

EL PASO COUNTY



COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

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

**FROM: Ryan Howser, AICP Planner II
 Lupe Packman, EI Engineer I
 Craig Dossey, Executive Director**

**RE: Project File #: MS-21-009
 Project Name: Treasured Acres
 Parcel No.: 52150-00-035**

OWNER:	REPRESENTATIVE:
Jerry and Sharon Lomax 11750 Green Acres Lane Colorado Springs, CO, 80908	Alessi and Associates, Inc. 2989 Broadmoor Valley Road Colorado Springs, CO, 80906

Commissioner District: 2

Planning Commission Hearing Date:	3/3/2022
Board of County Commissioners Hearing Date	3/15/2022

EXECUTIVE SUMMARY

A request by Jerry and Sharon Lomax for approval of a minor subdivision to create three (3) single-family residential lots. The 15.18-acre property is zoned RR-5 (Residential Rural) and is located along the north side of Burgess Road at the northernmost terminus of Green Acres Lane, approximately one (1) mile northeast of the intersection of Burgess Road and Vollmer Road, and is within Section 15, Township 12 South, Range 65 West of the 6th P.M.



A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Jerry and Sharon Lomax for approval of a minor subdivision to create three (3) single-family residential lots.

Waiver(s)/Deviation(s): The applicants are requesting a waiver to Section 8.4.3.B. of the El Paso County Land Development Code (2021) to allow for a lot to be created without having access and 30 feet of frontage along a public road.

Section 8.4.3.B, *Minimum Frontage*, of the Code states: “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 is proposing to create three (3) lots. One (1) of the lots is proposed to have direct access to Green Acres Lane, an existing private road. The other two (2) lots are proposed to have access to Green Acres Lane via an access easement, as depicted on the proposed plat. Green Acres Lane provides access to Burgess Road, an existing public road.

PCD Executive Director Recommendation:

The PCD Executive Director recommends approval of the requested waiver. Adequate access can be provided to all three (3) lots via the existing private road and the proposed access easement. The applicant has depicted a layout that accommodates lot access to Burgess Road, an existing public road.

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

B. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

C. APPROVAL CRITERIA

In approving a minor subdivision, the BoCC shall find that the request meets the preliminary plan and final plat criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2021):

Preliminary Plan Criteria for Approval:

- 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 this Code;
- The subdivision is in conformance with the subdivision design standards and any approved sketch plan;
- 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 (this finding may not be deferred to final plat if the applicant intends to seek administrative final plat approval);
- 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;
- 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)];
- Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of this Code and the 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 in compliance with this Code and the 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 therefore, 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 this Code; and
 - The proposed subdivision meets other applicable sections of Chapter 6 and 8 of this Code.

Final Plat Criteria for Approval:

- The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is in substantial conformance with the approved preliminary plan;
- 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;
- 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;
- 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;
- 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)];

- 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;
- 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;
- Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;
- The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this 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;
- 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 subdivision meets other applicable sections of Chapter 6 and 8; and
- The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §34-1-302(1), et seq.]

D. LOCATION

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

E. BACKGROUND

The property was zoned A-4 (Agricultural) on September 21, 1965, when zoning was first initiated for this portion of the County. Due to changes in the nomenclature of the Code, the A-4 zoning district was renamed as the RR-3 (Rural Residential) zoning district in 1991, and again as the RR-5 (Residential Rural) zoning district in 2007.

The property was illegally created outside of the El Paso County subdivision process by warranty deed on October 24, 1983 (El Paso County Public Records, Book 3795, Page 1280). To be considered a legal lot, the property 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 property does not meet the definition of a “Legal Lot” as discussed in detail in the Code Analysis section below, and, therefore, cannot be considered a “Legal Lot.”

There are several existing structures on the property, including a residence and three (3) accessory structures. Please see the Zoning Compliance section below for information regarding the existing structures’ conformance with the dimensional standards.

The applicant is requesting approval of a minor subdivision to create three (3) single-family residential lots from the existing 15.18-acre parcel. Each of the three (3) lots is proposed to be 5.06 acres. The existing dwelling is proposed to remain on proposed Lot 1 and has an approved well and septic system that will be fully contained within the boundaries of Lot 1. The existing dwelling and accessory structures on proposed Lot 1 would comply with all setback, lot coverage, and height standards of the RR-5 (Residential Rural) district as depicted on the final plat.

F. ANALYSIS

1. Land Development Code Compliance

The minor subdivision application meets the final plat submittal requirements, the preliminary plan 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 (2021).

The property was illegally created outside of the El Paso County subdivision process by warranty deed on October 24, 1983.

Section 1.15 of the Code defines a “Legal Lot” as:

“A lot, parcel or tract of land created by a legal conveyance of the lot, parcel or tract prior to July 17, 1972; a lot, parcel or tract shown on a subdivision plat which was approved and recorded prior to July 17, 1972, according to the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by legally prepared survey dated prior to July 17, 1972; a lot, parcel or tract created by approval of the County commissioners in conformance with the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by a contract for deed or signed but unrecorded deed, each dated prior to July 17, 1972; a parcel exempted from subdivision by the Board of County Commissioners (BoCC), or any parcel of 35 acres or more, which, when created, did not

cause a parcel of less than 35 acres to remain; a parcel created by any court pursuant to the law of eminent domain, operation of law, or by order of any court if the BoCC has been given timely notice and opportunity to join in the action; a parcel modified or reduced in size due to land acquisition by a governmental entity.”

The parcel was created after July 17, 1972 and was not 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. The property, therefore, does not meet the above definition to be considered a “Legal Lot.” 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. If the application for subdivision is approved, the resulting lots will be considered legal lots.

2. Zoning Compliance

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

- Minimum lot size: 5 acres *
- Minimum width at the front setback line: 200 feet
- Minimum setback requirement: front 25 feet, rear 25 feet, side 25 feet *
- Maximum lot coverage: 25 percent
- Maximum height: 30 feet

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

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

All three (3) proposed lots will exceed the minimum lot size of five (5) acres. The existing dwelling meets the required 25-foot setback from all property lines and is under 30 feet in height. The applicant has provided a site plan depicting the locations of the single-family dwelling and four (4) accessory structures. Not all of the structures comply with the RR-5 zoning district dimensional standards.

On August 12, 2021, a determination of nonconformity was made by the Planning and Community Development Director. The determination identified three (3) of the four (4) accessory structures as illegally encroaching into the setbacks. One (1) of the encroaching accessory structures is identified as having been removed from the property. The other two (2) encroaching structures were identified as not being considered conforming or legally existing nonconforming because they did not meet the minimum setback requirements at the time of construction (see attached PCD File No. ADM-21-039).

In order to legalize the setback encroachments, the applicant would either need to move the structures or would need to receive approval of a dimensional variance to allow for a reduced setback. Pursuant to Section 5.5.1 of the Land Development Code, a maximum of a 20 percent reduction in setbacks from the amount required in the zoning district (a maximum of five (5) feet in the RR-5 zoning district) in which the subject property is located may be approved through the administrative relief process. One (1) of the encroaching structures may be eligible for administrative relief; however, the setback encroachment for the other structure exceeds the maximum 20 percent required to qualify for administrative relief. Notation No. 3 below references the Administrative Determination regarding the setback encroachment.

The applicant is not proposing to construct any new structures at this time. Any proposed additional structures constructed in the future will require site plan review and approval and will need to include confirmation that all site improvements (existing and proposed) comply with the dimensional standards included in Chapter 5 as well as any applicable Development Standards of Chapter 6 of the Code.

G. MASTER PLAN ANALYSIS

1. Your El Paso Master Plan

a. Placetype: Large-Lot Residential

Placetype Character:

“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

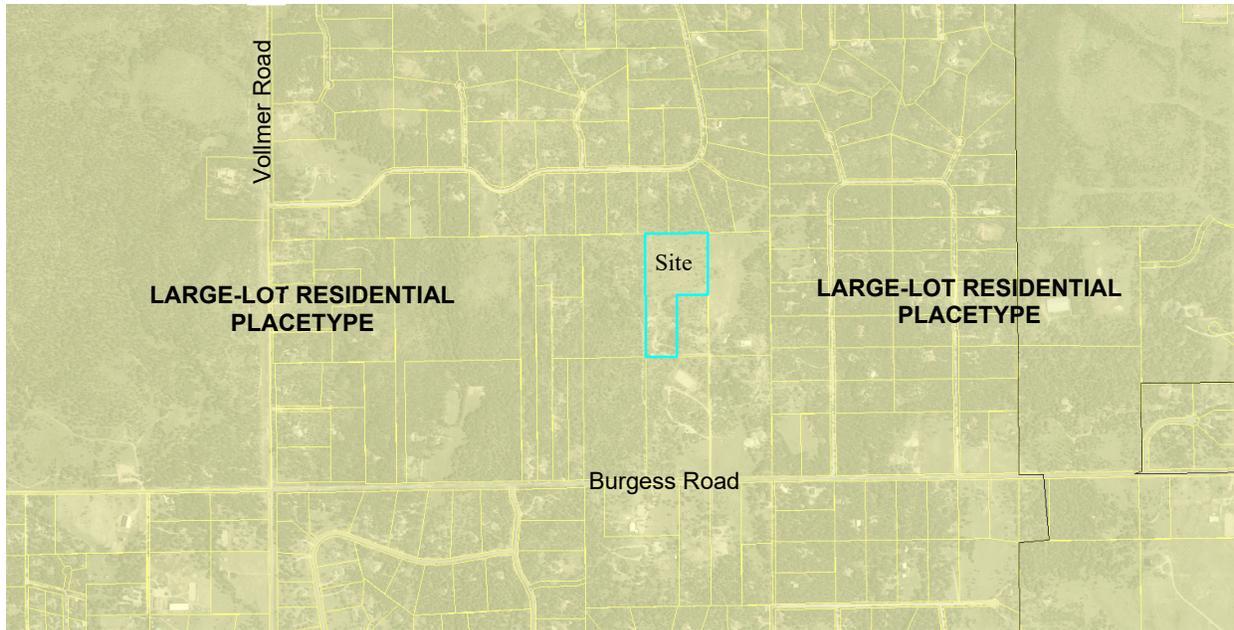


Figure G.1: Placetype Map

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 for 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 subdivision would create three (3) single-family detached residential lots. The proposed use and lot size are consistent with the character and intent of the Large-Lot Residential placetype. The three lots are each proposed to be 5.06 acres. By maintaining a larger lot size than the recommended 2.5 acres, which has been identified as suitable within the Large-Lot Residential placetype, the proposed subdivision is in line with preserving the rural character of the area. The increased lot size also accommodates the large electrical easement that bisects the property. Additionally, the proposed lot sizes are consistent with the surrounding properties, which vary in size but still maintain a density of one (1) dwelling unit per five (5) acres.

b. Area of Change Designation: Minimal Change: Undeveloped

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

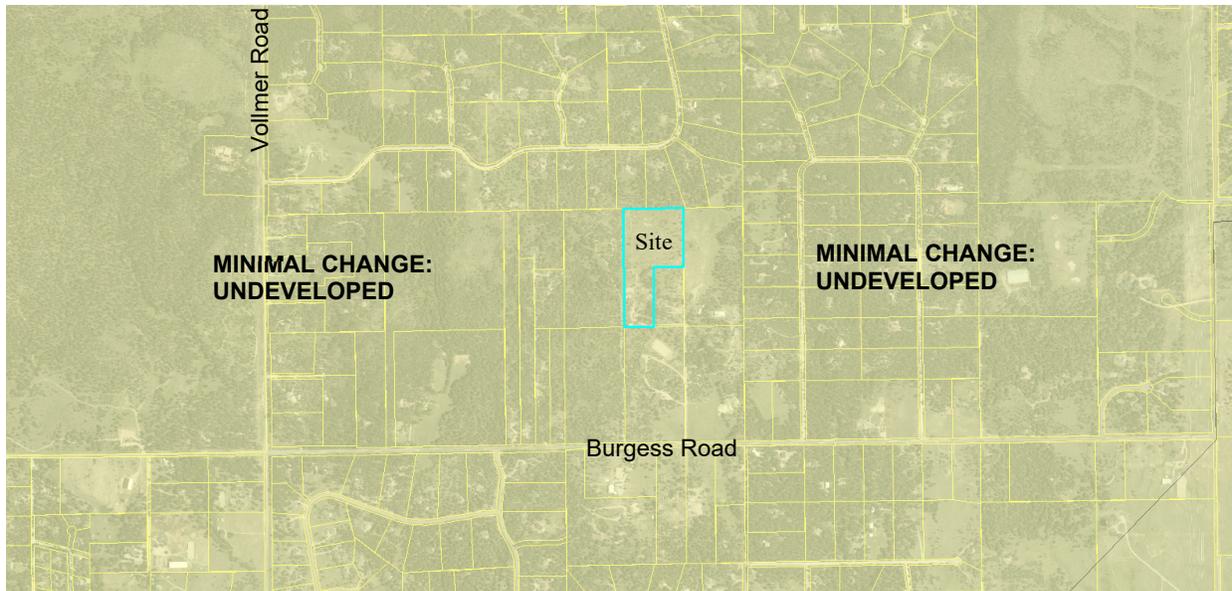


Figure G.2: Area of Change Map

Analysis:

The subject property is adjacent to rural residential properties on all sides. The properties to the south, east, and west of the subject property are unplatted and range in size from 20 acres to five (5) acres. These properties are used for single-family detached residential purposes. To the north of the subject property are two (2) platted lots located within the High Acres subdivision which are each 5 acres in size and are used for single-family detached residential purposes.

The proposed minor subdivision to create three (3) rural residential lots is compatible with the surrounding lot sizes, which vary in size but are all a minimum of five (5) acres. 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

El Paso County represents a vast area composed of many distinct areas. These “Key Areas” have their own unique identities and are generally localized into smaller geographic areas with distinct characteristics that

distinguish them from other areas of the County. The subject property is potentially influenced by the Forested Area.

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.”



Figure G.3: Key Area Map

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 and lot layout of the proposed subdivision are consistent with the existing development pattern in the area, which largely protects the character of the Forested Area, and specifically within Black Forest. In addition, the proposed subdivision will serve as an extension of the existing “small-scale, low intensity development” that has already occurred in area.

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

The subject property is not located within a Priority Development Area.

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 proposed development will not be served by a central water system. The following has been included for informational purposes only as it pertains to water demands and supplies in Region 4a for central water providers:

The property is located within Planning Region 3 of the Plan, which is an area anticipated to experience growth by 2040. The Plan identifies the current demand for Region 3 to be 4,494 acre-feet per year (AFY) (Figure 5.1) with a current supply of 7,164 AFY (Figure 5.2). The projected demand in 2040 is at 6,403 AFY (Figure 5.1) with a projected supply of 7,921 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 is 8,307 AFY (Figure 5.1) with a projected supply of 8,284 AFY (Figure 5.2) in 2060. This means that by 2060 a deficit of 23 AFY is anticipated for Region 3.

Water sufficiency has been analyzed with the review of the proposed minor subdivision. The augmentation decree for the property allows the subdivision to draw 3.5 acre-feet of water per year over a 300-year period from the Dawson Aquifer for the three (3) proposed lots. The applicant's water resources report indicates an estimated use of approximately 3.5 acre-feet per year.

The applicant's water resources report and augmentation plan include measures for recharging renewable water resources in the Dawson aquifer. 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 the proposed minor subdivision has an adequate water supply in terms of quality. Please see the Water section below for a summary of the water findings and recommendations for the proposed minor subdivision.

3. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcel as having a low wildlife impact potential. El Paso County Community Services Department, Environmental Services Division, and Colorado Parks and Wildlife were each sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) does not identify any 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.

Please see the attached Park Advisory Board recommendations which include an analysis regarding conformance with The El Paso County Parks Master Plan (2013). Those recommendations include requiring fees in lieu of land dedication for regional park purposes in the amount of \$1,380.00. No fees or land dedication are applicable for urban park purposes.

Please see the Transportation section below for information regarding the El Paso County 2016 Major Transportation Corridors Plan Update (MTCP).

H. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified during the review of the minor subdivision.

2. Wildlife

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

3. Floodplain

The property is not located within a defined floodplain as determined from review of the FEMA Flood insurance Rate Map panel number 08041C0320G, dated December 7, 2018.

4. Drainage and Erosion

The property is located within the Upper Black Squirrel Creek drainage basin (unstudied), Falcon drainage basin (CHWS1400), and Sand Creek drainage basin (FOFO4000). The Falcon drainage basin and the Sand Creek drainage basin are included in the El Paso County Drainage Basin Fee program. Drainage fees in the amount of \$3,515.00 and bridge fees in the amount of \$644.00 shall be paid for the Falcon drainage basin at the time of plat recordation. Drainage fees in the amount of \$1,346.00 and bridge fees in the amount of \$734.00 shall be paid for the Sand Creek drainage basin at the time of plat recordation.

Per the submitted drainage report, the site generally drains to three different drainage basins: Upper Black Squirrel Creek, Falcon, and Sand Creek. The land is mostly undeveloped and covered with grasses. No public improvements are required for this project. Water quality and detention facilities are not required due to the nature and size of the lots.

5. Transportation

Access to Lots 2 and 3 will be through an access easement on Lot 1. The subdivision obtains access from Burgess Road, which is owned and maintained by El Paso County.

The El Paso County 2016 Major Transportation Corridors Plan Update depicts roadway improvements to roads in the immediate vicinity of the project. Burgess Road is going to be widened to a minor arterial cross section at a later date by El Paso County. No improvements to any roads in the vicinity are being triggered by the creation of this development.

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471, as amended). Road impact fees shall be paid in full at the time of subsequent building permits if not paid at the time of final plat recordation.

I. SERVICES

1. Water

Sufficiency:

Quality: Sufficient

Quantity: Sufficient

Dependability: Sufficient

Attorney's summary: Water will be provided by individual onsite wells. The State Water Engineer's Office has made a finding of adequacy and has stated water can be provided without causing injury to decreed water rights. The County Attorney's Office is recommending a finding of sufficiency with regard to water quantity and dependability. El Paso County Public Health is recommending a finding of sufficiency with regard to water quality.

2. Sanitation

Individual onsite wastewater treatment systems (OWTS) are proposed to serve the residential lots. The applicant submitted an OWTS report which indicated that the lots are suitable for the construction of these systems. El Paso County Public Health was sent a referral and has no outstanding comments.

3. Emergency Services

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

4. Utilities

Mountain View Electric Association (MVEA) will provide electrical service and Black Hills Energy (BHE) will provide natural gas service to the area included within the final plat. Both utility providers were sent referrals for the final plat; 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 \$1,380.00 for regional fees (Area 2) will be due at the time of recording the final plat. No fees or land dedication are applicable for urban park purposes.

particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.

6. 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.
7. 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.
8. 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.
9. 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.
10. Drainage fees in the amount of \$3,515.00 and bridge fees in the amount of \$644.00 shall be paid for the Falcon drainage basin (CHWS1400) at the time of plat recordation. Drainage fees in the amount of \$1,346.00 and bridge fees in the amount of \$734.00 shall be paid for the Sand Creek drainage basin (FOFO4000) at the time of plat recordation.
11. Park fees in lieu of land dedication for regional parks (Area 2) in the amount of \$1,380.00 shall be paid at the time of plat recordation.
12. 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 plat recording.
13. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.

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.
3. The existing accessory structures as identified in ADM-21-039 are not considered nonconforming and shall be subject to the dimensional standards as outlined in the Land Development Code and any setback encroachments shall be corrected through the appropriate process prior to issuance of building permits on Lot 1.

M. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified ten (10) adjoining property owners on February 10, 2022, for the Planning Commission meeting. Responses will be provided at the hearing.

N. ATTACHMENTS

Vicinity Map
Letter of Intent
Plat Drawing
State Engineer's Letter
County Attorney's Letter
El Paso County Public Health Recommendation Letter
Park Advisory Board Comments
ADM-21-039

El Paso County Parcel Information

File Name: MS-21-009

Zone Map No.: --

Date: February 9, 2022



Please report any parcel discrepancies to:
El Paso County Assessor
1675 W. Garden of the Gods Rd.
Colorado Springs, CO 80907
229) 520-6600



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ALESSI
AND ASSOCIATES, INC.



January 27, 2022

Letter of Intent

Minor Subdivision
11750 Green Acres Lane

OWNER: *Jerry and Sharon Lomax*
11750 Green Acres Lane
Colorado Springs, CO 80908

CONSULTANT:

Joseph Alessi PLS
Alessi and Associates, Inc.
2989 Broadmoor Valley Road, Suite C
Colorado Springs, CO 80906
Tele: 719-540-8832 fax# 719-540-2781

SITE LOCATION:

Property Address: 11750 Green Acres Lane, Colo. Springs
Property currently is a residential site. The existing land uses in the area are of rural residential/agriculture sites. The Three Lot subdivision proposes the use of wells and septic systems. Burgess Road via Green Acres Lane provides legal access to the site and an existing gravel road along the South boundary line currently provides access to property. The site is comprised of 15.18 Acres more or less. Three quarters of a mile East of the intersection of Vollmer Road and Burgess Road.

Legal description – A portion of The Northeast Quarter Southeast Quarter of Section 15, Township 12 South, Range 65 West of the 6th P.M., El Paso County, Colorado.

ZONING:

Parcel # 5215000035 is currently zoned
RR-5 – Rural Residential District.

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REQUEST:

Request to subdivide into three Lots comprised of proposed Lot 1 = 5.06 Acres, Lot 2 = 5.06 Acres and Lot 3 = 5.06 Acres = 15.18 Acres. Water wells and individual septic systems are proposed for rural/residential use on each Lot.

Green Acres Lane will provide access to the proposed Lots. Overhead utilities located along the South and West side provide electrical and communication service to the site.

Request a waiver under Land Development Code Section 8.4.3.B-2 and 8.4.4(E)

This provision requires that "Lots shall a minimum of 30 foot of frontage on and have access from a public road, except where private roads are approved by BOCC"

Lots 1, 2 and 3 gain access from an existing private access easement having access from Burgess Road. As described from the County Road (Burgess Road) to the subject property, 30 Ft. easement for ingress and egress as described in Exhibit A, Stewart Title Guaranty Company, File No. 85511ECS, dated July 31, 2021.

The current private access easement has existed for more than 30 years and has historically been maintained with snow removal, gravel and grading performed for drainage improvements. The continued responsibility and maintenance of the access drives shall be continued by the owners of Lots 1, 2 and 3 in accordance with the private access maintenance agreement. (See Attached Agreement) The private access drives with the private maintenance agreement have proven to be an effective and efficient method of providing access to the two additional Lots. The private access driveway will have a minimal impact on the natural terrain and minimal disturbance of the landscape as compared to a larger driveway width.

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 code section 8.4.3 (B) does not go against the intent and purpose of this code. This request is in line with the requirements set forth in the code, and the shared driveway will comply with all applicable design standards.

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2. The waiver will not result in the need for additional subsequent waivers; With the approval of this waiver the lots will each be provided the required access. There will be no need for additional waivers as all applicable requirements of the El Paso County Land Development Code and current zoning of minimum 5 acre Lots, 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 proposed shared driveway will be constructed to provide safe and reliable access to each lot on the site. The responsibility and maintenance of said driveway will be performed 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. Treasured Acres Subdivision Filing No. 1 contains 15.18± acres and three (3) lots. Because the site does not contain more than three lots, a single driveway may be used to provide access to the entire site via Green Acres Lane to a 60 foot public road, Burgess Road.

5. A hardship to the owner would result from a strict application of this code; the subdivision would be required to access by a public roadway in a 60' 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.

6. The waiver will not in any manner vary the zoning provisions of this code; The proposed shared driveway will comply with all zoning provisions of this code.

7. The proposed waiver is not contrary to any provision of the master plan; The proposed shared driveway is in harmony with the goals of the master plan with regard to preserving place type characteristics and preserving natural features.

This waiver will provide the additional two proposed properties to utilize and provide access via the current private Green Acres Lane to a 60 foot public road Burgess Road.

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JUSTIFICATION:

1. The El Paso County Master Plan is an expression of the community's desires for the future of El Paso County. The Plan establishes Core Principals in Housing and Communities to preserve the character of rural and environmentally sensitive areas. Black Forest is a community with one of the strongest and most well-established characters in El Paso County. This area is built around protecting the forest and preserving its rural quality. Due to this natural amenity, many new residents seek to live in this area when moving to the County areas. The Plan focuses primarily on Land Use as a fundamental core component of a comprehensive plan and represents the first building block upon which other plan components are structured. The approach to land use retains established places, identifies opportunities for growth, and provides strategies to mitigate impacts to the natural environment.
2. The request complies with the Master Plan and is in general conformance with the Land Use Applications.
 - a. The proposed minor subdivision is located in the Forested Key Area. This key area is where natural forests are a predominant feature
 - b. This is an area of minimal change undeveloped with significant natural area. Although, this area can see infill development by maintaining the overall character.
 - c. The Master Plan identifies this area as Large-Lot Residential. This place type consists mostly of residential development of single family homes of 2.5 acres or more. This type minor subdivision typically relies on wells and septic systems.

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- d. This proposed subdivision is limited with existing infrastructure to this property, i.e. gas, electric and communication services.

Core Principles and Goals

- i. Goal 1. Preserve and enhance the sensitive natural environment and unique community character of the Forested Area.
- ii. Goal 2. Recognize that agriculture, and other open lands are vital natural resources which should be protected from needless misuse and urban sprawl.
- iii. Goal 3. Promote a residential environment which perpetuates the rural-residential character of the Large Lot Area.
The promotion of residential subdivisions with a minimum lot area of 2.5 acres in designated portions of the planning area.

3. Water Master Plan

- i. The project is located within the Upper Black Squirrel Creek Ground Water Management District
- ii. The water supply for the proposed five acres plus lots is by the drilling of Private wells for each of the lots.
- iii. No Central supplier will be used for this project.

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- iv. The Standards of Section 4 are met by limiting the well ground water to the Dawson Aquifer and by obtaining a Ground Water Findings and as well as a Replacement Plan – Determination of Water Right No. 3668-BD
 - v. The Applicant has shown that the proposed wells for the 15.18 acre site has Water Rights for 3.5 Acre-feet and meets the requirements of the 300-year Rule for the County.
 - vi. The proposed 3 lot subdivision has ensured adequate water for the future by designing a low-density residential development for the 15.18-acre site.
4. The proposed Minor Subdivision is in conformance with the requirements of the Minor Subdivision requirements. Zoning Code minimum setbacks for RR 5 Front 25 Ft., Side 25 Ft., Rear 25 Ft., Lot width 200 Ft. maximum height 30 ft.
5. The water supply report provides sufficient information to identify probable compliance with the water supply standards and identifies any need for additional water supplies. Please review the replacement plan and court findings with adequate water supply.

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6. The proposed Minor Subdivision is not located within a central sewage system or within an organized sewage district with a municipal service area. In the opinion of the OWTS report both new Lots 2 & 3 have suitable areas for future individual on-site wastewater treatment systems within setbacks from water sources and easements. At time of building permit the OWTS evaluation and design will be based on the number of bedrooms for residential design.
7. Services are or will be available to meet the needs of the subdivision including existing public roads, commitment of service with Black Forest fire protection district, and Mountain View Electric, Black Hills Gas utility commitment services.
8. The soil is suitable for the subdivision see Soil and Geology Report. The foundation and floor slabs of the proposed structures should be designed using specific subsurface soil investigation performed on Lot 2 and 3. The surficial sand soils will classify as Type C materials and the clay soils will classify as Type B.
9. The geological hazards do not prohibit the subdivision or can be mitigated. See Soil and Geology Report. Based on the geological conditions the proposed development is feasible. Exterior, perimeter foundation drains should be installed around below-grade habitable or storage spaces. Positive grading should be installed around the building area to prevent infiltration into the subsurface soil.
10. The subdivision will not interfere with the extraction of any known commercial mining deposit

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11. The design of the subdivision protects the natural resources as a grass rangeland.
12. The proposed methods for fire protection are adequate to serve the subdivision. See Fire mitigation and protection reports. Homeowners should develop effective defensible space around each building including; dwelling, garage and out buildings. Desired conditions around structures include a 10 foot clearance out at least a recommended 30 feet.
13. The subdivision is appropriate, and the design is based on mitigating the constraints of topography, soil types, geologic hazards, aggregate resources, environmental resources, or other constraints. As described in the Soils and Geology Report, Storm water report etc.
14. A 30 ft. Access Easement from Burgess Road to the private drive known as Green Acres Ln, along with waiver request As described from the County Road (Burgess Road) to the subject property, 30 Ft. easement for ingress and egress as described in Exhibit A, Stewart Title Guaranty Company, File No. 85511ECS, dated July 31, 2021.
15. Encourage new single family housing as infill development within the areas of available vacant or underutilized agricultural land and continue the denser housing expansion of existing suburban residential areas.

Your consideration of this request will be greatly appreciated.

Respectfully Submitted
On behalf of the property owner

Joseph Alessi PLS

ACCESS EASEMENT MAINTENANCE AGREEMENT

This ACCESS EASEMENT MAINTENANCE AGREEMENT (“Agreement”) dated this _____ day of _____, 2022, is made by and among the owners of 11750, 11910 and 11930 Green Acres Lane, Colorado Springs, 80908, El Paso County, Colorado together with their respective successors in interest in the Properties as hereafter defined (collectively the “Owners”). 11750 Green Acres Lane known as Lot 1, 11910 Green Acres Lane known as Lot 2 and 11930 Green Acres Lane known as Lot 3, all in Treasured Acres Filing No. 1, Colorado Springs, El Paso County, Colorado according to the legal descriptions are herein referred to as the “Property”. The Owners are individually a “Party”.

RECITALS:

- A. Jerry and Sharon Lomax as owners of Lots 1, 2, and 3, Treasured Acres Filing No. 1
- B. The Property was platted as evidenced by the Subdivision Plat.
- C. The Plat provides access to and from Burgess Road over a private lane which is a private easement for access from Burgess Road to its point of terminus.
- D. The Owners wish to provide for the construction and maintenance of a roadway (“Roadway”) for access over the Access Easement from Burgess Road for the frontage of the parcels.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Design and Construction of Roadway.** The Owners of the Property are responsible for the Roadway as it exists and if desired by Parties to construct the Roadway to El Paso County standards.
2. **Maintenance of Roadway.** It shall be the duty and obligation of each Owner to maintain the shared access driveway. The shared access driveway shall be equally maintained by the parcel owners benefiting from, and sharing, the respective driveway and shall each pay an equal portion of maintenance and repair costs, unless the expense to repair is attributable to a specific lot owner. “Maintenance” or “repair” includes, but is not limited to, graveling, paving, draining, removing snow, clearing, or providing any other maintenance or repair-type service however defined, on the shared access driveway. If a Parcel Owner does not utilize or benefit from the shared access driveway, then the Lot Owner is not responsible for maintenance and repair and associated costs. The driveway shall, at a minimum, meet typical standards for gravel or paved roads, as applicable. The driveway will, at all times, be kept in passable condition without potholes, sinkholes, obstructions, or other unstable or unpassable conditions. The shared access driveway may be paved if the sharing parties agree to share the cost of paving, or if one party agrees to bear the total cost for the pavement. In no case shall the paved access driveway fall below the county standard for access drives.
3. **Run with the Land.** The rights and obligations granted herein and the provisions hereof shall run with the land, shall be appurtenant to the Property, shall be binding upon the Owners and Property and all present and future owners of the Property, and shall inure to the benefit of the Owners and Property and all present and future owners of the Property.

4. **Enforcement.**

A. This Agreement may be enforced as provided hereinafter by each Owner of a parcel in the Property. Each Owner of a parcel, by acquiring an interest in the parcel, shall automatically become vested with the rights and obligations provided under this Agreement. Violation of any condition, covenant, restriction, or reservation contained herein by any party shall, after providing thirty (30) days' written notice to the party responsible in violation of this Agreement, give to said owner of a Lot the right to bring suit in law or equity against the party or parties violating any such condition, covenant, restriction, and/or reservation to enjoin them from so violating, to cause such violation to be remedied, and to recover damages resulting from such violation.

B. In any legal or equitable proceeding for the enforcement of this Agreement, or any provision hereof, whether it be an action for damage, declaratory relief, injunctive relief, or any other action, the prevailing party in such action shall be entitled to recover from the non-prevailing party all of its costs incurred in such action, including court costs and reasonable attorneys' fees. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

C. The failure of any owner or owners of a Lot to enforce any of the conditions, covenants, restrictions, or reservations contained herein shall in no event be deemed to be a waiver of the right to do so for subsequent violations or of the right to enforce any other conditions, covenants, restrictions, or reservations contained herein.

5. **Miscellaneous.**

a. Severability. In the event any Court of competent jurisdiction declares any portion of this document to be unenforceable, such declaration shall not affect the enforceability of the remaining parts of this document.

b. Third Parties. This document does not and shall not be deemed to confer upon or grant to any third party any right to claim damages or to bring any lawsuit, action or other proceeding against any of the parties hereto or their respective successors and assigns, including any individual Lot Owners, because of any breach hereof or because of any terms, covenants, agreements or conditions contained herein.

c. Applicable Law and Venue. The laws, rules, and regulations of the State of Colorado and El Paso County shall be applicable in the enforcement, interpretation, and execution of this document. Venue shall be in the El Paso County District Court

f. Modification. No breach of this Agreement shall entitle any Party to cancel, rescind or terminate the Agreement or any rights granted herein. This Agreement may be modified or terminated only by recording a written modification or termination agreement executed by the then present owner or owners of all of the Properties.

g. Notices. All notices required or permitted to be given or delivered hereunder shall be in writing and be hand delivered or sent by registered or certified mail, return receipt requested, postage prepaid, addressed to the Party intended at its address as set forth above or to such other address as indicated on title transfer documents filed with the El Paso County, Colorado real property records. All such notices shall be deemed to have been given and delivered when hand delivered or seventy-two (72) hours after deposit in the United States Mail in the manner provided unless the return receipt shall show earlier delivery.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first set forth above.

Lots 1, 2 and 3, Treasured Acres Filing No. 1:

By:

By:

STATE OF COLORADO)

) ss.

COUNTY OF El Paso)

The foregoing was acknowledged before me this ___ day of _____, 2022, by

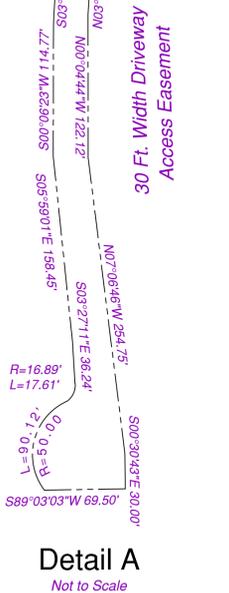
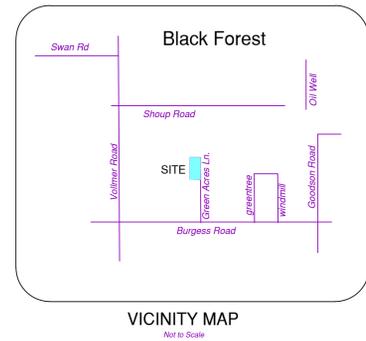
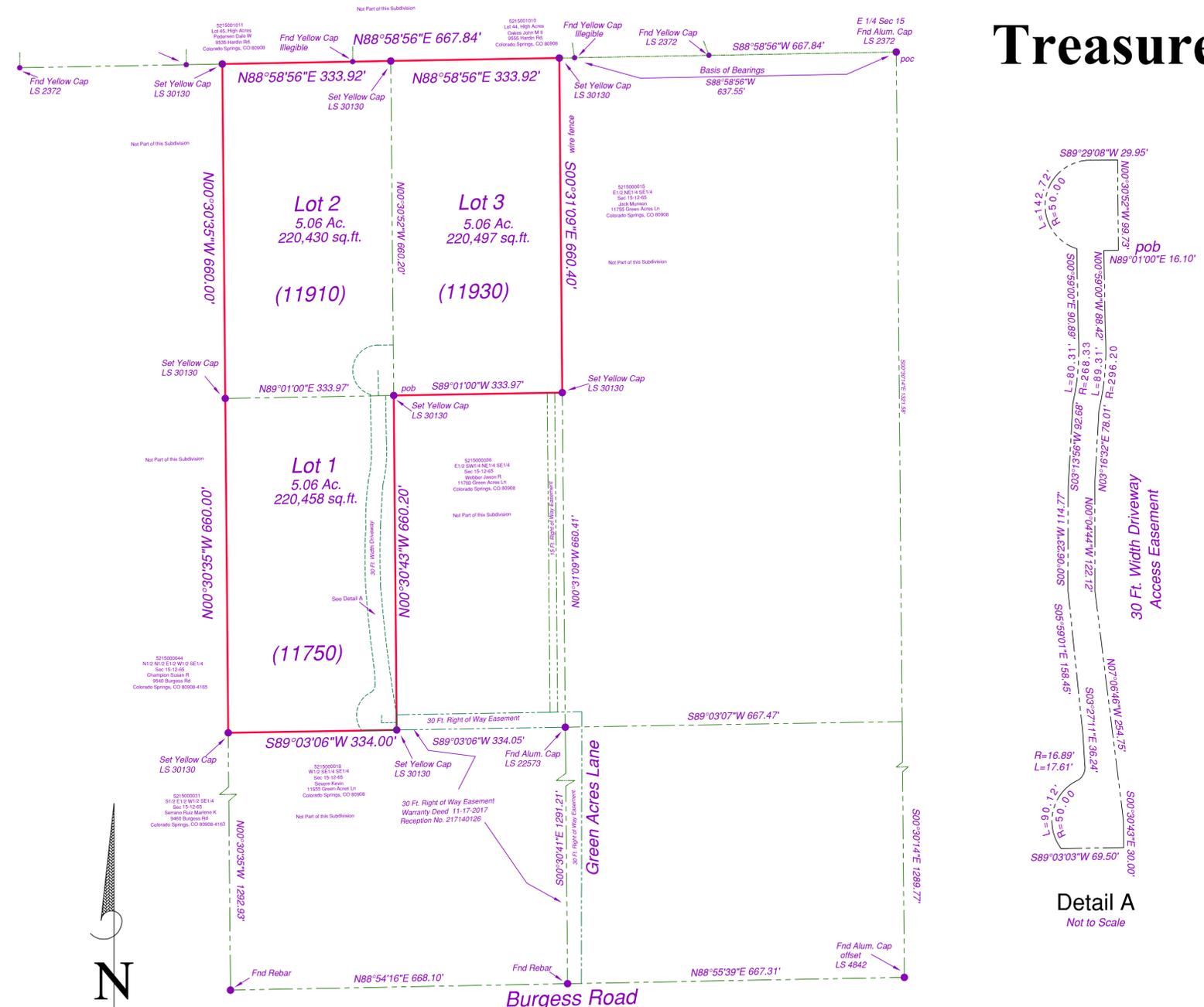
WITNESS my hand and official seal.

My Commission expires: _____

Notary Public

Treasured Acres Filing No. 1

A portion of the Southeast Quarter of Section 15, Township 12 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado.



Plat Ratification:

_____ has executed this instrument this ____ day of _____, 2022, A.D. by _____, as _____, of _____, a _____ state entity type

by: _____, name and title

State of Colorado)
County of _____) ss

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, A.D. by _____, as _____, of _____, a _____ state entity type

witness my hand and official seal, notary seal

Surveyor's Certification:

I, Joseph Alessi, a duly registered Professional Land Surveyor in the State of Colorado do hereby certify that this plat truly and correctly represents the results of a survey made on November 10, 2020, by me or under my direct supervision and that all monuments exist as shown hereon; that mathematical closure errors are less than 1:10,000; and that said plat has been prepared in full compliance with all applicable laws of the State of Colorado dealing with monuments, subdivision, or surveying of land and all applicable provisions of the El Paso County Land Development Code.

I attest the above on this ____ day of _____, 2022.

Joseph Alessi
Colorado Professional Land Surveyor No. 30130

Know All Men By These Presents:

That the undersigned, Jerry Lomax and Sharon Lomax, being the owner of the following described tract of land:

To Wit:

The Northwest Quarter and the Northeast Quarter of the Southeast Quarter, and the West Half of the Southwest Quarter of the Northeast Quarter of Section 15, Township 12 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, together with an easement for a 30 foot Right-of-Way for ingress and egress from the County Road which runs Easterly and Westerly along the Southerly line of said Section 15, the Centerline of which Right-of-Way is a line extending Southerly from the Southeast corner of the Northeast Quarter of the Southeast Quarter of the Southeast Quarter of said Section 15 to a point on the South line of, and equally distant from, the Southeast and Southwest corners of the Southeast Quarter of the Southeast Quarter of said Section 15, El Paso County, Colorado and together with an Easement and Right-of-Way for ingress and egress over the Southerly 30 feet and over the Westerly 15 feet of the Easterly 30 feet of the East half of the Southwest Quarter of the Northeast Quarter of the Southeast Quarter of Section 15 in Township 12 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado. More particularly described: Commencing at the East Quarter corner of said Section 15; thence S.88°58'56\"/>

Owners Certificate:

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, and easements as shown hereon under the name and subdivision of "TREASURED ACRES FILING NO. 1". The utility easements shown hereon are hereby dedicated for public utilities and communications systems and other purposes as shown hereon. The entities responsible for providing these services for which the easements are established are hereby granted the perpetual right of ingress and egress from and to adjacent properties for installation, maintenance and replacement of utility lines and related facilities.

Jerry Lomax, co-Owner
Sharon Lomax, co-Owner

Notarial:

State of Colorado)
County of El Paso) SS

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 A.D., by Jerry Lomax and Sharon Lomax

Witness my hand and seal
Address _____

My Commission expires _____

Notary Public

Board of County Commissioners Certificate:

This Plat "TREASURED ACRES FILING NO. 1" was approved for filing by the El Paso County, Colorado Board of County Commissioners on the ____ day of _____, 2022, subject to any notes specified hereon and any conditions included in the resolution of approval.

Chair, Board of County Commissioners _____ Date _____

Director, Planning and Community Development _____ Date _____

Recordings:

STATE OF COLORADO
COUNTY OF EL PASO

I hereby certify that this instrument was filed in my office on this ____ day of _____, 2022, and was recorded at Reception Number _____ of the records of El Paso County

El Paso County Clerk and Recorder _____

Professional Consultant:
Land Surveyor:
Joseph Alessi, PLS
Alessi and Associates, Inc.
2989 Broadmoor Valley Road
Colorado Springs, CO 80906
719-540-8832

Owner:
Jerry and Sharon Lomax
11750 Green Acres Lane
Colorado Springs CO 80908
719-495-9688

Property Address:
Lot 1: 11750 Green Acres Lane
Colorado Springs, CO 80908
Schedule No. 5215000035

ALESSI and ASSOCIATES, Inc.
APPRAISERS • ENGINEERS • SURVEYORS
2989 Broadmoor Valley Road, Suite C
Colorado Springs, CO 80906
Tel. 719/540-8832
Fax 719/540-2781

Portion of SE1/4 Section 15, Township 12 South, Range 65 West
6th Principle Meridian, El Paso County, Colorado

Job No. 211290 Treasured Acres Filing No. 1 DATE June 08, 2021

REVISION December 07, 2021 MS 21-009

Notes:

- This survey does not constitute a title search by Alessi and Associates, Inc., to determine ownership or easements of record. For information regarding easements, rights of way, Alessi and Associates, Inc. relied upon the Title Policy prepared by Empire Title of Colorado Springs and Stewart Title Guaranty Company, File Number 85511ECS, dated August 05, 2021.
- The property owner, its successors and assigns, and all future lot owners in this development are hereby on notice that they may be required to comply with applicable rules, if any, of the Colorado Ground Water Commission and/or the Upper Black Squirrel Creek Ground Water Management District, which compliance may result in a reduction of well withdrawal limits, and thus a reduction in water availability.
- Basis of Bearings. A line beginning at the East Quarter corner of Section 15, Township 12 South, Range 65 West of the 6th P.M. County of El Paso, State of Colorado, said corner being monumented by a #6 rebar with an aluminum cap, LS 2372 and terminating at a point on the East-West centerline of said Section 15, point being a #4 rebar with an illegible yellow cap with a bearing of S88°58'56\"/>

Total Acreage:
Lot 1 = 5.06 Acres
Lot 2 = 5.06 Acres
Lot 3 = 5.06 Acres
Total = 15.18 Acres

Flood Statement:
This site, "TREASURED ACRES FILING NO. 1" is NOT within a designated F.E.M.A. Floodplain as determined by the Flood Insurance Rate Map, Community Panel Number 08041C0320G, effective December 7, 2018.

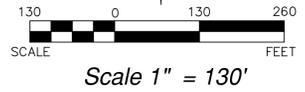
Easements:
Unless otherwise indicated, all side, front, and rear lot lines are hereby platted on either side with a 10 foot public utility and drainage easement. All exterior subdivision boundaries are hereby platted with a 20 foot public utility and drainage easement. The sole responsibility for maintenance of these easements is hereby vested with the individual property owners.

Service Providers:
Black Forest Fire Protection District
Mountain View Electric Assoc.
Black Hills Energy
Individual Sewage Disposal Systems
Domestic Wells

Legend:
● Found Monument as Shown
● Set #5 Rebar with Yellow Plastic Cap PLS #30130

Fees:
Park Fee: _____
School Fee: _____
Drainage Fee: _____
Bridge Fee: _____
Surcharge Fee: _____

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 certification shown hereon.





October 20, 2021

Ryan Howser
El Paso County Development Services Department
DSDcomments@elpasoco.com

RE: Treasured Acres Filing No. 1 Subdivision
Part of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Section 23, T11S, R65W, 6th P.M.
Kiowa Bijou Designated Ground Water Basin
Water Division 1, Water District 1

Dear Ryan Howser:

We have received the information submitted on August 27, 2021 concerning the above-referenced proposal to subdivide a 15.18-acre parcel of land into three lots.

Water Supply Demand

According to the submitted Water Supply Information Summary Sheet and Treasured Acres Farm Minor Subdivision Water Quality Report dated May 28, 2021 by Chris Cummins (“Water Resources Report”) provided with the submittal, the estimated water requirements total 3.5 acre-feet annually. This is broken down to 0.6 acre-feet/year for residential use (0.2 acre-feet/year per residence) and 2.9 acre-feet/year for other uses approved in the replacement plan which includes irrigation of lawn and gardens, watering of domestic animals, greenhouse irrigation, piscatorial/pond, recreation, agricultural, replacement and commercial use.

Source of Water Supply

The proposed source of water supply is individual on-lot wells producing from the non-tributary (actual replacement) Dawson aquifer, including well permit no. 85875-F, pursuant to the Replacement Plan for Determination of Water Right No. 3668-BD.

Determination of Water Right no. 3668-BD was issued by the Ground Water Commission (“Commission”) on April 29, 2019 for an allowed average annual amount of withdrawal of ground water of 10.6 acre-feet from the Dawson Aquifer (based on an aquifer life of 100 years) to be used on the 15 acre parcel that is the subject of this referral.

On April 29, 2019 the Commission approved the Replacement Plan for Determination of Water Right no. 3668-BD. The Replacement Plan for Determination of Water Right no. 3668-BD allows for the withdrawal of 3.5 acre-feet per year of ground water from the Dawson aquifer for 300 years, through three wells, including the existing well operated under permit no. 85875-F, to be located on three residential lots on the 15 acres which is the subject property of this referral. Each well may withdraw the groundwater to be used for household use, irrigation of lawn and gardens, watering of domestic animals, greenhouse irrigation, piscatorial/pond, recreation, agricultural, replacement and commercial use. These allowed uses are consistent with the proposed uses specified in the Water Supply Report.

The proposed source of water for this development is a bedrock aquifer allocation from the Denver Basin. The State Engineer’s Office does not have evidence regarding the length of time for which the bedrock aquifer sources will be a physically and economically viable source of



water. According to 37-90-107(7)(a), C.R.S., “Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years.” Based on this allocation approach, the annual amounts of water determined in Determination of Water Right No. 3668-BD is equal to one percent of the total amount, as determined by rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1. Therefore, the water may be withdrawn in those annual 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 the bedrock aquifer sources 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 allowed average annual amount of withdrawal of 3.5 acre-feet per year from the Dawson aquifer pursuant to the Replacement Plan for Determination of Water Right no. 3668-BD for a maximum of 300 years, is sufficient to supply the requirement of 3.5 acre-feet/year.

The Water Resources Report submitted indicates the existing well under permit no. 85875-F will be used for the subdivision.

Well permit no. 85875-F was issued for the use of an existing unregistered well pursuant to the Replacement Plan for Determination of Water Right no. 3668-BD for the withdrawal of 1.16 acre-feet/year of groundwater from the Dawson aquifer for domestic use inside one single family dwelling, irrigation of one acre of lawns and gardens and watering of domestic animals. The place of use is limited to the 5.06 acres parcel known as Lot 1, Treasured Acres Farm Subdivision. Since the uses, annual amount of withdrawal and water source of permit no. 85148-F, are those proposed for the subdivision, permit no. 85875-F may be used within subdivision.

State Engineer’s Office Opinion

Based upon the above and pursuant to Sections 30-28-136(1)(h)(l), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to water rights.

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 on the subdivided land is greater than the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Colorado Ground Water Commission has retained jurisdiction over the final amount of water available pursuant to the above-referenced Determination of Water Right(s), pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100 year aquifer life. 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.

If you, or the applicant, have any questions, please contact Ailis Thyne at ailis.thyne@state.co.us.

Sincerely,

A handwritten signature in blue ink that reads "Joanna Williams". The signature is fluid and cursive, with the first name "Joanna" being more prominent than the last name "Williams".

Joanna Williams, P.E.
Water Resources Engineer

Ec: Well permit no. 85875-F
SEO referral no. 28909

Treasured Acres.docx

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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November 30, 2021

MS-21-9 Treasured Acres Filing No. 1
Minor Subdivision

Reviewed by: Lori L. Seago, Senior Assistant County Attorney
Edi Anderson, Paralegal, ACP

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a proposal by Jerry and Sharon Lomax (Applicant) for subdivision of a 15.18-acre parcel (the "property") into 3 single-family lots. All lots are estimated to be 5.06 acres in size. Lot 1 is currently occupied and an existing well is present on the property. The property is zoned RR-5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary ("WSIS"), the subdivision demand is 0.20 acre-feet/lot for in-house use (0.60 acre-feet total), plus an additional 2.9 acre-feet/year which may be divided among the following uses: irrigation, stock watering, piscatorial, commercial, and recreation, for total water demand of 3.5 acre-feet/year for the 3-lot subdivision. Based on the total demand, Applicant must be able to provide a supply of 1,050 acre-feet of water (3.5 acre-feet/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 individual on-lot wells, as provided in Colorado Ground Water Commission ("Commission") Determination No. 3668-BD and Replacement Plan No. 3668-RP dated April 29, 2019 (respectively "Determination" and "Replacement Plan"). The Determination adjudicated a total of 1,060 acre-feet of not nontributary Dawson aquifer water beneath Applicant's property. The Replacement Plan permits withdrawal of water through 3 wells on 3 lots in an amount not to exceed 3.5 acre-feet/year total for all wells, based on 1.16 acre-feet/lot/year. The allowed uses are "household use, irrigation of lawn and gardens,

watering of domestic animals, greenhouse irrigation, piscatorial/pond, recreation, agricultural, replacement and commercial.” Replacement of depletions during pumping must occur through individual on-lot non-evaporative septic systems on each lot pursuant to the Replacement Plan.

The Replacement Plan provides that replacement of depletions must be provided annually in the amounts identified in the Replacement Plan and which will require that “at least one well must be serving an occupied single-family dwelling that is generating return flows via a non-evaporative septic system before any other use is allowed to be served by any of the wells.”

4. The Applicant provided a *Water Resources Report For Treasured Acres Farm Minor Subdivision* dated May 28, 2021 by Monson, Cummins & Shohet, LLC (“*Report*”). The *Report* summarizes the water demand of 3.5 acre-feet/year (1.16 acre-feet/lot/year) and the water supply for the subdivision as provided by Determination and Replacement Plan No. 3668-BD and 3668-RP. The *Report* further identifies that there is an existing non-exempt well on the property that Applicant intends to use on Lot 1.¹

Monson, Cummins, & Shohet, LLC provided subsequent correspondence dated September 9, 2021, addressing the water demand of 0.20 acre-feet/year for in-house use, which is less than the County’s presumptive use value of 0.26 acre-feet/residence. The letter stated that the “minimum presumptive 0.26 value does not apply where there is another minimum value ‘established as acceptable by the State Engineer’. Land Development Code §8.4.7(d). The 0.20 acre-foot per home minimum was established for the property in the April 29, 2019, Findings and Order issued by the Colorado Ground Water Commission authorizing the Replacement Plan associated with Determination of Water Right No. 3668-BD”

State Engineer’s Office Opinion

5. In a letter dated October 20, 2021, the State Engineer reviewed the proposal to subdivide the 15.18-acre parcel into 3 single-family lots. The State Engineer stated the “source of water supply is individual on-lot wells producing from the not-nontributary (actual replacement) Dawson aquifer, including well permit no. 85875-F, pursuant to the Replacement Plan for Determination of Water Right no. 3668-BD.” The letter identified that the “Replacement Plan for Determination of Water Right no. 3668-BD allows for the withdrawal of 3.5 acre-feet per year of ground water from the Dawson aquifer for 300 years, through three wells, including the existing well operated under permit no. 85875-F, to be located on three residential lots on the 15 acres which is the subject property of this referral.” Finally, the State Engineer stated that “[b]ased on the above and pursuant to Sections 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to water rights.”

Recommended Findings

6. Quantity and Dependability. Applicant’s water demand for the Treasured Acres Filing No. 1 Minor Subdivision is 3.5 acre-feet per year from the Dawson aquifer for a total

¹ The *Report* incorrectly identifies the well permit no. as “3668-RP”. The correct well permit no. is 85875-F.

demand of 1,050 acre-feet for the subdivision for 300 years, with replacement water occurring through non-evaporative septic systems to replace actual stream depletions.

Based on the water demand of 3.5 acre-feet/year for the Treasured Acres Filing No. 1 Minor Subdivision and the Determination and Replacement Plan permitting withdrawals in the amount of 3.5 acre-feet/year, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for Treasured Acres Filing No. 1 Minor Subdivision.

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: Colorado Ground Water Commission Determination and Replacement Plan Nos. 3668-BD and 3668-RP dated April 29, 2019, the Water Supply Information Summary provided October 26, 2021, the *Water Resources Report* dated May 28, 2021, correspondence from Monson, Cummins & Shoheit, LLC dated September 9, 2021, and the State Engineer Office's Opinion dated October 20, 2021. 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. Applicant and its successors and assigns shall comply with Colorado Ground Water Commission Determination No. 3668-BD and 3668-RP dated April 29, 2019 ("Determination and Replacement Plan"). Water use shall not exceed 3.5 acre-feet annually for the 3-lot subdivision. Stream depletions shall be replaced with non-evaporative septic system return flows for a period of 300 years.

B. The County prefers that when there is a replacement plan, Applicant 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. For minor subdivisions such as this, however, Applicant may elect to solely rely on the covenant provisions required below and forego creation of an HOA.

C. Applicant and its successors and assigns shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of the Determination and Replacement Plan, including their obligations to comply with the augmentation plan.

The covenants shall specifically address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 1,050 acre-feet of not nontributary Dawson aquifer water pursuant to the Determination and Replacement Plan to satisfy El Paso County's 300-year water supply requirement for the 3 residential lots of the Treasured Acres Filing No. 1 Minor Subdivision. The Covenants shall further identify that 350 acre-feet (1.16 acre-feet/year) of Dawson aquifer water is allocated to each of the three lots.

2) Advise of responsibility for costs. The Covenants shall advise lot owners and their successors and assigns of their obligations regarding the costs of compliance with the Determination and Replacement Plan, which include pumping of the Dawson wells in a manner to replace depletions during pumping.

3) Require evaporative septic systems and reserve return flows from the same. The Covenants shall require each residential lot owner to use non-evaporative septic systems to ensure that return flows from such systems are made to the stream system to replace actual depletions during pumping, shall reserve said return flows to replace depletions during pumping, and shall state that said return flows shall not be separately sold, traded or used for any other purpose. The Covenants more specifically shall require the Dawson aquifer well on each lot to be serving an occupied single-family dwelling that is generating return flows from a non-evaporative septic system before any irrigation or animal watering is allowed from the well. 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 Applicant/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 Colorado Ground Water Commission Determination No. 3668-BD and 3668-RP, 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 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 aquifer wells.

6) 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 Treasured Acres Filing No. 1 Minor Subdivision pursuant to the Colorado Ground Water Commission Determination No. 3668-BD and 3668-RP. 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 Colorado Ground Water Commission 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.”

7) 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 Colorado Ground Water Commission Determination No. 3668-BD and 3668-RP are also terminated by order of the Colorado Ground Water Commission and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

D. Applicant and its successor assigns shall reserve and convey by recorded warranty deed the 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 pursuant to the Determination and Replacement Plan. Sufficient water rights are 350 acre-feet of Dawson aquifer water for each lot.

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 and replacement during pumping for each lot of the Treasured Acres Filing No. 1 Minor Subdivision. 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.”

E. Applicant and its successors and assigns shall submit Covenants, 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 documents shall cross-reference the Colorado Ground Water Commission Determination No. 3668-BD and 3668-RP and shall identify the obligations of the individual lot owners thereunder.

F. Applicant and its successors and assigns shall record all applicable documents, including, but not limited to, Colorado Ground Water Commission Determination and Replacement Plan Nos. 3668-BD and 3668-RP and any assignments thereof, any warranty deeds regarding the water rights, and any Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

G. Applicant and/or lot owners must obtain well permits pursuant to Colorado Ground Water Commission Determination No. 3668-BD and 3668-RP.

H. Prior to recording final plat, Applicant must re-upload their *Water Resources Report* dated May 28, 2021 to eDARP.

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. Applicants 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, Planner II

Treasured Acres, Filing No. 1, MS-21-19 (2nd Revision)

Please accept the following comments from El Paso County Public Health regarding the project referenced above:

- The proposed 3-lot residential development of a 15.2-acre site will be served water by individual private wells and wastewater through onsite wastewater treatment systems (OWTS).
- There is a finding for sufficiency in terms of water quality. All parameters were sampled for by Colorado Analytical Laboratories, and ACZ Laboratories. The total cyanide result was missed during my initial review but was found within the water quality results and found to be acceptable.
- The 27 July 2021, RMG Engineering, Soils and Geology Study was reviewed for site suitability for the use of onsite wastewater treatment systems for wastewater service. Based on the findings of the two soil test pits performed, one each on lot 2 and 3, the use of onsite wastewater treatment systems is acceptable. In some cases, the soil conditions may require a professional engineer design. The existing OWTS on Lot 1 was installed and approved in 1980 for a 3-bedroom house.
 - The proposed development requires full compliance with the El Paso County Board of Health Regulations, Chapter 8, Onsite Wastewater Treatment Systems.
 - Each lot will require site-specific soil tests in the location of each of the OWTS soil treatment areas.
 - The soil treatment areas (STA) on each lot must be protected from all construction and site development activities. Compaction of the STA by such activities may cause the area to be unsuitable for use. Recommend fencing the area during construction to minimize the potential for soil compaction.
- Radon resistant construction building techniques/practices are encouraged in this area. The EPA has determined that Colorado, and specifically the El Paso County area, have higher radon levels than other areas of the country.

Mike McCarthy
El Paso County Public Health
719.575.8602 (O)
mikemccarthy@elpasoco.com
14February2022

COMMUNITY SERVICES DEPARTMENT
PARK OPERATIONS ~ JUSTICE SERVICES
ENVIRONMENTAL SERVICES ~ VETERANS SERVICES ~ RECREATION/CULTURAL SERVICES

September 1, 2021

Ryan Howser
Planner
El Paso County Planning & Community Development Department

Subject: Treasured Acres Minor Subdivision (MS-219)

Ryan,

The Park Operations Division of the Community Services Department has reviewed the Treasured Acres Minor Subdivision application and has the following comments of behalf of El Paso County Parks.

The subject property is located north of Burgess Road off of Green Acres Lane in the Black Forest. An existing gravel road along the south boundary line currently provides access to property. The site is comprised of 15 acres more or less. This request by Alessi and Associates is to subdivide the 15 acre lot into three lots of 5 acres each. The zoning is currently RR-5 and will remain zoned RR-5.

This site is located within the Black Forest South Candidate Open Space. The headwaters of numerous creeks and streams radiate from this area, including Black Squirrel Creek, Kettle Creek, Cherry Creek, and Sand Creek. The Black Forest is unique in that it is the only place in Colorado where montane forest grows east of the Front Range and foothills.

The El Paso County Parks Master Plan (2013) shows no open space, park facilities, or trails intersected by or within the project area. The proposed Burgess Road Bicycle Route runs along Burgess Road, but would not be affected because it is in the public right of way. Black Forest Section 16 is located ¾ mile to the west of the subdivision while the Pineries Open Spaces is located ½ mile to the north. No trail easements or park land dedication will be necessary for this development.



Staff Recommendation:

Recommend to the Planning Commission and Board of County Commissioners when considering and / or approving the Treasured Acres Minor Subdivision: Require fees in lieu of land dedication for regional park purposes in the amount of \$1,380 which will be required at the time of recording of future final plat.

Sincerely,

Greg Stachon
Landscape Architect
Community Services Department
GregStachon@elpasoco.com

**Development
Application
Permit
Review**



COMMUNITY SERVICES DEPARTMENT
 Park Operations - Community Outreach - Environmental Services
 Veterans Services - Recreation / Cultural Services

September 1, 2021

Subdivision requirements referenced in Section 8.5.2 of the El Paso County Land Development Code. Fees are based on average land values within designated areas. See El Paso County Board of County Commissioners (BoCC) Resolution for fees established on an annual basis. The Park Advisory Board meets the second Wednesday of each month, 1:30 p.m., BoCC Auditorium, second floor of Centennial Hall, 200 South Cascade Avenue, Colorado Springs.

Name:	Treasured Acres Filing No. 1	Application Type:	Minor Subdivision
PCD Reference #:	MS-219	Total Acreage:	15.00
		Total # of Dwelling Units:	3
Applicant / Owner:	Owner's Representative:	Dwelling Units Per 2.5 Acres:	0.50
	Joseph Alessi	Regional Park Area:	2
Jerry and Sharon Lomax	Alessi and Associates	Urban Park Area:	2
11750 Green Acres Lane	2989 Broadmoor Valley Road, Suite C	Existing Zoning Code:	RR-5
Colorado Springs, CO 80908	Colorado Springs, CO 80906	Proposed Zoning Code:	RR-5

REGIONAL AND URBAN PARK DEDICATION AND FEE REQUIREMENTS

Regional Park land dedication shall be 7.76 acres of park land per 1,000 projected residents, while Urban Park land dedication shall be 4 acres of park land per 1,000 projected residents. The number of projected residents shall be based on 2.5 residents per dwelling unit.

The EPC Land Development Code defines urban density as land development of higher density and intensity which is characteristically provided with services of an urban nature. This category of development includes residential uses with densities of more than one dwelling unit per 2.5 acres.

LAND REQUIREMENTS

Regional Park Area: 2

0.0194 Acres x 3 Dwelling Units = 0.058
Total Regional Park Acres: 0.058

Urban Density (≥ 1 Dwelling Unit Per 2.5 Acres): **NO**

Urban Park Area: 2

Neighborhood:	0.00375 Acres x 3 Dwelling Units =	0.00
Community:	0.00625 Acres x 3 Dwelling Units =	0.00
	Total Urban Park Acres:	0.00

FEE REQUIREMENTS

Regional Park Area: 2

\$460 / Dwelling Unit x 3 Dwelling Units = \$1,380
Total Regional Park Fees: \$1,380

Urban Park Area: 2

Neighborhood:	\$114 / Dwelling Unit x 3 Dwelling Units =	\$0
Community:	\$176 / Dwelling Unit x 3 Dwelling Units =	\$0
	Total Urban Park Fees:	\$0

ADDITIONAL RECOMMENDATIONS

Staff Recommendation:

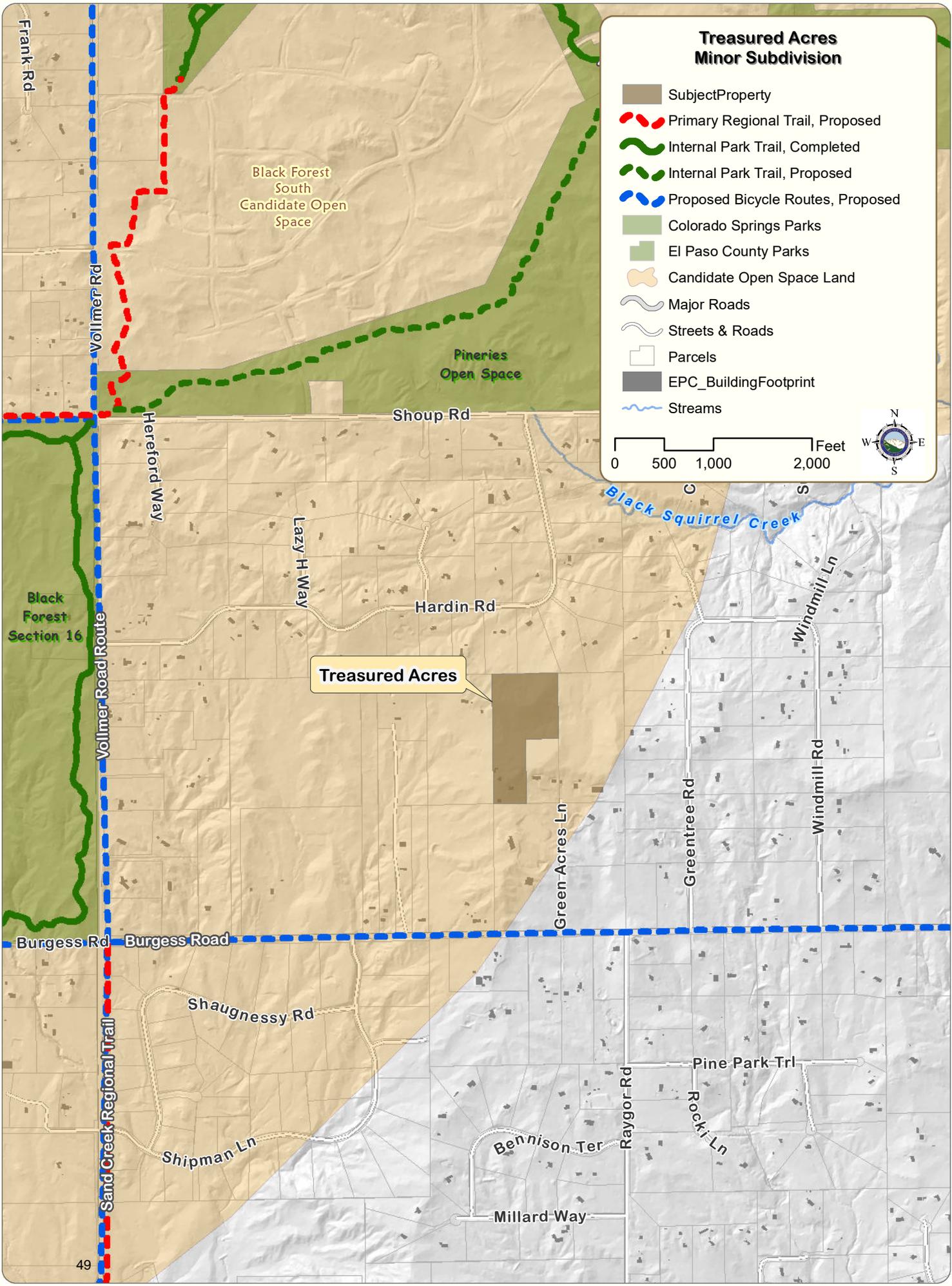
Recommend that the Planning Commission and the Board of County Commissioners include the following conditions when considering and/or approving the Treasured Acres Filing No. 1 Final Plat: require fees in lieu of land dedication for regional park purposes in the amount of \$1,380.

Park Advisory Board Recommendation: **No PAB Endorsement Necessary**

Treasured Acres Minor Subdivision

-  SubjectProperty
-  Primary Regional Trail, Proposed
-  Internal Park Trail, Completed
-  Internal Park Trail, Proposed
-  Proposed Bicycle Routes, Proposed
-  Colorado Springs Parks
-  El Paso County Parks
-  Candidate Open Space Land
-  Major Roads
-  Streets & Roads
-  Parcels
-  EPC_BuildingFootprint
-  Streams

0 500 1,000 2,000 Feet

Black Forest
South
Candidate Open
Space

Pineries
Open Space

Black
Forest
Section 16

Treasured Acres

EL PASO  **COUNTY**
COLORADO

COMMISSIONERS:
STAN VANDERWERF (CHAIR)
CAMI BREMER (VICE-CHAIR)

LONGINOS GONZALEZ, JR.
HOLLY WILLIAMS
CARRIE GETTNER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

August 12, 2021

ATTN: Joseph Alessi, Alessi and Associates, Inc.

RE: 11750 Green Acres Lane – Determination of Nonconforming Setbacks

File: ADM-21-039

Parcel ID: 52150-00-035

To Whom It May Concern:

A request has been made for an interpretation regarding the above referenced parcel to confirm that the structures located on the property are considered nonconforming in relation to the setback requirements pursuant to the El Paso County Land Development Code (2021). The property must first be confirmed as a legal lot.

Section 1.15 of the Code defines a “Legal Lot” as:

“A lot, parcel or tract of land created by a legal conveyance of the lot, parcel or tract prior to July 17, 1972; a lot, parcel or tract shown on a subdivision plat which was approved and recorded prior to July 17, 1972, according to the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by legally prepared survey dated prior to July 17, 1972; a lot, parcel or tract created by approval of the County commissioners in conformance with the subdivision regulations in effect at the time of approval; a lot, parcel or tract created by a contract for deed or signed but unrecorded deed, each dated prior to July 17, 1972; a parcel exempted from subdivision by the Board of County Commissioners (BoCC), or any parcel of 35 acres or more, which, when created, did not cause a parcel of less than 35 acres to remain; a parcel created by any court pursuant to the law of eminent domain, operation of law, or by order of any court if the BoCC has been given timely notice and opportunity to join in the action; a parcel modified or reduced in size due to land acquisition by a governmental entity.”

The property was created by contract of sale of land dated January 8, 1972. The geometry and legal description of the property has not changed since its creation and it is, therefore, considered a legal lot due its date of creation preceding July 17, 1972.

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

Compliance with Zoning Regulations:

The property was zoned A-4 (Agricultural) on September 21, 1965, when zoning was first initiated for this portion of the County. Due to changes in the nomenclature of the Code, the A-4 zoning district was renamed as the RR-3 (Rural Residential) zoning district in 1991, and again as the RR-5 (Residential Rural) zoning district in 2007. The RR-5 zoning district has a minimum lot size of 5 acres and the subject property is 15 acres.

Section 1.15 of the Code defines a “Structure, Nonconforming” as:

“Any legally existing structure which does not conform to the “location and bulk” regulations of this Code, either at the effective date of this Code or as a result of subsequent amendments which may be incorporated into this Code.”

In order to be considered nonconforming structures, the structures on this property would either need to have been constructed prior to the establishment of zoning or complied with the applicable regulations at the time of construction.

According to the El Paso County Property Assessor’s web page, the following structures currently exist on the property:

1. Residence – 1,091 square feet, constructed in 1955
2. Shed #1 – 513 square feet, constructed in 1975
3. Shed #2 – 364 square feet, constructed in 1975
4. Shed #3 – 1,200 square feet, constructed in 1980
5. Shed #4 – 1,200 square feet, constructed in 1980

The applicant has provided a survey to depict where the improvements are located in relation to the property lines. The survey is attached herein. According to a survey provided by the applicant, shed #2 is no longer present on the property. Shed #1 is shown to be 23.1 feet away from the western (rear) property line and shed #3 is shown to be 10.8 feet away from the southern (side) property line. Shed #4 is a garage which meets the setback requirements of the RR-5 zoning district, which is 25 feet from all property lines.

At the time of construction of the accessory structures on the property, the A-4 zoning district had a minimum setback requirement of 25 feet from all property lines. Therefore, at the time of construction, the sheds #1 and #3 were constructed in violation of the setback requirements.

Discussion and Conclusion:

It is the determination of the Planning and Community Development Department Director that the structures cannot be considered conforming or nonconforming because they did not meet the minimum setback requirements at the time of construction. In order to legalize the setback encroachments, the applicant would either need to move the structures or would need to receive approval of a dimensional variance to allow a reduced setback. Pursuant to Section 5.5.1 of the Land Development Code, a maximum of a 20 percent reduction in setbacks from the amount

required in the zoning district (a maximum of five (5) feet in the RR-5 zoning district) in which the subject property is located may be approved through the administrative relief process. Shed #1 may be eligible for administrative relief; however, the setback encroachment for shed #2 exceeds the maximum 20 percent required to qualify for administrative relief.

Any proposed new development shall comply with all other applicable County, State, and Federal Regulations.

If you have any questions or concerns regarding this determination, please contact myself or Ryan Howser, Planner II, at (719) 520-6049 or ryanhowser@elpasoco.com.

Sincerely,

A handwritten signature in black ink that reads "Craig Dossey". The signature is written in a cursive, flowing style.

Craig Dossey
Executive Director
El Paso County Planning and Community Development Department

Inclusions:
Survey of Property