


EL PASO COUNTY
COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Board of County Commissioners
 Stan VanderWerf, Chair

FROM: John Green, Planner II
 Lupe Packman, Review Engineer I
 Craig Dossey, Executive Director

RE: Project File #: SF-21-011
 Project Name: Mountain Shadow Vacate and Replat
 Parcel No.: 51190-04-002

OWNER:	REPRESENTATIVE:
Dale and Stephanie McGehee 10957 Mt. Evans Drive Peyton, CO 80831	

Commissioner District: 1

Planning Commission Hearing Date:	11/18/2021
Board of County Commissioners Hearing Date	12/7/2021

EXECUTIVE SUMMARY

A request by Dale and Stephanie McGehee for approval of a vacation and replat of one platted lot, known as Lot 3 of the Mountain Shadow Ranch Second Phase subdivision, to create two (2) single-family residential lots. The 10.5-acre property is zoned RR-5 (Residential Rural) and is located approximately one-quarter (1/4) of a mile north of the Hodgen Road and Thompson Road intersection, approximately one (1) mile west of Black Forest Road and is within Section 19, Township 11, and Range 65 West of the 6th P.M. The property is located within the boundaries of the Black Forest Preservation Plan (1987).

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



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

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Dale and Stephanie McGehee for approval of a vacation and replat of one platted lot to create two (2) single-family residential lots.

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

Waiver(s)/Deviation(s): The following waiver of the El Paso County Land Development Code (2021) (LDC) is requested with the proposed subdivision:

The applicants are requesting a waiver to Section 8.4.4.C. of the Code to allow for private roads.

Section 8.4.4.C, *Public Roads Required*, of the Code states: "Divisions of land, lots and tracts shall be served by public roads."

The applicant is proposing to create two (2) lots. Lot 1 not proposed to have direct access to a public road, but instead is proposed to only have access to a public road via an access easement across Lot 2, as depicted on the plat.

PCD Executive Director Recommendation:

The PCD Executive Director recommends approval of the requested waiver since adequate lot accessibility can be provided via a proposed private roadway located within an access easement serving Lot 1.

B. PLANNING COMMISSION SUMMARY

Request Heard: As a Consent item at the November 18, 2021 hearing.

Recommendation: Approval based on recommended conditions and notations.

Waiver Recommendation: N/A

Vote: 9 - 0

Vote Rationale: N/A

Summary of Hearing: The applicant was present at the hearing and the PC Draft Minutes are attached.

Legal Notice: N/A

C. APPROVAL CRITERIA

In approving a vacation of a plat without rights-of-way, the BoCC shall find that the request meets the criteria for approval outlined in Section 7.2.3.A.3, *Actions Vacating or Altering a Recorded Plat, Vacation of a Plat with No Rights-of-Way of the El Paso County Land Development Code (2019):*

- Vacation of the recorded plat will not leave any lots or parcels without adequate utility or drainage easements;
- Vacation of the recorded plat will not vacate road rights-of-way or access easements needed to access other property;
- Vacation of the recorded plat will not inhibit the provision of adequate public facilities or services to other property as required by this Code;
- Vacation of the recorded plat is consistent with the Master Plan;
- Vacation of the recorded plat will not adversely affect the public health, safety, and welfare; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the vacation of the plat has been resolved.

In approving a final plat, the BoCC shall find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2019):

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

E. BACKGROUND

The property was initially zoned A-4 (Farming) on September 20, 1965 when zoning was first initiated for this portion of the County (Resolution No. 434870). Due to nomenclature changes to the Land Development Code, the A-4 district has been renamed as the RR-5 (Rural Residential) zoning district. The 10.49-acre lot was platted as Lot 3 of the Mountain Shadow Ranch Second Phase subdivision on June 22, 2000.

The applicant is requesting approval of a vacation and replat to create two (2) single-family residential lots from the existing platted lot. Lot 1 is proposed to include 5 acres while Lot 2 is proposed to include 5.49 acres.

F. ANALYSIS

1. Land Development Code Compliance

The vacation and re-plat application meets the final plat 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 (2019) with the exception of the waiver as listed above.

2. Zoning Compliance

The 10.49-acre property is zoned RR-5 (Rural Residential). 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%
- Maximum height: 30 feet

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

** 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.

The vacation and replat application proposes subdividing the existing vacant 10.49-acre platted lot into two (2) single-family residential lots. Lot 1 is proposed to be 5 acres in size and Lot 2 is proposed to be 5.49 acres. The proposed lots will be accessed by a shared access easement onto Thompson Road. Should the request for approval of a vacation and replat be approved, the applicant will need to complete a site plan prior to initiation of any residential use on the proposed lots to ensure all structures meet the dimensional standards of the RR-5 zoning district.

3. Policy Plan Analysis

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues and provides a framework to tie together the more detailed sub-area elements of the County master plan. Relevant policies are as follows:

Policy 6.1.11 - *Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.*

Policy 6.1.3 - *Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use and access.*

The subject property is located one-quarter (1/4) of a mile north of the intersection of Hodgen Road and Thompson Road, approximately one mile west of Black Forest Road. The applicant is proposing to subdivide the existing platted lot into two (2) single-family residential lots. Lot 1 is proposed to be 5 acres in size and Lot 2 is proposed to be 5.49 acres. The subject property is surrounded by properties zoned RR-5 that are developed with single-family dwellings. Specifically, the parcel located to the north of the subject property is 8 acres in size, while the property to the south of the subject property is 10.5 acres in size. Both of those parcels are developed with single-family dwellings. The property west of the subject property is 35.22 acres while the property east of the subject property is 80 acres. Both of those parcels are developed with single-family dwellings.

Although those parcels immediately adjacent to the subject parcel exceed 5 acres in size, there are other platted lots of similar size to those proposed in this request in the immediate vicinity. The Longview Estates subdivision, located approximately one-quarter (1/4) of a mile west of the subject property, consists of 5-acre lots and the Equine Estates subdivision, located approximately one-half (1/2) mile north of the subject property, also consists of 5-acre lots. As such, the proposed subdivision is consistent with the character of the surrounding neighborhood and is compatible with the density of developed properties in the area (Policy 6.1.3 and Policy 6.1.11).

4. Small Area Plan Analysis

The proposed vacation and replat is located within the boundaries of the Black Forest Preservation Plan (1987) and is specifically identified as being within the Northern Grasslands Area. The Plan recommends that new subdivision within the area should be permitted only when densities are at one dwelling unit per five acres or less. The relevant goals and policies are as follows:

Goal 3.A – *Promote a residential environment which perpetuates a rural-residential character of the Black Forest Planning Area.*

Goal 1.A – *Preserve and enhance the sensitive natural environment and unique community character of the Black Forest Planning Area.*

Policy 3.5 – *Generally support residential development which complements and enhances the area’s terrain, vegetation, and natural resources.*

Policy 3.1 – *Continue the promotion of residential subdivisions with an overall average minimum lot area of five acres in the Timbered Area and other designated portions of the planning area. The minimum lot size for five-acre overall density areas should be at least 2 ½ acres in most instances.*

The subject property is located within an area of low density, large-lot rural residential development and is located within the Northern Grasslands sub-area of the Plan. While the Plan recommends that future subdivision within the area be discouraged, states that development that does occur within the area should not exceed a density of one dwelling unit per five acres. The applicant is proposing to subdivide the existing 10.5-acre property into two single-family residential lots. The proposed lots will be 5.49 acres and 5 acres and will be accessed via a shared access easement onto Thompson Road, consistent with the stated policies of the sub-area. The subject property is also surrounded by rural properties of similar or larger size, developed with single-family dwellings. As such, the proposed subdivision is consistent with the rural residential character of the surrounding neighborhood, which is consistent with Goal 3.A and Policy 3.1 of the Plan. Additionally, as noted below, large areas of the proposed subdivision have been dedicated as no-build areas due to geologic constraints and the identification of seasonally wet areas, consistent with Policy 3.5 and Goal 1.A.

5. 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 5.5 – *Identify any water supply issues early on in the land development process.*

The subject parcel is within Region 2 of the El Paso County Water Master Plan. The 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 2 for central water providers:

Region 2 has a current water supply for central water providers of 13,607 acre-feet per year and a current demand of 7532 acre-feet per year. The 2040 water supply is projected to be 20,516 acre-feet per year and the projected demand is 11,713 acre-feet. The 2060 water supply is projected to be 20,756 acre-feet per year, whereas the demand is anticipated to be 13,254 acre-feet per year; therefore, there is projected to be a surplus of water for central water providers in this region of the County. The projected water demand in the Region does not consider groundwater sources, which may be adequate to serve projected demands in the Region.

The recommendation of a finding of water sufficiency with this application indicates compliance with Goal 5.5 and along with a finding of water sufficiency for the proposed replat.

The State Engineer and the County Attorney's Office have recommended that the proposed vacation and replat has an adequate water supply in terms of quantity and dependability. El Paso County Public Health has recommended that the proposed subdivision has an adequate water supply in terms of water quality. Please see the Water section below for a summary of the water findings and recommendations for the proposed subdivision.

6. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. Colorado Parks and Wildlife was sent a referral for the application and did not provide review comments.

The Master Plan for Mineral Extraction (1996) identifies potential stream terrace deposits in the area of the subject parcels. 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 Parks section below for information regarding conformance with The El Paso County Parks Master Plan (2013).

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

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

The soils and geology report submitted with the application was prepared by Entech Engineering on October 30, 2020. The report identified areas of seasonally shallow groundwater in the development area. Those areas have been depicted on the plat as no-build areas. Additionally, a corresponding note has been added to the plat indicating areas of seasonally shallow groundwater to be identified as a no-build area.

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 08041C0305G, dated December 7, 2018.

4. Drainage and Erosion

The property is located within the East Cherry Creek (CYCY0200) drainage basin, which is not included in the El Paso County Drainage Basin Fee program. Drainage fees will not be due at the time of plat recordation.

Per the submitted final drainage report, the site generally drains to the east. Stormwater runoff is conveyed to existing roadside ditches that are within Thompson Road right-of-way. Runoff flows under Thompson Road at a low point on the road adjacent to the site and continues to flow northeasterly. Water quality and detention are not required for the site due to the size of the lots and employed runoff reduction practices.

5. Transportation

The property obtains access off Thompson Road, which is owned and maintained by El Paso County. Thompson Road is classified as a rural local road.

The El Paso County 2016 Major Transportation Corridors Plan Update (MTCP) depicts roadway improvement projects in the immediate vicinity of the site for Hodgen Road. Hodgen Road is planned to be improved to a minor arterial standard by 2040.

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471), as amended. Road impact fees will be due for any new construction at time of building permit approval.

H. SERVICES

1. Water

Sufficiency:

Quality: Sufficient

Quantity: Sufficient

Dependability: Sufficient

Attorney's summary: Water service to the subject property is provided by an on-site well. The State Water Engineer's Office has made a recommendation regarding a finding of adequacy and has stated water can be provided without causing injury to decreed water rights. The County Attorney's Office recommends a finding of sufficiency with regard to water quantity and dependability. El Paso County Public Health has made a recommendation regarding a finding of sufficiency for water quality and has no outstanding comments.

2. Sanitation

The proposed subdivision is intended to be served by individual on-site wastewater treatment systems (OWTS). The applicant must receive approval from El Paso County Public Health for approval of any OWTS for the proposed lots.

3. Emergency Services

The property is within the Black Forest Fire Protection District. The District was sent a referral for the vacation and replat and has no objection. The District did provide a commitment letter to serve the proposed lots.

4. Utilities

Mountain View Electric Association will provide electrical service and Black Hills Energy will provide natural gas service to the area included within the vacation and replat. Both agencies were sent referral letters and had no comment on the application.

5. Metropolitan Districts

The subject parcel is not located within the boundaries of a metropolitan district.

6. Parks/Trails

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 Hodgen Road Bicycle Route and the proposed Fox Run Regional Trail are located 0.3 miles south of the property running east and west along Hodgen Road. The site is not located within any Candidate Open Space area. fees in lieu of park land dedication will be due at the time of plat recording.

7. Schools

Fees in lieu of school dedication to benefit of Lewis-Palmer School District No. 38 in the amount of \$616.00 will be due at the time of plat recording.

I. APPLICABLE RESOLUTIONS

See attached resolution

J. STATUS OF MAJOR ISSUES

There are no outstanding major issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) and Section 7.2.3 (Vacations and Actions Altering a Recorded Plat) of the El Paso County Land Development Code (2019) staff recommends the following conditions and notations:

CONDITIONS

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

2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer’s Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer’s Office that all prior years’ taxes have been paid in full.

3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The applicant shall submit the Mylar to Enumerations for addressing.
5. A joint access easement granting access between Lots 1 and 2 shall be provided and recorded with the vacation and replat map.
6. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
7. 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.
8. 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.
9. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
10. School fees in the amount of \$616.00 to the benefit of Lewis-Palmer School District No. 38 are due at the time of plat recording.
11. Park fees are due at the time of plat recording.

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 Inspection staff and a Construction Permit is issued by the Planning and Community Development Department.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified eight (8) adjoining property owners on November 3, 2021, for the Board of County Commissioners meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Plat Drawing
State Engineer's Letter
County Attorney's Letter
El Paso County Health Department Letter
November 18th Planning Commission Draft Minutes
Planning Commission Resolution
Board of County Commissioners' Resolution

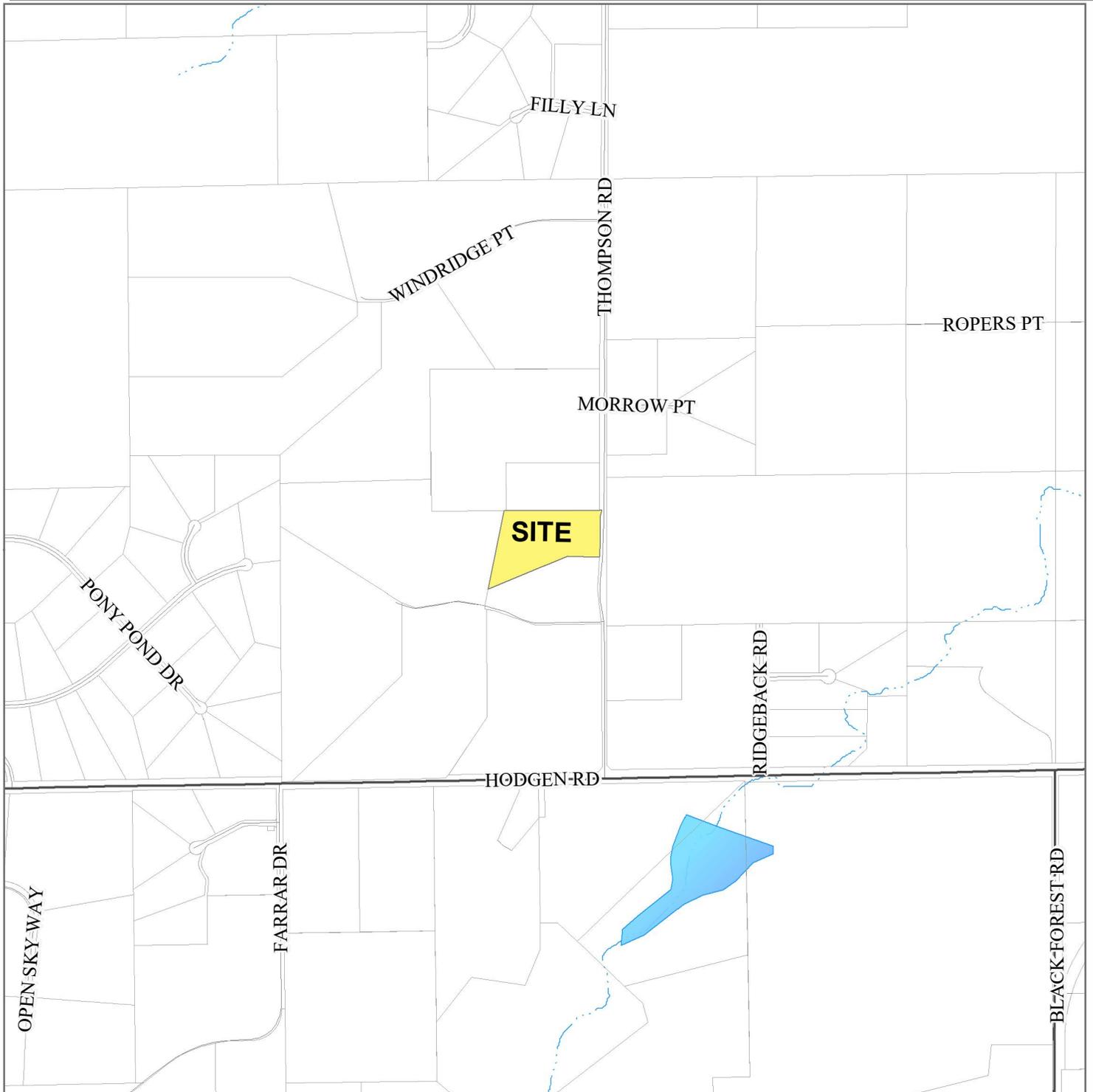
El Paso County Parcel Information

PA	NAME
511	MCGEHEE D

File Name: SF-21-011

Zone Map No. --

Date: October 27, 2021



Please report any parcel discrepancies to:
El Paso County Assessor
1675 W. Garden of the Gods Rd.
Colorado Springs, CO 80907
14 (719) 520-6600



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Revised July 20, 2021

LETTER OF INTENT - MCGEHEE SUBDIVISION . . . LDC Project No. 20018

Re: 51190-04-002, 16860 Thompson Road, Lot 3, MOUNTAIN SHADOW RANCH SECOND PHASE, El Paso County, Colorado

LDC, Inc. is representing: Dale D., Stephanie B. and Collier McGehee
10958 Mt. Evans Drive
Peyton, CO 80831-4406

This is an application for approval of a Vacation Replat. The property is 10.495 acres and is currently platted as one lot. The property is zoned RR-5, and two total lots are proposed. Upon approval of the plat, MCGEHEE SUBDIVISION will contain two lots, five+ acres in size. The lots are planned as single-family residences with applicable accessory structures permitted by code.

We are asking for approval of a 2-lot Vacation Replat with a proposed single common access shared private drive off of Thompson Road, a County-maintained public right-of-way. We are asking for a waiver of the Land Use Code requiring frontage on a public road. There will be a Private Common Access Drive Users group formed which will own and maintain the private access. Water will be by an individual well for both lots, and septic systems will be constructed on each of the lots.

Review criteria for a Vacation Replat is as follows:

This application meets the Vacation Replat submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivisions in Chapter 8 of the El Paso County Land Development Code (2016). Vacation Replats are reviewed and approved in consideration of the review criteria found in the El Paso County Land Development Code. Each criteria is listed below followed by the appropriate justification.

1. *The subdivision is in conformance with the goals, objectives, and policies of the Master Plan. The Master Plan is comprised of several elements. One of the elements is the El Paso County Policy Plan (1998), which does not include site-specific land use policies, but establishes broad policies and goals which are intended to serve as a framework for decision-making regarding development in the County. The project satisfies the following policies from the Policy Plan as they specifically relate to this request:*
Goal 6.4 – “Develop and maintain rural residential areas in a manner which protects their integrity, addresses the carrying capacity of the natural environment and provides for an adequate level of non-urban facilities and services.” and “Policy 6.1.3 - Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use and access.” The proposed Vacation Replat will not create the need for additional roadways or public facilities. The site will remain rural residential and is surrounded by existing rural residential development on the north, south, east, and west sides; *Policy 6.1.14 – “Support development which compliments the unique*

environmental conditions and established land use character of each sub-area of the County.”

This area of the County is conducive to rural residential development. The five acres lots in the area have little impact on environmental conditions. The proposed Vacation Replat is consistent with the Black Forest Preservation Plan as it applies to the Southern Transitional sub-area which is discussed below; *Policy 6.4.4 - “Encourage new rural residential subdivisions to be located within or contiguous with existing rural residential area or to be incorporated as a buffer between higher density and undevelopable areas.”* The proposed Vacation Replat is in an area adjacent to rural residential development with RR-5 to the north, west, south and east; *Goal 6.1 A – “Encourage patterns of growth and development which compliment the regions’ unique natural environments and which reinforce community character.”* The existing community character is preserved with this Vacation Replat. Density and land use are compatible with the surrounding area and the natural features of the site will remain preserved, even with the addition of 1 more residential lot on this site.

Another element of the Master Plan is the Small Area Plan. The MCGEHEE SUBDIVISION site is located within the area of the Black Forest Preservation Plan (1987), specifically within the “Northern Grasslands Sub-Area” of the plan. Although this small area plan is out of date, the goals for land use within this sub-area are still valid. The area desires that the rural residential development pattern be encouraged, while providing a gradual buffer from higher density to lower density development. The preferred density of one dwelling unit per five acres is encouraged in this sub-area. This coincides with the proposed Vacation Replat density. The proposed Vacation Replat is consistent with the Black Forest Preservation Plan.

The proposed Vacation Replat is in compliance with the Parks Master Plan, which does not appear to call for trails or parks within this site’s vicinity. Any required Park Fees will be paid at the time of platting. The proposed Vacation Replat is also in compliance with the 2040 Major Transportation Corridors Plan (MTCP) and Master Plan for Mineral Extraction as no separate mineral estate owners were found for the property and the existing development on surrounding properties is not compatible with any potential mineral extraction operations.

The proposed Vacation Replat is in compliance with the El Paso County Water Master Plan (2018). Each of the 2 lots is to be provided water and sewer/septic services through an on-site individual well and non-evaporative wastewater treatment systems. It is expected that each of the lots will require an average of 0.41 annual acre-feet of water supply, for a total of 0.82 annual acre-feet, provided from an existing well. Each residence on the two lots is anticipated to utilize 0.26 acre-feet annually, for a maximum total of 0.52 annual acre feet of water, for in-house residential purposes, consistent with the decree and associated Augmentation Plan in Case No. 17CW3054. Return flows from pumping of the well for the lots will accrue to the stream system to replace depletions from pumping in accordance with the decreed plan for augmentation. The owner seeks a finding of sufficiency from the Colorado Division of Water Resources based on the decreed water rights. A listing of some of the policies of the Water Master Plan that are supported by the proposed development follow: *Policy 4.1.3 – Support enhanced monitoring of sources of surface and tributary groundwater in the County.* The referenced decree requires use of metering for the well to insure compliance with the terms of the permit; *Policy 6.2.1.2 – Encourage re-use*

of treated wastewater for irrigation and other acceptable uses when feasible. Both single-family residences on each of the proposed 5 acre lots will utilize on-site wastewater treatment systems which will provide "Return Flows" to the stream system in order to replace pumping depletions as a condition of the groundwater findings and order and the well permit.

2. *The subdivision is in substantial conformance with the approved preliminary plan. This is a proposed Vacation Replat and requires no Preliminary Plan for Plat approval. The Vacation Replat will be developed in accordance with the currently proposed land use applications.*
3. *The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials. The proposed Vacation Replat is prepared in accordance with applicable subdivision design standards. No public improvements are required for this Vacation Replat.*
4. *A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code. Water service is to be provided by an individual on-site well operated under a State approved Water Augmentation Plan as decreed in Case No. 17CW3054, Water Division 1.*
5. *A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of this Code. Wastewater is intended to be treated via individual on-site septic systems designed, constructed and operated under State and County Health Department rules and regulations and in accordance with the Water Decree. Fluctuation in groundwater conditions may occur due to variations in rainfall and other factors not readily apparent at this time. Designed systems are anticipated for both of the lots due to the highly clayey soils and shallow bedrock, however, areas may be encountered on the lots where conventional systems would be suitable. Further design criteria can be found in the OWTS-Wastewater Study prepared for the site and the owner will comply with the recommendations of the Study.*
6. *All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)]. A Soils Report has been prepared for the site and the owner will comply with the recommendations of the Report.*
7. *Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM. The proposed Vacation Replat is consistent with the submitted Final Drainage Report. There are no public Drainage facilities needed or proposed with this development. The owner will comply with the requirements of the Final Drainage Report.*
8. *Legal and physical access is provided to all parcels by public rights-of-way or private road,*

acceptable to the County in compliance with this Code and the ECM. Thompson Road is a County-maintained public right-of-way and the shared common access drive will be privately owned and maintained.

9. *Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.* The site is located within the jurisdiction of the El Paso County Sheriff's Office. The Sheriff's office currently provides police protection for the site and surrounding area. MCGEHEE SUBDIVISION will be annexed into the Black Forest Fire Protection District which is providing fire protection for the site and has agreed to serve this Vacation Replat. Water and sanitary sewer provisions are discussed in items 4 and 5 above. The property is located within the service areas of Mountain View Electric Association, Century Link Telephone, and Academy School District 20, which will serve the Vacation Replat. Transportation is being facilitated by the existing adjacent roadway system.
10. *The Minor Subdivision plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code.* MCGEHEE SUBDIVISION is located within the annexed Black Forest Fire Protection District which will be providing fire protection for the site and the surrounding area. The District has agreed to serve this Vacation Replat. Building permits for each structure shall be in accordance with the requirements of the Fire District as administered by the Pikes Peak Regional Building Department.
11. *Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8.* All Offsite impacts are determined to be insignificant with the addition of one residence to the site already containing one residence. The owner will be responsible to pay park, school, drainage and Traffic Impact fees.
12. *Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.* There are no public facilities or infrastructure required or proposed for this Vacation Replat. The platting of the site will include the collection of the applicable School Fees, Park Fees, Drainage Fees and Traffic Impact fees due for this project.
13. *The subdivision meets other applicable sections of Chapter 6 and 8.* The Vacation Replat meets the requirements of the Land Development Code.
14. *The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et seq.].* A search of the County Clerk and Recorder's records did not identify a separate mineral estates owner for this property.

Thank you for your consideration of our request.

Respectfully submitted,



David V. Hostetler, PLS, Director of Surveying, LAND DEVELOPMENT CONSULTANTS, INC.



August 27, 2021

John Green
El Paso County Development Services Department
DSDcomments@elpasoco.com

RE: McGehee Subdivision AKA Mountain Shadow Vacate and Replat
Part of the E ½ of the SW ¼, Section 29, T11S, R65W, 6th P.M.
Water Division 1, Water District 8

Dear John Green,

We have reviewed the additional information received by this office on August 5, 2021 regarding the above referenced referral. The Applicant is proposing to vacate Lot 3, Mountain Shadow Ranch Second Phase and subdivide the 10.495 acres into two lots. This office previously commented on the referral in a letter dated March 2, 2021, this letter supersedes the previous letter.

Water Supply Demand

According to the Water Supply Information Summary and the McGehee Minor Subdivision Water Resources Report by Monson, Cummins & Shoet, LLC dated June 28, 2021 (“Water Resources Report”), the estimated annual demand for the two lots is 0.82 acre-feet per year for 300 years, which will be used for domestic type uses, including in-house, landscape/irrigation of lawn and gardens, watering of domestic animals and stock, commercial uses, home office use and hot tub/swimming pool purposes.

Source of Water Supply

The proposed water source for the two lots is an existing well, permit no. 81469-F, to be used as a shared well. Well permit no. 81469-F is constructed in the Dawson aquifer and operates pursuant to the decreed augmentation plan in Division 1 Water Court Case no. 17CW3054 and may withdraw 0.82 acre-foot per year for ordinary household purposes inside two single family dwellings, irrigation of home lawn and garden and the watering of domestic animals. Prior to withdrawal of groundwater from the well for commercial uses, home office use and hot tub/swimming pool purposes, the well would need to be re-permitted to allow for such uses.

The decreed augmentation plan in Division 1 Water Court Case no. 17CW3054 allows for the annual withdrawal of 0.82 acre-feet per year from the not nontributary Dawson aquifer, based on a 300 year allocation approach. The augmentation plan states the ground water will be used for indoor residential uses, and a guest cottage, commercial uses, livestock water, home office use, irrigation, hot tub and/or swimming pool purposes and augmentation.



The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to 37-90-137(4)(b)(I), C.R.S., "Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years." Based on this allocation approach, the annual amounts of water decreed in case no. 17CW3054 are equal to one percent of the total amount, as determined by rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those 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 this source will "meet the average annual demand of the proposed subdivision." However, treating El Paso County's requirement as an allocation approach based on three hundred years, the annual demand for the two lots discussed above is the same as the allowed average annual amount of withdrawal allowed by the augmentation plan. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

This office does not encourage the use of shared wells and will in no way enforce or administer well sharing agreements. However, should the county approve a division of land that relies on a shared well we recommend the use of a well sharing agreement that outlines well maintenance, use, and access. At no point should the agreement, or shared nature of the well, expand the uses of the well beyond those uses allowed on the well permit.

State Engineer's Office Opinion

Based on the above, it is our opinion, pursuant to C.R.S. § 30-28-136(1)(h)(I), it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights, **so long as prior to the withdrawal of groundwater from the well constructed under permit no. 81469-F for commercial uses, home office use and hot tub/swimming pool purposes, the well is re-permitted to allow such uses.**

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

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory allocation approach, for the proposed uses is greater than the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision.

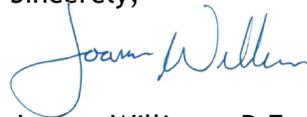
Our opinion is qualified by the following:

The Division 1 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decrees, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, and identified in 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.

Should you or the Applicant have any questions, please contact Ailis Thyne of this office at 303-866-3581 x8216.

Sincerely,

A handwritten signature in blue ink that reads "Joanna Williams". The signature is written in a cursive style with a large initial "J".

Joanna Williams, P.E.
Water Resource Engineer

Ec: Subdivision file: 27537
File permit no. 81469-F

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

Diana K. May, County Attorney

Assistant County Attorneys

Lori L. Seago
Lisa A. Kirkman
Steven A. Klaffky
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Bryan E. Schmid
Nathan J. Whitney
Michael J. Desmond
Christopher M. Strider
Terry A. Sample

July 15, 2021

SF-21-11 Mountain Shadows Vacate and Replat a/k/a
McGehee Minor Subdivision

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

FINDINGS AND CONCLUSIONS:

1. This is a proposal by Dale and Stephanie McGehee ("Applicant") for a 2-lot minor subdivision on a parcel of approximately 10.5 +/- acres (the "Property"). This proposal will vacate Lot 3 of the Mountain Shadows Ranch 2nd Phase into 2 residential lots. The property is zoned RR-5 (Rural Residential).

2. The Applicant has provided for the source of water to derive from an individual on-lot well, as provided in the decree and plan for augmentation in Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2) ("Decree" or "Augmentation Plan") granted to Dale and Stephanie McGehee on August 31, 2017. An existing well (Permit No. 81469-F) is located on the Property and will be used by both lots. Pursuant to the Water Supply Information Summary ("WSIS"), the water demand is 0.26 acre-feet for each lot for household use, plus an additional 0.256 acre-feet total for irrigation and 0.044 acre-feet for stock watering for a total water demand of 0.82 acre-feet/year for the subdivision (0.41 acre-feet/lot). Based on this total demand, Applicant must be able to provide a supply of 246 acre-feet of water (0.82 acre-feet per year x 300 years) to meet the County's 300 year water supply requirement.

3. In a letter dated March 2, 2021, the State Engineer reviewed the submittal to vacate and replat the 10.495 +/- acre parcel into a 2-lot minor subdivision. The State Engineer stated that the "proposed water source for the two lots is an existing well permit no. 81469-F, to be used as a shared well. Well permit no. 81469-F is constructed in the Dawson aquifer and operates pursuant to the decreed augmentation plan in Division 1 Water Court Case no. 17CW3054 and may withdraw 0.82 acre-foot per year for ordinary household purposes inside two single family dwellings, irrigation of home lawn and garden and the watering of domestic animals." The State Engineer refers to the *Water Resources Report For McGehee Minor Subdivision – Mountain Shadows Vacate and Replat* ("Report") by Chris Cummins dated December 23, 2020. The Report was subsequently updated on June 28, 2021; however, the

annual water demand of 0.82 acre-feet/year for the subdivision remains consistent in both reports.

The State Engineer identified that a shared well is to be used in the subdivision and stated: “This office does not encourage the use of shared wells and will in no way enforce or administer well sharing agreements. However, should the county approve a division of land that relies on a shared well we recommend the use of a well sharing agreement that outlines well maintenance, use, and access. At no point should the agreement, or shared nature of the well, expand the uses of the well beyond those uses allowed on the well permit.”

Finally, the State Engineer provided the opinion that “pursuant to C.R.S. § 30-28-136(1)(h)(I), it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights.”

4. Findings of Fact, Conclusions of Law, Judgment and Decree, Colorado Water Division Consolidated Court Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2) (“Decree”/“Augmentation Plan”).

Pursuant to the Decree, the following amounts of water have been adjudicated and were determined to be available underlying the property (Source of table is *Water Resources Report* dated June 28, 2021):

Aquifer	Saturated Thickness (ft)	Total Water Adjudicated (Acre Feet)	Annual Average Withdrawal – 100 Years (Acre Feet)	Annual Average Withdrawal – 300 Years (Acre Feet)
Dawson (NNT)	490	1,029	10.3	3.4
Denver (NT)	510	910	9.1	3.0
Arapahoe (NT)	240	428	4.3	1.4
Laramie-Fox Hills (NT)	200	315	3.2	1.05

The Decree granted to Applicants a vested right to 1,029 acre-feet of water in the not-nontributary Dawson aquifer. The Augmentation Plan permits withdrawal of 246 acre-feet from the Dawson aquifer (0.82 acre-feet/year) for this subdivision. The beneficial uses permitted by the Decree are “residential uses and a guest cottage, commercial uses, livestock water, home office use, irrigation, hot tub and/or swimming pool purposes, and augmentation of depletions in this plan for augmentation through return flows from a non-evaporative septic system.”

Replacement of Depletions During Pumping. The Augmentation Plan provides for a pumping period of a minimum of 300 years. For any wells constructed into the not-nontributary Dawson aquifer, the Applicant is required to replace actual stream depletions on an annual basis during the 300 years of pumping by residential return flows from a non-evaporative septic system to the Arkansas and South Platte River systems. As stated in the Decree/Augmentation Plan, “...septic

system return flows are assumed to equal at least 0.18 acre feet annually, so they will equal or exceed the greatest amount of annual depletions that are projected to occur during the projected 300 year pumping period.” Such return flows may not be otherwise used, sold, traded, or assigned.

Replacement of Post-Pumping Depletions. The Decree/Augmentation Plan requires that Applicant reserve and dedicate to the plan “225 acre feet of the Denver aquifer water decreed herein for the purpose of replacing all post-pumping depletions to the South Platte River system.” The Decree/Augmentation Plan further requires that successors in interest shall be required to construct Denver aquifer wells for the purpose of meeting the post-pumping obligations and that a total of up to 225 acre-feet of Denver groundwater will be used to replace any injurious post-pumping depletions. The Decree/Augmentation Plan requires that these waters may not be severed from ownership of the overlying Property.

5. Analysis. Applicant’s water demand for the Mountain Shadows Vacate and Replat is 0.82 acre-feet per year from the Dawson aquifer for total demand of 246 acre-feet for the subdivision for 300 years. Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2) authorizes withdrawal of 246 acre-feet of water (0.82 acre-feet/year) of Dawson aquifer water for a period of 300 years. Based on the demand of 0.82 acre-feet/year for the 2-lot subdivision and the Decree/Augmentation Plan permitting withdrawals in the amount of 0.82 acre-feet/year for the shared well serving the 2 lots on the Property, there appears to be a sufficient water supply to meet the water demands of the Mountain Shadows Vacate and Replat a/k/a McGehee Minor Subdivision.

6. The water quality requirements of Section 8.4.7.B.10.g., of the Land Development Code must be satisfied.

7. Therefore, based upon the Water Supply Information Summary, a finding of sufficiency and no injury by the State Engineer, Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2) and based on the requirements below, the County Attorney’s Office recommends a finding that the proposed water supply is **conditionally sufficient** in terms of quantity and dependability, subject to the County’s approval of a well-sharing agreement. El Paso County Public Health shall provide a recommendation as to water quality.

REQUIREMENTS:

A. Applicant, its successors and assigns, shall comply with all requirements of Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2), specifically, that water use shall not exceed 0.82 acre-feet/year for the shared well serving the 2-lot subdivision and that all stream depletions will be replaced with non-evaporative septic system return flows for a period of 300 years, pursuant to the Court’s augmentation plan.

B. The County prefers that when there is a plan for augmentation that Applicant create a homeowners' association ("HOA"); however, alternatively to establishing an HOA, especially for minor subdivisions such as this, Applicant may 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 Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2) as well as their obligations to comply with the plan for augmentation, including, but not limited to, ensuring that return flows by the use of non-evaporative septic systems are made to the stream systems, and that such return flows shall only be used to replace depletions and shall not be separately sold, traded, or assigned in whole or in part for any other purpose. The Covenants more specifically shall require that each lot served by a Dawson aquifer well have 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. In addition, the Covenants shall advise future lot owners of this subdivision and their successors and assigns of their obligations regarding costs of operating the plan for augmentation, which will include pumping of the Dawson well in a manner to replace depletions during pumping and the cost of drilling Denver aquifer wells in the future to replace post-pumping depletions. Such Covenants shall also address responsibility for any metering and data collecting that may be required regarding water withdrawals from the well pursuant to the plan for augmentation, and shall protect the viability of the water supply by placing limitations in the Covenants as to amendments and termination as applied to said water supply.

The covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 246 acre-feet of not-nontributary Dawson aquifer water pursuant to Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2) to satisfy El Paso County's 300-year water supply requirement for the 2 lots of the Mountain Shadows Vacate and Replat a/k/a McGehee Minor Subdivision.

2) Require non-evaporative septic systems and reserve return flows from the same. The Covenants shall require each 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, assigned, or used for any other purpose. The Covenants more specifically shall require that each lot served by the Dawson aquifer well have 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."

3) 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 the plan for augmentation in Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2) 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."

4) The Covenants shall advise future lot owners of this subdivision, their successors and assigns, of their responsibility for any metering and data collecting that may be required regarding water withdrawals from the existing or future wells in the Dawson aquifer and future wells which may be constructed in the Denver aquifer.

5) 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 Mountain Shadows Vacate and Replat pursuant to the plan for augmentation in Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2). Further, written approval of any such 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 a Decree from the Water Court approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such adjudication."

6) The Covenants shall address termination using the following or similar language:

"These Covenants shall not terminate unless the requirements of the plan for augmentation in Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2) are also terminated by order of the Water Court, and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County."

C. Applicant and its successors and assigns shall reserve in the Covenants and in any deeds of the Property the decreed amount of at least 0.82 acre-feet annually for the subdivision (0.41 acre-feet annually per lot) for a period of 300 years for a total of 246 acre-feet for the 2-lot subdivision for 300 years. Said reservation shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply. Applicant shall convey by recorded warranty deed these reserved Dawson aquifer water rights to the individual lot owners. Applicant shall provide copies of said Covenants or other such reservation and conveyance instruments that shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney's Office prior to recording the minor subdivision plat.

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 of the 2 lots of the Mountain Shadows Vacate and Replat. 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."

D. Applicant and its successors and assigns shall reserve in the Covenants and in any deeds of the Property a total of 225 acre-feet of water in the Denver aquifer for use in the augmentation plan to replace post-pumping depletions. Pursuant to the Decree/Augmentation Plan, Applicant shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for augmentation supply. Applicant shall convey by recorded warranty deed these reserved Denver aquifer water rights to the HOA or to the individual lot owners (with appropriate deed restrictions) for use in the augmentation plan. Applicant shall provide copies of such reservation and conveyance instruments that shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney's Office prior to recording the minor subdivision plat.

E. Applicant and its successors and assigns at the time of lot sales, shall convey by warranty deed to individual lot owners sufficient water rights in the Dawson aquifer pursuant to Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2) underlying the respective lots to satisfy El Paso County's 300 year water supply requirement. Dawson aquifer requirements are 123 acre-feet/lot (0.41 acre-feet/year x 300 years). Said conveyance instruments shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for the primary supply and replacement during pumping for the respective lots. Applicant shall provide form deeds for such conveyances that shall be reviewed and approved by both the Planning and Community

Development Department and the County Attorney's Office prior to recording the minor subdivision plat.

F. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions and Restrictions and any plat notes required herein to the Planning and Community Development Department and the County Attorney's Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney's Office prior to recording the final plat. Said Declaration shall cross-reference Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2) and shall identify the obligations of the individual lot owners thereunder.

G. Applicant and its successors and assigns shall record all applicable documents, including, but not limited to, the decree in Colorado District Court Water Division Consolidated Case Nos. 17CW3054 (Div. 1) and 17CW3015 (Div. 2), agreements, assignments, and warranty deeds regarding the water rights and Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

H. Applicant shall submit a proposed well-sharing agreement 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 in order to obtain full water sufficiency for the subdivision.

I. Applicant shall ensure that the *Water Resources Report* dated June 28, 2021, the updated WSIS indicating household water demand of 0.52 acre-feet/year, and the *Water Quality Report* dated June 28, 2021 are uploaded on eDARP prior to the Planning Commission hearing on this matter.

J. 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: John Green, Planner II



Prevent • Promote • Protect

Environmental Health Division
1675 W. Garden of the Gods Road
Suite 2044
Colorado Springs, CO 80907
(719) 578-3199 *phone*
(719) 578-3188 *fax*
www.elpasocountyhealth.org

Mountain Shadow Vacate and Replat, SF-21-11 (updated)

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

- The existing 10.5-acre undeveloped lot is proposed to have two 5+ acre lots created. The new lots will be served water from individual private wells, and two new individual onsite wastewater treatment systems (OWTS).
- El Paso County Public Health agrees with the findings made in the Monson, Cummins and Shoheit, LLC Water Quality Report dated 23Dec2020; therefore, sampling for volatile organic chemical contaminants and synthetic organic chemical contaminants from the confined Denver Aquifer is not required for this 2-lot subdivision. The results of the inorganic chemical samples reported by SGS North America Inc. on 02October2021 were all within the required drinking water standards.
- The 30Oct2020, Entech Engineering, OWTS-Wastewater Study was reviewed and supports the use of individual onsite wastewater treatment systems for wastewater service. El Paso County Public Health has approved numerous OWTS installation's in this area and agrees with the findings.

Mike McCarthy
El Paso County Public Health
719.575.8602 (O)
mikemccarthy@elpasoco.com
20June2021

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

LONGINOS GONZALEZ, JR.
HOLLY WILLIAMS
CARRIE GEITNER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Thursday, November 18, 2021
El Paso County Planning and Community Development Department
2880 International Circle, Colorado Springs, Colorado 80910

REGULAR HEARING
9:00 a.m.

PRESENT AND VOTING: BRIAN RISLEY, BECKY FULLER, JOAN LUCIA-TREESE, JAY CARLSON, ERIC MORAES (VIA REMOTE ACCESS), BRANDY MERRIAM, SARAH BRITAIN JACK, GRACE BLEA-NUNEZ (VIA REMOTE ACCESS), AND BRYCE SCHUETTPELZ (VIA REMOTE ACCESS)

PRESENT VIA ELECTRONIC MEANS AND VOTING: NONE

PRESENT AND NOT VOTING: NONE

ABSENT: TOM BAILEY AND TIM TROWBRIDGE

STAFF PRESENT: NINA RUIZ, ELIZABETH NIJKAMP (VIA REMOTE ACCESS), LUPE PACKMAN, GILBERT LAFORCE, CARLOS HERNANDEZ (VIA REMOTE ACCESS), JOHN GREEN, RYAN HOWSER, CHARLENE DURHAM, KYLIE BAGLEY, ELENA KREBS, AND EL PASO COUNTY ATTORNEYS LORI SEAGO AND MARY RITCHIE (VIA REMOTE ACCESS)

OTHERS SPEAKING AT THE HEARING: CHARLES COTHERN, RAY O’SULLIVAN, AMANDA HALL, DEREK HOLSCHER, STEVE CONTORNO, AND CLINT BARDEN

Report Items

1. A. Report Items -- Planning and Community Development Department – Ms. Ruiz -- The following information was discussed:

- a) The next scheduled Planning Commission meeting is for Thursday, December 2, 2021 at 9:00 a.m.**

- b) **Ms. Ruiz** provided an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting.

B. Public Input on Items Not Listed on the Agenda – NONE

2. CONSENT ITEMS

A. Approval of the Minutes – November 2, 2021

The minutes were unanimously approved as presented. (9-0)

B. SF-21-011

GREEN

**VACATION AND REPLAT
MCGEHEE SUBDIVISION**

A request by Dale and Stephanie McGehee for approval of a vacation and replat of one platted lot to create two single-family residential lots. The 10.5-acre property is zoned RR-5 (Residential Rural) and is located approximately one-quarter (1/4) of a mile north of the Hodgen Road and Thompson Road intersection, approximately one (1) mile west of Black Forest Road and is within Section 19, Township 11, Range 65 West of the 6th P.M. (Parcel No.51190-04-002) (Commissioner District No. 1)

PC ACTION: CARLSON MOVED/LUCIA-TREESE SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2B, SF-21-011, FOR A VACATION AND REPLAT FOR MCGEHEE SUBDIVISION, UTILIZING RESOLUTION PAGE NO. 19, CITING, 21-063, WITH 11 CONDITIONS AND TWO (2) NOTATIONS, WITH A FINDING OF WATER SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

Note for the record Ms. Fuller requested that item P-21-006 be pulled for a regular hearing and Mr. Carlson requested that item P-21-005 be pulled for a regular hearing as well. The two items were heard after the remaining Consent items were voted on, prior to resuming the regular agenda.

C. P-21-006

GREEN

**MAP AMENDMENT
WATERVIEW NORTH RM-30**

A request by CPR Entitlements, LLC, for approval of a map amendment (rezoning) of a 10.34-acre portion of a 46.31-acre parcel from A-5 (Agricultural District) to RM-30 (Multi-Dwelling). The parcel is located approximately one-eighth (1/8) of a mile northwest of the Bradley Road and South Powers Boulevard

intersection and is within Section 9, Township 15 South, Range 65 West of the 6th P.M. (Parcel No. 55000-00-439) (Commissioner District No. 4)

Ms. Fuller - Our concern is having apartment buildings in such close proximity of the airport when this isn't currently zoned for that.

Mr. Carlson – Did we approve the sketch plan?

Mr. Green – Yes, all of these map amendments were previously identified in the June approval of a sketch plan amendment that was amending the 2018 latest version of the approved sketch plan. At that time the sketch plan amendment was altering previously approved commercial and industrial area to accommodate more multifamily residential to the north of Bradley Road.

Mr. Carlson – I would like to see what input the airport had on these.

Mr. Green gave a brief overview of the project and then asked **Ms. Seago** to go over the review criteria for a map amendment (rezoning), **Mr. Green** then introduced the applicant, **Mr. Charles Cothorn**, with CPR Entitlements LLC, to give their presentation. **Mr. Cothorn's** presentation is on permanent file.

Mr. Carlson – You mentioned that the development will be affordable housing. Define that for us.

Mr. Cothorn – I'm not building the final product, but basically their business plan is focused on veterans and incubating businesses. Because of that program they include grants from the Federal Government to help make these affordable products. I can't give you the numbers. **Mr. Carlson** – That's my trouble with these things. In the language of wanting us to approve it, the words "affordable housing" is used but nobody can define affordable house or guarantee that is what it is going to be. My other problem is when we look at the dimension on the east side of the project, it is 1400 square feet. The end of the runway is not that far from there. The planes will be coming right over this property, I'm flabbergasted at this, I am wondering who's going to want to live here with an airplane coming over 200 feet above your roof all day.

Mr. Cothorn – I know that on the south side they are building houses and selling them quickly. People want to live close to town, this area is the number one zip code in the country. I do know that Veteran Villas liked this site, and they liked the proximity to the airport and AFB and the city.

Ms. Lucia-Treese – I have a question for legal. Is it an appropriate question for us to ask who wants to live by an airport? I understand where **Mr. Carlson** is coming from. When I was stationed in Hawaii it was by an airport, it is called affordable housing for a reason. In my opinion that area is a great area for all that wants to be

developed here, especially Veteran Village. I think questioning who wants to live by an airport is not really germane to this.

Mr. Risley – Was there a specific question for our legal counsel?

Ms. Lucia-Treese – I'm just wondering if questioning who wants to live by an airport is something we should be considering?

Mr. Risley- In other words is there something in our approval criteria that speaks to that? I do believe that **Mr. Carlson** has a right to express a question whether it is germane or not. **Ms. Seago** do you want to offer any guidance?

Ms. Seago – So if we take the question literally, who wants to live by an airport, the criteria does not require the applicant to provide a list or define a class of people who want to live by an airport. If it is taken as a rhetorical device to express is multifamily housing appropriate this close to the airport, then absolutely that is within the balance of your inquiry.

Ms. Brittain Jack – My understanding is that the airport has a buffer zone correct? That you can't build anything other than business, correct?

Ms. Ruiz – The county has adopted additional layers and that is within chapter 4 of our LDC. It is called the CADO, the airport overlay. That includes the APZ 1, APZ 2. Within the APZ 1 and 2, there are limited uses. That is what **Mr. Cothorn** was talking about, where they clearly have a line indicated on their map, so they stay outside of that APC. The ADNL is for noise and you could approve residential to be allowed within that noise corridor. Typically, when that happens the applicant has to provide construction methods to mitigate sound. This is not within the ADNL is not a specific setback, no build or buffer, but there are limited uses in certain areas.

Ms. Fuller- I want to understand how the APZ zones were determined. To me this is a public policy question. I don't want my name on something that is putting someone in harm's way.

Ms. Ruiz – (Showed the Overall Rezone Map overhead. This is part of the public permanent record). APZ stands for accident potential zone. That is where the airport has identified that there could be higher case of accidents because that is where the airplanes are taking off and landing, so if something is going to go wrong most likely it will be there. Within the APZ 1 and 2 there are limited land uses. You cannot have residential within the APZ 1 and 2. There is no restriction outside of that for residential. The ADNL has to do with noise. That is a 65-decibel noise level. The airport conducted studies and asked us to adopt these additional layers. They determined that based upon the flight patterns there could be an increase to noise. The RM-12 and RM-30 properties that we are dealing with are not within those area. **Ms. Fuller** – Who determined the APZ zone? **Ms. Ruiz**- The airport. **Ms. Fuller**- Who at the airport, was it an engineer? **Ms. Ruiz**- I can't answer which

individual did. It was put in place many years ago and it consisted of many public hearings.

Mr. Carlson – If the line says APZ 1 is that also APZ 2 and the ADNL?

Mr. Cothorn indicated where the runway is located at within the different APZ zones on the “Approved Sketch Plan” on the overhead.

Ms. Ruiz – Ms. Seago can correct me if I am wrong, but I don’t believe we have the ability to further restrict land use if they were identified to be in those sub zones, because the sub zones are established.

Ms. Nunez – The APZ lines were done a long time ago, but yet the airport is expanding as you know, so is that something they look at again and update?

Ms. Ruiz – If they wanted to update those lines, they would need to go through the Board of County Commissioners for us to adopt different sub zones. If they wanted to restrict land use further, they would have to go through a process to have us update our land development code. If they wanted us to change the GIS that would have to go through the Board of County Commissioners as well. The layers depicted are based on their runways and the planes anticipated. I understand that there may be a request for the runways to change, but there is no requirement for them to update the layers any time at all.

Ms. Seago – With respect to our zoning actions I do believe you have the authority should you choose to be more restrictive than what those overlays provide. For example, if you feel a particular location is not appropriate for multifamily housing, even if it is outside the lines provided by the airport, you do have the discretion to do that. You would be harder press to be less restrictive.

Ms. Brittain Jack – So when the developer had to go through and get their approval for their different things, they had to go to the airport, correct? **Ms. Ruiz-** Correct. The airport has indicated they have no objection or concern with what is being proposed today.

Mr. Carlson- Didn’t I see in the staff report that the airport just didn’t respond?

Mr. Green- Right, for the most part they didn’t respond but they did comment in June on the sketch plan. So, they had the opportunity on both applications.

Mr. Green gave his full presentation to the Planning Commission. His report is on the permanent file. **Mr. LaForce** presented his drainage and transportation findings on behalf of **PCD Engineering**. His presentation is part of the permanent file.

Ms. Merriam – On the retaining ponds when you're doing multifamily living if the pond fails, is that a developer issue? **Mr. Laforce** – The detention pond gets sized specifically based off the type uses. We do have a pond maintenance agreement with the developer or HOA to maintain these private ponds, but the county does enter in a pond agreement that says if they aren't maintaining these ponds, then the county will go in and fix it and the developer will have to pay for it. **Ms. Merriam**- That is on a slope, right? So that would flow south? **Mr. Laforce** - The ponds will get place don the lowest spot. If there is a pond embankment, we will send that off to the state. The will double check that there is no potential hazard to downstream properties that if that embankment does fail there is no loss of life or anything like that. They will also provide additional mitigation if it is a high hazard classification. For this one it is likely that it will drain towards the road and continue on.

Ms. Nunez – Didn't the Master Plan put that area as an employment placetype? But this is increasing residential and taking from employment?

Mr. Green- You are correct, the Master Plan does identify this area as an employment center. In looking at the broader context of the neighborhood this area of the county is currently lacking in those commercial and employment services and with the amount of residential that is proposed in the area that is where that recommendation would have come from. In our review the multifamily is deemed to support those type of uses so that individuals can use close to where they work.

Ms. Blea- Nunez- Are we leaving enough space for that commercial industrial space to grow there, or are we covering it with housing?

Mr. Green – So the properties to the west of the subject parcel would be zoned for industrial and commercial uses. There are existing commercial services directly south of this property.

Ms. Brittain Jack – Did any of the neighbors have any negative comments?

Mr. Green - We did not.

IN FAVOR: NONE

IN OPPOSITION: NONE

REBUTTAL:

Ray O'Sullivan – We worked on this project for almost two and a half years processing the sketch plan amendment though with the goal to do a mixed-use project here compliant with the surrounding areas and I appreciate everything the staff has done. We went in front of the airport commission and ask that you approve our zoning consistent with the sketch plan.

DISCUSSION:

Ms. Fuller – So that is 300 apartments on that, so close to that line. I don't feel good about this, I don't agree with that.

Mr. Risley – I think this is one of those situations that is counterintuitive. You would prefer to have the densest development further away from the riskiest areas however the densest development is also close to the commercial and often times we want to see the denser development adjacent to commercial and then feather it out as you go out towards less intense uses.

Note for the record – Mr. Carlson recused himself from voting on this project due to a business relationship with Mr. O'Sullivan.

PC ACTION: BRITTAIN JACK MOVED/ LUCIA-TREESE SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2C, P-21-006, FOR A MAP AMENDMENT (REZONING) FOR WATERVIEW NORTH RM-30, UTILIZING RESOLUTION PAGE NO. 27, CITING, 21-064, WITH FOUR (4) CONDITIONS AND TWO (2) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (6-1). MS. FULLER WAS THE ONLY NAY VOTE.

D. P-21-005

GREEN

**MAP AMENDMENT (REZONING)
WATERVIEW NORTH RM-12**

A request by CPR Entitlements, LLC, and PHI Real Estate Service, LLC, for approval of a map amendment (rezoning) of a 34.57-acre portion of two parcels from A-5 (Agricultural) to RM-12 (Multi-family). The two (2) parcels, totaling 68.41 acres, are located approximately one-quarter (1/4) of a mile northwest of the Bradley Road and South Powers Boulevard intersection and are within Section 9, Township 15 South, Range 65 West of the 6th P.M. (Parcel Nos. 55000-00-438 and 55000-00-439) (Commissioner District No. 4)

Mr. Green gave a brief overview of the project and then asked **Ms. Seago** to go over the review criteria for a map amendment (rezoning), **Mr. Green** then introduced the applicant's representative **Mr. Charles Cothorn**, to give a brief presentation.

Mr. Fuller- What is the zoning to the south?

Mr. Green- That would be RS-5000.

Mr. Cothorn – I would like to reiterate what staff said, we are feathering the project, that was part of the discussion with the staff as we came up with the plan. That is what we are trying to accomplish with recommendations from staff.

**IN FAVOR: NONE
IN OPPOSITION: NONE
DISCUSSION: NONE**

Note for the record - Mr. Carlson recused himself from voting on this project due to a business relationship with the applicant.

PC ACTION: BRITTAIN JACK MOVED/LUCIA-TREESE SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2D, P-21-005, FOR A MAP AMENDMENT (REZONING) FOR WATERVIEW NORTH RM-12, UTILIZING RESOLUTION PAGE NO. 27, CITING, 21-065, WITH FOUR (4) CONDITIONS AND TWO (2) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-0).

E. I-21-001

GREEN

**MAP AMENDMENT (REZONING)
WATERVIEW NORTH INDUSTRIAL**

A request by CPR Entitlements, LLC, for approval of a map amendment (rezoning) of a 26.05-acre portion of two parcels from A-5 (Agricultural District) to I-2 (Light Industrial). The two parcels, totaling 82 acres, are located at the northwest corner of the Bradley Road and South Powers Boulevard intersection and are within Sections 8 and 9, Township 15 South, Range 65 West of the 6th P.M. (Parcel Nos. 55000-00-436 and 55000-00-439) (Commissioner District No. 4)

PC ACTION: FULLER MOVED/BRITTAIN JACK SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2E, I-21-001, FOR A MAP AMENDMENT (REZONING) FOR WATERVIEW NORTH INDUSTRIAL, UTILIZING RESOLUTION PAGE NO. 27, CITING, 21-066, WITH FOUR (4) CONDITIONS AND TWO (2) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

F. CS-21-001

GREEN

**MAP AMENDMENT (REZONING)
WATERVIEW NORTH COMMERCIAL SERVICE REZONE**

A request by CPR Entitlements, LLC, for approval of a map amendment (rezoning) of a 22.07-acre portion of two parcels from A-5 (Agricultural District) to CS (Commercial Service). The two (2) parcels, totaling 82 acres, are located at the northwest corner of the Bradley Road and South Powers Boulevard intersection and are within Sections 8 and 9, Township 15 South, Range 65 West

of the 6th P.M. (Parcel Nos. 55000-00-436 and 55000-00-439) (Commissioner District No. 4)

PC ACTION: LUCIA-TREESE MOVED/CARLSON SECONDED FOR RECOMMENDED APPROVAL OF CONSENT ITEM NUMBER 2F, CS-21-001, FOR A MAP AMENDMENT (REZONING) FOR WATERVIEW NORTH COMMERCIAL SERVICE, UTILIZING RESOLUTION PAGE NO. 27, CITING, 21-067, WITH FOUR (4) CONDITIONS AND TWO (2) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

Regular Items

3. U-21-002

HOWSER

APPROVAL OF LOCATION MOUNTAIN VIEW FIBER PROJECT

A request by Mountain View Electric Association (MVEA) for an approval of location to allow for the construction of infrastructure related to a new fiber optic service for residents of El Paso County within the entirety of the MVEA service area. The project is comprised of installation of underground fiber optic lines to be contained within easements and public rights-of-way as well as the construction of structures to house equipment and maintenance materials. (Commissioner District Nos. 1-4) (Identification of the applicable parcels is on file with the El Paso County Planning and Community Development Department)

Mr. Howser gave a brief overview of the project and then asked **Ms. Seago** to go over the review criteria for an Approval of Location which is a final action, meaning the item will not be forwarded to the Board of County Commissioners. **Mr. Howser** then introduced the applicant, **Amanda Hall** on behalf of Mountain View Electric Association. **Ms. Hall's** presentation is part of the public record.

Ms. Brittain Jack – I know that the state passed legislation that local communities could not provide fiber to residents and I know the City of Colorado Springs opted out of that in 2017. Do you have to opt out of that legislation?

Ms. Hall – I'm not familiar with that legislation, but I do know that electric cooperatives across the country are being seen as the solution to provide broadband service to the rural America because our infrastructure already exists. We've taken a plan with Conexon to not stand up our own fiber subsidiary, which is the traditional approach but to lease our excess capacity.

Ms. Seago- I don't believe that MVEA would be required to take any steps to opt out of that prohibition in the statute, but I can tell you that El Paso County did. It was approved by the voters.

Mr. Howser gave his full presentation to the Planning Commission. His report is on the permanent file.

Mr. Carlson – Is the underground fiber pulled through existing conduit or are you going to need to dig again?

Mr. Contorno - It is pulled through the conduit.

Mr. Carlson - Do we need to alter the application to include the twenty buildings that might come up? So, the applicant doesn't have to come back each time.

Ms. Seago – I think the issues is that the applicant isn't certain yet where they will go. So, it is hard to approve a location when I don't know what the location is. If you are comfortable saying they can go anywhere they want in their service area, I suppose you could do that. **Mr. Carlson** – The executive summary says one building. I just want to make sure this is the final deal, and they can do what they need to do.

Ms. Hall – The fiber huts will be located right adjacent to our substations on our property, right outside the fence line. IN situations where we have substations relatively close to each other because of density we might not need a fiber hut. While we might have 23 substations located in El Paso County, we might only end up needing 19 fiber huts.

Ms. Fuller- Can we just approve it saying they can build up to 22 if it is adjacent to one of their substations?

Ms. Seago – My concern is the notice. The public has been noticed for one and not the others.

Mr. Risley – The agenda item doesn't indicate a number or location. I would agree with my fellow commissioners that if we can create a scenario here where you can build what you need to build without having to come back for any further approval, I think that would be wise of us.

Ms. Seago – I will note that the staff report that is online and available to the public indicates one small structure, though the agenda is not limiting to just one.

Ms. Ruiz – The notice that was posted doesn't include a limit on structures. In the applicants' letter of intent which reflects many structures will be proposed as part of this project. Staff's preference would be not to come back 22 times for an approval of location.

Mr. Risley – I would agree with that, but I will defer to the attorney.

Ms. Seago – Unfortunately my recommendation would be coming back for the balance of the huts.

Mr. Carlson – Can we approve the one structure, and they can come back with just a brief notice that alerts the public they can build up to 22 so they don't have to go through the whole development plan again?

Ms. Seago – I defer to planning, but I do think we need to come back once in some fashion.

Ms. Lucia-Treese – Is this be something that can be approved by Mr. Dossey?

Ms. Seago – It is not, statutorily it has to be the Planning Commission.

Ms. Ruiz – We can put this on the December 2nd Planning Commission agenda, knowing that the applicant isn't going to be able to tell us where the structures will be located. Instead, we can say that the additional huts will be up to 25 (estimated) and located within "x" amount of the lines.

Mr. Risley – I would suggest the key will be that these huts will be constructed on Mountain View property, so that there is no question about that.

Ms. Merriam – How does this broadband plan affect existing providers?

Ms. Hall- There are a few existing ISPs located in our service territory. It was very important to our board that we do not discriminate and choose pockets of our territory to serve at the speeds and price points we will be offering and not to others, healthy competition is not a bad thing. We want to make sure that every member of MVEA has access to the service that others do.

Ms. Merriam- Are you saying that you are competitive in prices and services to the existing providers that are already in that space?

Ms. Hall- Yes, if our speeds are not lower or less expensive, we are a direct competition to existing ISP's that happen to provide service in our area.

Ms. Merriam – The notice you posted didn't seem like it was in the Falcon Herald, is that correct?

Mr. Howser- The applicants' notice was included in all of the service members utility bills that the application was being submitted to the county. The county's notice was in the newspaper.

Ms. Shaffer - Every one of our members have been notified by mail and followed up by land agents.

Ms. Merriam- Do you guys move the dirt and put it back as found? **Ms. Shaffer** - Yes. **Ms. Merriam** – Is Conexon a publicly traded company? **Ms. Shaffer** – It is a privately owned company based out of Kansas City.

Ms. Fuller- I think this is awesome. Having the ability to have broadband in our rural areas is a game changer.

IN FAVOR: NONE
IN OPPOSITION: NONE

DISCUSSION:

Mr. Risley – The need for this infrastructure is critical and I personally express my gratitude. Thank you for what you are doing for rural parts of the county.

Ms. Lucia-Treese – I am a MVEA customer and when I heard about this, I got very excited. I am thrilled that you have taken on this project.

PC ACTION: LUCIA-TREESE MOVED/FULLER SECONDED TO MOVE REGULAR ITEM 3, U-21-002 APPROVAL OF LOCATION FOR MOUNTAIN VIEW FIBER PROJECT, DATE CERTAIN TO THE DECEMBER 2, 2021 PLANNING COMMISSION HEARING. MOTION PASSED UNANIMOUSLY (9-0).

Note for the record, a quick recess was called at 10:50 A.M., the hearing reconvened at 11:00 A.M., quorum is still in place.

4. U-21-001

HOWSER

**APPROVAL OF LOCATION
COLORADO SPRINGS UTILITIES NE GRAVEL STAGING AREA PROJECT**

A request by Colorado Springs Utilities for an approval of location to allow for a gravel staging area to provide materials to support Colorado Springs Utilities infrastructure projects. The property is zoned RR-5 (Rural Residential) and is located approximately 900 feet west of the North Carefree Circle and Marksheffel Road intersection and is within Section 29, Township 13 South, Range 65 West of the 6th P.M. (Parcel No. 53294-00-005) (Commissioner District No. 2)

Mr. Howser gave a brief overview of the project and then asked **Ms. Seago** to go over the review criteria for an Approval of Location, **Mr. Howser** then introduced the applicant's representative, **Derek Holscherr**. **Mr. Holscherr's** presentation is part of the permanent record.

Mr. Carlson – Does that elevation change take place on your property or the adjacent property?

Mr. Holscherr – The grade starts sloping down to the west of that property line. We will be grading the site from west to east as well to that four foot. **Mr. Carlson** – So you're going to lower the elevation of the dirt? **Mr. Holscherr** – Correct.

Ms. Brittain Jack – Why would the City of Colorado Springs not annex this piece of land? Is the propane plant in the City? **Mr. Holscherr** – The propane plant is in the county as well.

Mr. Howser – This particular property is not contiguous to the City boundary, but the City of Colorado Springs was sent a request for comment and they didn't have any comments at this time.

Ms. Merriam – Since you will have different materials and there are huge winds and you're so close to residential, how will you mitigate that materials flying around?

Mr. Holscherr – The piles within the staging yard will never be higher than the fence. The slats will hopefully provide some shelter from the wind. They were considered in the wind load calculations for the fence, so it is believed at this time that the slats will withstand any significant wind events. Also, with the type of materials planned to be there, we are not anticipating any leaving the site.

Ms. Fuller – Is this a permanent use you are planning to have?

Mr. Holscherr – For the foreseeable future, yes.

Mr. Carlson – The application says approval of location, is there a reason we're not rezoning this to allow them what they want to do? Does the City get a break?

Mr. Holscherr – My understanding is that the use is allowed in that zone district, so there's no need for a rezone.

Mr. Howser – If we were to entertain a rezone, we would need to rezone to an industrial district, which might not be appropriate for the area, however we have determined it to be appropriate for the location process as a public use.

Mr. Carlson – Can private parties do that?

Mr. Howser – They would need to meet the criteria in the code to be considered a public utility or a public use in order to qualify for the application.

Ms. Fuller – Is this another one of those that even if we don't approve it, they can still do it.

Ms. Seago – Yes.

Mr. Risley- So if we deny this today, it will go back to the utilities board who would bless it.

Ms. Brittain Jack – I don't understand why the city doesn't annex it and why we are approving it if it doesn't matter if we do or not.

Ms. Seago- There has to be contiguity for them to annex it and as Mr. Howser stated, there is no contiguity, and it's the City's choice whether they want to annex it or not, we can't force that issue. If the pc were to deny this and it goes back to the utility board. The Planning Commission can send a rep to the board and make your concerns known, and they can certainly take that into their consideration.

Mr. Howser gave a brief presentation to the Planning Commission. His presentation is part of the permanent record.

Ms. Fuller – Have other locations been explored?

Mr. Barden – We did explore about ten other sites and based off cost and land use this is the best option we found. We looked at using other locations within the City, but at the end of the day this site provided the best access in and out.

Ms. Fuller – what other places did you look?

Mr. Barden– We looked at an area by a substation by Woodmen and union, other areas off of Tuft, their basic use was for storm water. We then looked at purchasing the property to the south of Briargate by an existing substation and that landowner denied us because of the structure he is currently erecting. **Ms. Fuller**- So pretty much limited to only Colorado Springs property. **Mr. Barden** – Correct.

Mr. Howser – I would like to remind the Commission that the main criteria of approval is the master plan consistency with this type of application.

IN FAVOR: NONE

IN OPPOSITION: NONE

DISCUSSION:

Ms. Fuller - I am not in favor of this. I think this is a lousy thing to do to neighbors. This reminds me of the concrete batch plant where the problem was that they couldn't find a location that was convenient enough for them. I think this is an obnoxious use. I think it will significantly affect Covington Homes' ability to sell those homes at a market rate. I think this is conflict waiting to happen. I am a Colorado Springs Utilities customer; I would hope that my board would choose to be a good neighbor.

Ms. Merriam - The wind is a big deal, and I don't think the slotted fence will be efficient.

Mr. Howser- I do just want to make one point of clarity that might be worth mentioning they do have a provision that includes wetting the area to prevent dust from flying around.

PC ACTION: CARLSON MOVED/LUCIA-TREESE SECONDED FOR APPROVAL OF REGULAR ITEM NUMBER 4, U-21-001, FOR AN APPROVAL OF LOCATION FOR COLORADO SPRINGS UTILITIES NE GRAVEL STAGING AREA PROJECT, UTILIZING RESOLUTION PAGE NO. 11, CITING, 21-068, WITH FOUR (4) CONDITIONS, AND ONE (1) NOTATION (7-2). MS. FULLER AND MS. MERRIAM WERE THE NAY VOTES.

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at www.elpasoco.com to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/ Planner processing the request.)

FINAL PLAT (RECOMMEND APPROVAL)

Commissioner Carlson moved that the following Resolution be adopted:

**BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF EL PASO
STATE OF COLORADO
RESOLUTION NO. SF-21-011
MOUNTAIN SHADOW VACATE AND REPLAT**

WHEREAS, Dale and Stephanie McGehee did file an application with the El Paso County Planning and Community Development Department for the approval of a vacation and replat of one platted lot, known as Lot 3 of the Mountain Shadow Ranch Second Phase Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on November 18, 2021; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the El Paso County Planning Commission Members during the hearing, this Commission finds as follows:

1. The application was properly submitted for consideration by the Planning Commission.
2. Proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons and the general public were heard at that hearing.
4. All exhibits were received into evidence.
5. The subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
6. The subdivision is in substantial conformance with any applicable approved preliminary plan.

7. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of El Paso County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.
8. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(1)] and the requirements of Chapter 8 of the Land Development Code.
9. A public sewage disposal system has been established or, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of the Land Development Code.
10. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)].
11. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and Engineering Criteria Manual.
12. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.
13. Final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
14. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Land Development Code.
15. 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 Subdivision Improvements Agreement so the impacts of the subdivision will be adequately mitigated.
16. The subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
17. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et. seq.]
18. The proposed subdivision of land conforms to the El Paso County Zoning Resolutions.

19. For the above-stated and other reasons, the proposed subdivision is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends approval of the application for the vacation and replat of one platted lot to create two single-family residential lots with the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The applicant shall submit the Mylar to Enumerations for addressing.
5. A joint access easement granting access between Lots 1 and 2 shall be provided and recorded with the vacation and replat map.
6. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
7. 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.
8. 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.

9. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
10. School fees in the amount of \$616.00 to the benefit of Lewis-Palmer School District No. 38 are due at the time of plat recording.
11. Park fees are due at the time of plat recording.

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 the Planning and Community Development Department Inspections staff and a Construction Permit is issued by the Planning and Community Development Department.

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

Commissioner Lucia-Treese seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Risley	aye
Commissioner Moraes	aye
Commissioner Fuller	aye
Commissioner Carlson	aye
Commissioner Lucia-Treese	aye
Commissioner Merriam	aye
Commissioner Brittain Jack	aye
Commissioner Schuettpelz	aye
Commissioner Blea-Nunez	aye

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

DATED: November 18, 2021

Brian Risley, Chair

EXHIBIT A

A portion of the Southwest Quarter of Section 19, Township 11 South, Range 65
West of the 6th P.M., situate in El Paso County, Colorado, described as follows:

Lot 3, MOUNTAIN SHADOW RANCH SECOND PHASE (Reception No. 200072526, El
Paso County, Colorado records);

Containing 10.495 acres, more or less.

RESOLUTION NO. 21-

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

APPROVE FINAL PLAT FOR MOUNTAIN SHADOW VACATE AND REPLAT
(SF-21-011)

WHEREAS, Dale and Stephanie McGehee, did file an application with the El Paso County Planning and Community Development Department for the approval of a final plat for the Mountain Shadow Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on November 18, 2021, upon which date the Planning Commission did by formal resolution recommend approval of the final plat application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on December 7, 2021; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Planning Commission.
2. Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. All exhibits were received into evidence.

5. The subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
6. The subdivision is in substantial conformance with the approved preliminary plan.
7. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of El Paso County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.
8. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(1)] and the requirements of Chapter 8 of the Land Development Code.
9. A public sewage disposal system has been established or, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of the Land Development Code.
10. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)].
11. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and Engineering Criteria Manual.
12. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.
13. Final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
14. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Land Development Code.
15. 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 Subdivision Improvements Agreement so the impacts of the subdivision will be adequately mitigated.
16. The subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
 17. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et. seq.].
 18. The proposed subdivision of land conforms to the El Paso County Zoning Resolutions.
 19. For the above-stated and other reasons, the proposed subdivision is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the final plat application for the Upland Flats at Watermark Filing No. 1;

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

CONDITIONS

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

5. A joint access easement granting access between Lots 1 and 2 shall be provided and recorded with the vacation and replat map.
6. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
7. 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.
8. 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.
9. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
10. School fees in the amount of \$616.00 to the benefit of Lewis-Palmer School District No. 38 are due at the time of plat recording.
11. Park fees are due at the time of plat recording.

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 Inspection staff and a

Construction Permit is issued by the Planning and Community
Development Department.

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

DONE THIS 7th day of December, 2021 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

A portion of the Southwest Quarter of Section 19, Township 11 South, Range 65 West of the 6th P.M., situate in El Paso County, Colorado, described as follows:

Lot 3, MOUNTAIN SHADOW RANCH SECOND PHASE (Reception No. 200072526, El Paso County, Colorado records):
Containing 10.495 acres, more or less.