items which address New Lot Owners' 1-4 Rights and Responsibilities regarding Forest Heights Circle's maintenance responsibilities.

There could be a separate document specifically addressing Road Maintenance applying to both Existing Lot Owner's' responsibility toward maintaining the newly rebuilt Forest Heights Circle (surface of which is in Tracts A and B ownership by Jon Didleaux and Phyllis Didleu respectively, and the Yonce Property (which includes the road), and separates Tracts A and B.

I believe this Forest Heights Road Document should include:

- clearly stated road maintenance conditions and standards (including drainage hardcape structures (culverts, erosion control and weed control).
- Firm expectations must be clearly stated. Language such as:  
"Following construction of the Private Road, as a general standard, the Owners agree that they shall provide maintenance sufficient to provide reasonable access for emergency vehicles and in no event less than has traditionally been the maintenance level of this access prior to the subdivision" (underline mine) This is non-specific, fuzzy, and lacks costs. estimates. Unacceptable.

I have owned property here for 55 years, and lived here for 46 of those years. "...traditionally been the maintenance level of this access prior to the subdivision " (per the road owners) was functionally ZERO from at least 1969 until 2018, and then minimal (See photos) after the current owners(subdividers) purchased Parcel 121 (Tract A) and Parcel 120 (subdivisible acreage for new lots including and east of the road Yonce's to the east end of Forest Heights Circle).

Maintenance issues came to head in August, 1991 when five property owners along Forest Heights Circle filed a "To Whom it May Concern" Statement with El Paso County Clerk Ardis Schmidt regarding the road stating: "Each person is entitled to make any improvement(s) which are reasonable and necessary to enjoy the above described easement (*i.e. Forest Hts Circle*) and cost of repair and maintenance (not to exceed \$25 per family per year) shall be shared by all parties."

02075200 Oct. 7, 1991 Book 5890 Page 337

- Expected costs and processes for addressing emergencies beyond routine maintenance (such as large snowstorms or damage repairs) should be provided for.
- A Road Document can be referenced by both the HOA document for New Lots 1-4, and a separate agreement among Existing Landowners who sign up for helping with maintenance caused by the Road Upgrades required by the LDC and ECM/ Stormwater manuals.
- Enforcement provisions must not include property liens decided by two co-administrators.
- There are no provisions for Forest Heights Circle to continue as a gravel road, and allow for public non-motorized uses - pedestrian, equestrian, bicycle. - which has been enjoyed for nearly 70 years. There is a secondary Regional Trail Access per El Paso County Parks coincident with the Pipeline Easement on the Plat, and Forest Heights Circle is the only access to it. (Please see March 6, 2024 update per EDARP).

**OTHER QUESTIONS:**

- Why are Existing Landowners expected to become Road Owners?
- What kind of Liability Insurance should accompany Road Ownership and be specified in the Maintenance Agreement?
- It seems questionable that two parties (who both live along the road, one of whom is the Developer) can make and enforce all Road Maintenance decisions, can place liens, and decide actions - and other "Owners have no powers other than a vote to elect future Co- Administrators.

The Access Easement and Maintenance Agreement (as presented) has untenable and fuzzy language and does not include the "Owners" in any decision-making processes.

**REQUEST: Please specify further examination of the HOA Requirement and Covenants for New Lots 1-4 in Forest Heights Estates, and more specific criteria, standards, and process for Access Easement and Maintenance Agreement. Consider specifying a separate document addressing all aspects of Forest Heights Circle, including clear inclusion of Mr. Yonce's portion of the ROW, and who will actually own the full ROW from Herring Road to the cul de sac.**

## SUMMARY

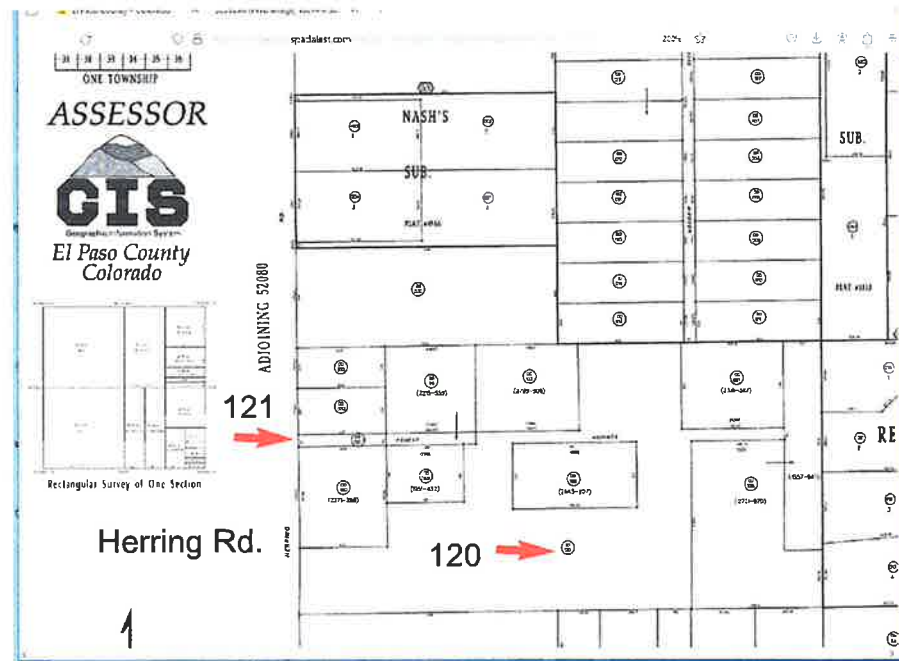
- **NO OBJECTION** to creating the Subdivided Lots 1-4
  
- **STRONG OBJECTION** to submittal's positioning of the cul sac:
  - it is the most expensive option for the Developers,
  - most intrusive placement for Existing Lot owners,
  - should be placed between New Lots, not existing Lots
  - highest impact on a stable and recovering landscape, a wetland and existing utilities which are in the way of an aggressive and unnecessary road reconstruction plan for the east 406 feet of the road crossing Burgess river and on my north property line.
  
- **STRONG OBJECTION** to the **ACCESS EASEMENT AND MAINTENANCE AGREEMENT FOR FOREST HEIGHTS CIRCLE AND RESTRICTIVE COVENANTS FOR LOTS 1, 2, 3 & 4 FOREST HEIGHTS ESTATES SUBDIVISION.**
  - There should be separate documents for New lots vs Existing Lots that can reference the Maintenance and access documents.
    - There should be a Separate Road Maintenance Document and it should be precise & clearly written with maintenance standards and actions, a budget and power by stakeholders for decisions.
  - There should be a stated budget, and processes/budget for emergencies and major repairs.
  - There should NOT be a lien penalty for enforcement.
  - There needs to be provisions for continued non-motorized recreational trail connection on the gravel road to El Paso County Parks Secondary Regional Trail on the Plat on New Lot 1. Black Forest Trails Association could operate an easement on the western part of the Forest Heights Circle between Herring Road and the Pipeline.

### **ERRORS in the Letter of Intent dated Sept. 19, 2023:**

page 1 (page 20 in Staff Report) - last sentence: "Each of the four proposed lots will be illegible for development of a single family residence in accordance with the Land Development Code and can be served by individual well & septic systems."

page 7 (page 26 of Staff Report) Paragraph 1” “The existing roadway will be improved to facilitate access to Lots 1-4.” The cul de sac and end of road access to Lots 081 and 108 improvements should end at and be between Lots 1 and 4 and keep undisturbed driveway access between existing Lots 081 and 108.

page 8 (page 27 of Staff Report) - Existing and Proposed Facilities this paragraph mention only that the proposed subdivision established Tracts A and B, but Tract A is not shown on the Maps in the Staff Report for the subdivision area (i.e. the subdivided area does not reach Herring Rd from Forest Hts Circle., nor does this paragraph explain the ownership situation of Mr. Yonce’s tract between Tracts A and B or cite any agreements in place to include this in the subdivision proposal demonstrated on the Plat. Tract A belongs to Jon Didleaux, and is presently Parcel 121, and Tract B belongs jointly to Jon Didleaux and Phyllis Didleu and includes the part of the Forest Hts Circle east of Yonce Property and within present large subdivision Parcel 120.



The Plat notes and LOI appear to include Tract A in the 32.618+ acres, but Tract A is not visible; included in all maps presented at this hearing.

Traffic Impact Fees - p. 6 (p. 25 of Staff report) states “the platting of the site will include the collection of the applicable School Fees, Park Fees, Drainage Fees and Traffic Impact Fees due for this project.” In contracts on page 9 (LOI) p. 25 Staff Report) “Traffic Impact fees will be paid at time of building permit.” it is unclear which payment schedule will be applied.

**- SERIOUS DISAPPOINTMENT WITH THE OVERALL SUBDIVISION REVIEW PROCESS CRITERIA and PROCESSES.**

- EDARP posting is useful mostly for Code Compliance- does allow written comments from Neighbors, but those comments (which do not have Code Status) are not reflected in outcomes.
  - Only Minimum Code Regulations (Laws) - (LDC, ECM, STORMWATER, HEALTH etc.) are addressed and boxes checked off by Departments or other agencies.
  - Unique Character and Concerns of Neighbors are expressed in Additional Comments sent in, but were not interactively discussed with either private Planners representing the Applicants, or clearly expressed as issues with suggested inclusive solutions in the Reviews.
  - Forest Heights Estates as submitted is not fully compliant with the 2021 *Your El Paso* Master Plan.
    - KEY AREA -FORESTED AREA - p. 19 “Each development proposal should also be reviewed on a case by case basis to determine its specific impact on the forested area and the established character of the individual community”.
    - AREAS OF CHANGE - p. 21 Minimal Change Developed - maintain overall character (as development occurs).
    - PLACETYPES - Large Lot Residential - p. 26 “While the Large-Lot Residential placetype is defined by a clear set of characteristics, the different large-lot areas that exist through out the County can exhibit their own unique characters based on geography and landscape”.
- CHAPTER 10 - Recreation and Tourism - p. 116 Core Principal 7  
Goal 7.1 Support high-quality sustainable outdoor recreation as a key amenity for residents...
- CHAPTER 14 - IMPLEMENTATION p. 149 LAND USE Goal LU3, Specific Strategy. “Regardless of the Development that may occur ..., (Minimal Developed areas)...their overall character should be maintained.”
- CHAPTER 14 - IMPLEMENTATION p. 166 HEALTH Goal CH1 Objective CH1-2 “Prioritize and locate trail connections using criteria and proposed action items in the Parks Master Plan.” Specific Strategies Priority 4 “ Identify potential high priority connections based on identified connection criteria and considering a variety of acquisition strategies and tools including funding and partnerhip opportunities.”

Forest Heights Circle was built in 1954 as a Private Road for subdivision, the same year as Meadoglen Lane was built as a County Road for subdivision.

Neither Forest Hts Circle or Meadoglen Ln. are “Through” road sand to this day both are gravel roads. Residents have enjoyed quiet, low traffic environments, on minimally disturbed roads which have been connected by a social trail for almost 70 years, and Red Tail Ranch cooperated with a platted trail in built 2019.

This subdivision proposal does not respect the quietness, low disturbance and existing neighborhood connectivity which the ‘Unique Character” of especailly Forest Heights Estates and Meadowglen Ln.

Forst Heights Estates is in a Key position for many aspects of Neighborhood Connectivity.

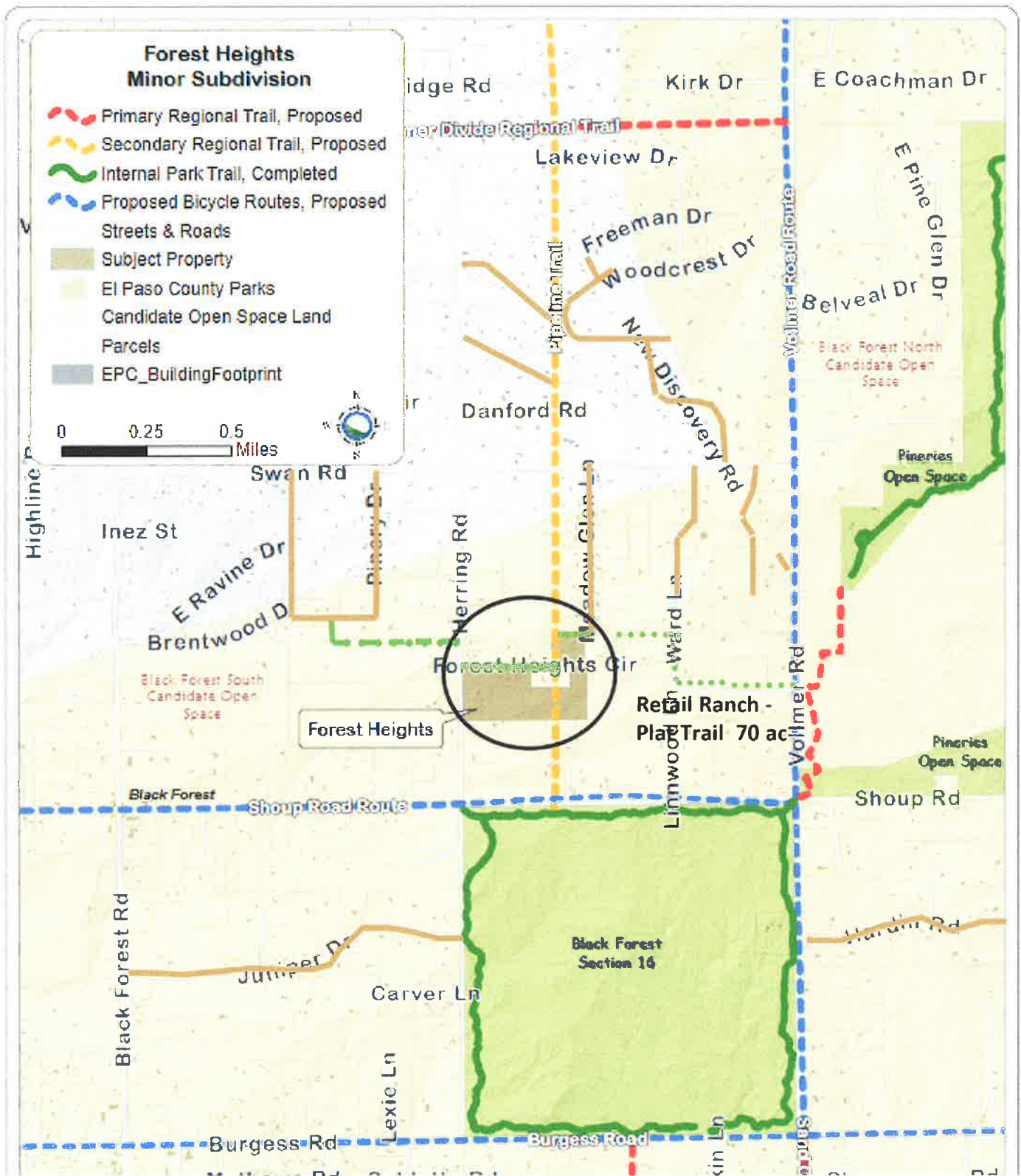
**REQUESTS:**

**1. Can Planning Commission preserve some of these Unique Characteristics of the Forest Heights Neighborhood by moving the proposed cul de sac west to between Lots 1 and 4 within the proposed subdivision, and away from the drive-ways which only only serve Parcels 081 and 108.**

**2. - Cintinued preservation of Neighborhood Connectivity Unique Character can be accomplished by showing all Utility Easements on the Plat (they are currently not only mentione in a Plat Note), and also noting ,as a condition of approval, a non-motorized trail connection easememt coincident wtih the north utility ease-ment of Lot 1 between Meadowglen to access the Secondary Regional Trail from gravel Meadowglen Road.**

**A non-Motorized Trail Easement can also be included for gravel Forest Heights aCircle to access EC Parks’ Secondary Regional Trail between Herring Road and the Pipeline Easement as a condition and notation.**

Easement Agreements can be worked out prior to BoCC Plat approval.



**El Paso County Parks Map Update (EDARP- March 6) showing Forest Heights Circle Pipeline Easement (Oval Circled Area - not to include exempted Area of Bauer lot). The Black Forest Trails Association Local Trail System is a key Non-Motorized Trail Access for Section 9 properties and other Forested Key Areas, Large Lot Rural Residential Placetypes.**



02075200

91 OCT -7 PM 3: 13

ARDIS W. SCHMITT  
EL PASO COUNTY CLERK & RECORDER

BOOK PAGE  
5890 337

28 August 1991

FROM: Residents of Forest Heights Circle.

SUBJECT: Maintenance of Forest Heights Circle.

TO: Whom It May Concern.

5<sup>00</sup>

Description: A sixty (60) foot right of way for ingress and egress over a tract of land situated in that portion of the Northwest quarter of the Southwest quarter of Section 9 in Township 12 South, Range 65 West of the 6th P.M., described as follows: Beginning at a point on the West line of said Southwest quarter 490.0 feet Southerly thereon from the Northwest corner thereof; thence Easterly parallel with the North line of said Southwest quarter 845 feet; thence Northerly parallel with the West line of said Southwest quarter to intersect the Southerly line of the North 430 feet of said Southwest quarter; thence Westerly on the Southerly line of the North 430 feet of said Southwest quarter 845 feet, more or less, to intersect the West line of said Southwest quarter; thence Southerly on said West line 60 feet, more or less, to the point of beginning.

Action: Each person is entitled to make any improvement(s) which are reasonably necessary to enjoy the above described easement and cost of repair and maintenance (not to exceed \$25 per family per year) shall be shared by all parties.

*[Signature]*  
7935 Forest Heights Circle

*Rev. J.R. Jolly*  
8255 Forest Heights Cir.

*[Signature]*  
7940 Forest Hgts.

*[Signature]*  
8065 Forest Hts. Cir.

*Donna S. Roberts*  
8250 Forest Hgts.

02075200

91 OCT -7 PM 3:13

BOOK PAGE  
5890 337

ARDIS W. SCHMITT  
EL PASO COUNTY CLERK & RECORDER

28 August 1991

FROM: Residents of Forest Heights Circle.

SUBJECT: Maintenance of Forest Heights Circle.

TO: Whom It May Concern.

5<sup>00</sup>

Description: A sixty (60) foot right of way for ingress and egress over a tract of land situated in that portion of the Northwest quarter of the Southwest quarter of Section 9 in Township 12 South, Range 65 West of the 6th P.M., described as follows: Beginning at a point on the West line of said Southwest quarter 490.0 feet Southerly thereon from the Northwest corner thereof; thence Easterly parallel with the North line of said Southwest quarter 845 feet; thence Northerly parallel with the West line of said Southwest quarter to intersect the Southerly line of the North 430 feet of said Southwest quarter; thence Westerly on the Southerly line of the North 430 feet of said Southwest quarter 845 feet, more or less, to intersect the West line of said Southwest quarter; thence Southerly on said West line 60 feet, more or less, to the point of beginning.

Action: Each person is entitled to make any improvement(s) which are reasonably necessary to enjoy the above described easement and cost of repair and maintenance (not to exceed \$25 per family per year) shall be shared by all parties.

*[Handwritten signature]*  
7935 Forest Heights Circle

*[Handwritten signature]*  
8255 Forest Heights Cir.

*[Handwritten signature]*  
7940 Forest Hgts.

*[Handwritten signature]*  
8065 Forest Hts. Cir.

*[Handwritten signature]*  
8250 Forest Hgts.



As a 49 year resident of Forest Heights Circle I'm going to address this trail issue as there is incorrect and/or incomplete information regarding some of its history.

Firstly, The proposed BFTA trail location is not on property that is part of this sub division project. It is located on private property that was platted decades ago and has nothing to do with properties being considered in the subdivision. The BFTA has no authority to comment on EDARP concerning this subdivision as the property they are referencing has no attachment to this subdivision.

Secondly, The trail does not "date back to the mid-1950s". The first house on Forest Heights was built in 1962 (The Roper's), the second in 1964 (ours at 7935). There was no need for a trail then as there wasn't the population out here to use one. It wasn't until the summer of 1975 that my brother and I began to cut through the woods in various locations to Meadow Glen. There was no trail there at that time. The gap between the fences in the Meadow Glen cul-de-sac was just 6'-8' wide and the home owners on Meadow Glen did not want people walking through there. They warned us multiple times to not access Meadow Glen that way. They were the first to block access when they built a 4'-5' wall of logs across the gap in the fence in approximately 1977.

In the 1980s Bob Wells, who originally owned the properties on Forest Heights, had a steel hog wire fence installed around the entire perimeter of his property, including along the northern property line which borders the Meadow Glen properties. He had this fence posted at legal distance with "Posted - Keep Out - No Trespassing" signs around the entire 80 acres. This fence stood until the fire came through in June, 2013. If people were crossing over onto this property from Meadow Glen during the near 30 years that fence was there they were doing so after ignoring the signs and vandalizing the fence. Mr. Wells did not go through the expense and effort of having that fence installed because he wanted people on his land, he did it to keep them out.

Judy von Ahlefeldt was not living in Black Forest at this time (she was gone for more than a decade) and apparently wasn't aware that Mr. Wells had installed the fence.

Attached are two screen captures from a 1993 home video which shows the fence, and signs, as it went along the southern property line of 7935. The green building in the background is one of Mr. Wells' out buildings.





While much of this fence was damaged in the fire it is still there. The fencing along the northern border of 8250 that was erected in Nov., 2021 is not new fencing. It is the original fence that Bob Wells had installed. We simply stood up the old fence posts where they had been, pulled the original hog wire up out of the weeds and rehung the old fencing on the old fence posts.

Here is a current picture of the old fence put back in use along the northern property line of 8250.



And a current picture of the fence along the south side of Forest Heights between the Bauer property and Judy's property.



In the Black Forest Trails Association comments they failed to mention that we had a meeting on Saturday, May 21<sup>st</sup> 23 hosted by Phyllis Didleau at her home to resolve this matter. In attendance were Phyllis, both her sons Jon and Doug, Jack Yonce, Judy von Ahlefeldt, Cheryl Pixley a Black Forest Trails Association representative, and our attorney Duncan Bremer was on speaker phone. A resolution was proposed at that meeting that would have included a portion of the trail connecting the cul-de-sac on Forest Heights Circle to Red Tail via access utilizing Judy von Ahlefeldt's property and then access from Red Tail to Meadow Glen would have been granted along the northern property line of 8250 via legal license written by our attorney. We are not going to permanently give up property rights as a BFTA easement requires, hence the license. This proposal was refused by Judy von Ahlefeldt regardless of whether it was access via BFTA easement or by a license. As a proponent and promoter of the BFTA and trail system in Black Forest it came as a surprise that she refused access to the BFTA for use of her property to be utilized for a portion of the trail. Cheryl Pixley offered Judy various solutions to address some of Judy's concerns but again Judy refused.

Even though the property at 8250 has nothing to do with the subdivision we have offered a workable solution that was refused.

If the BFTA wants a trail to access Forest Heights they need to speak to Judy von Ahlefeldt.



**Subject:** trailer info to post  
**From:** AMX <69amx@pcisys.net>  
**Date:** 3/21/2023, 1:18 PM  
**To:** Phyllis <phyllis@pcisys.net>

STOLEN TRAILER - \$250 REWARD for information leading to the recovery of this custom built ATV/utility trailer.

This trailer was stolen on Tuesday, March 14th at 7:35AM in Black Forest, CO near the intersection of Shoup Road & Herring Road.

Colorado license plate 076-JEG. It measures 6 feet wide by 8 feet long, has split ramps, a 2x6 wood floor and 14" steel wheels.

If you have information on its location please call the El Paso County Sheriffs Office at (719) 390-5555 and give them case number 23-3140 along with your contact information. After the Sheriff recovers the trailer you will receive a reward of \$250 in cash.

Thank you!



RESOLUTION NO. 24-

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

APPROVE OF A MINOR SUBDIVISION FINAL PLAT  
FOREST HEIGHTS ESTATES (MS206)

WHEREAS, Jon Didleaux and Phyllis Didleau Revocable Trust did file an application with the El Paso County Planning and Community Development Department for the approval of a Minor Subdivision for the Forest Heights Estates Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on March 7, 2024, upon which date the Planning Commission did by formal resolution recommend approval of the final plat application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on March 28, 2024; 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. 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 hearings before the Planning Commission and the Board of County Commissioners.
3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. All exhibits were received into evidence.
5. The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
6. The subdivision is consistent with the purposes of the Land Development Code ("Code").

7. The subdivision is in conformance with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analysis, studies, reports, plans, designs, documents, and other supporting materials.
8. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code.
9. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of the Code.
10. All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)].
11. Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual ("ECM") are provided by the design.
12. The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development.
13. Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County and in compliance with the Code and the ECM.
14. The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.

15. Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.
16. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.
17. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.
18. Off-site impacts were evaluated, and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code.
19. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.
20. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. § 34-1-302(1), et seq.].

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

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of El Paso County, Colorado, hereby approves the Minor Subdivision final plat application for the Forest Heights Estates Subdivision;

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

#### CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.

3. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of 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 species.
4. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
5. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
6. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 11/30/2023, as provided by the County Attorney's Office.
9. Applicant shall pay Kettle Creek drainage basin fees in the amount of \$17,632.00 at time of plat recordation.

#### NOTATIONS

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

BE IT FURTHER RESOLVED that the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 28th day of March 2024 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

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

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

EXHIBIT A

A Tract of land in the Southwest 1/4 of Section 9, Township 12 South, Range 65 West, of the 6th P.M. County of El Paso, State of Colorado, more specifically described as follows;

Commencing at the West 1/4 corner of Section 9,

Thence Along the North line of said Southwest 1/4, N89°55'03"E a distance of 1391.55 feet to the Point of Beginning of the parcel to be described hereby;

Thence continue along said North line, N89° 55'03"E a distance of 506.51 feet to the Northwest corner of that parcel described at Book 2318, Page 387, of the records of the El Paso County Clerk and Recorder;

Thence S00°03'25"W along the West line of said parcel a distance of 430.00 feet;

Thence N89°55'03"E parallel to said North line, a distance of 506.81 feet to the Northmost West line of the parcel described in Book 721, Page 970 of said records;

Thence S00°09'20"W a distance of 60.00 feet;

Thence S89°55'03"W along the line of said parcel 459.94 feet;

Thence S00°11'43"W along the West line of said parcel a distance of 829.70 feet;

Thence S89°54'44"W a distance of 1941.21 feet to a point on the East Right of Way line of Herring Road;

Thence N00°03'25"E" along said East line a distance of 327.80 feet to the South line of that parcel described in Book 2371 Page 388 of said records;

Thence N89°55'03"E along the South line of said parcel a distance of 434.00 feet;

Thence; N00°03'25"E along the East line of said parcel a distance of 501.84 feet to the South line of that parcel described in Book 2215 Page 559 of said records

Thence along said South line N89°55'03"E along said South line distance of 449.43 feet to the East line of said parcel;

Thence N00°03'25"E along said East line a distance of 60.00 feet;

Thence N89°55'03"E a distance of 506.51 feet,

Thence; N00°03'25"E a distance of 430.00 feet to the Point of Beginning, except that parcel described in Book 2645, Page 207.

EXCEPTION PARCEL: Book 2645, Page 207 of the records of El Paso County, Colorado

A tract of land in the Southwest 1/4 of Section 9, Township 12 South, Range 65 West of the 6th p.m. County of El Paso, State of Colorado more particularly described as follows;

Commencing at the West 1/4 corner of said Section 9,

Thence along the West line of Section 9, S00°03'25"W a distance of 490.00 feet;

Thence N89°55'03"E a distance of 1090.00 feet to the Point of Beginning of the tract described hereby;

Thence N89°55'03"E a distance of 610.00 feet;

Thence S00°03'25"W a distance of 325.00 feet;

Thence S89°55'03"W a distance of 610.00 feet;

Thence N00°03'25"E a distance of 325.00 feet to the Point of Beginning.

This description contains 34.528 acres (not including the exception parcel).

TRACT A

Tract in Northwest quarter of the Southwest quarter of Section 9, Township 12 South, Range 65 West, of the 6th P.M. County of El Paso, State of Colorado, described as follows:

Commencing at the West 1/4 corner of said Section 9, Thence along the west line of said Section 9 S00°03'25"W a distance of 430.00 feet;

Thence N89°55'03"E 30.00 feet to a point on the West Right of Way line of Herring Road and the Point Of Beginning (P.O.B.) of the Tract described hereby;

Thence N89°55'03"E a distance of 435.00 feet;

Thence S01°00'46"W a distance of 60.01 feet;

Thence S89°55'03"W a distance of 434.00 feet to a point on said West Right of Way line;

Thence N00°03'25"E a distance of 60.00 feet to the Point Of Beginning (POB).

Tract A contains 0.598 Acres, more or less.

THE TOTAL ACREAGE OF THIS SUBDIVISION PLAT IS 35.126 ACRES.