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**PLANNING & COMMUNITY DEVELOPMENT**

**TO:** El Paso County Planning Commission  
Thomas Bailey, Chair

**FROM:** Ashlyn Mathy, Planner II  
Lupe Packman, EI, Engineer I  
Meggan Herington, AICP, Executive Director

**RE:** Project File Number: VR2319  
Project Name: Seder Subdivision - Vacate and Replat  
Parcel Number: 5332002015

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
Steve Seder Seder Investment LLC 2725 Akers Drive Colorado Springs, CO 80922 info@aspensoroofs.com	Baseline Engineering Corp Steve Baggs steven.baggs@baselinecorp.com (719) 660-2378

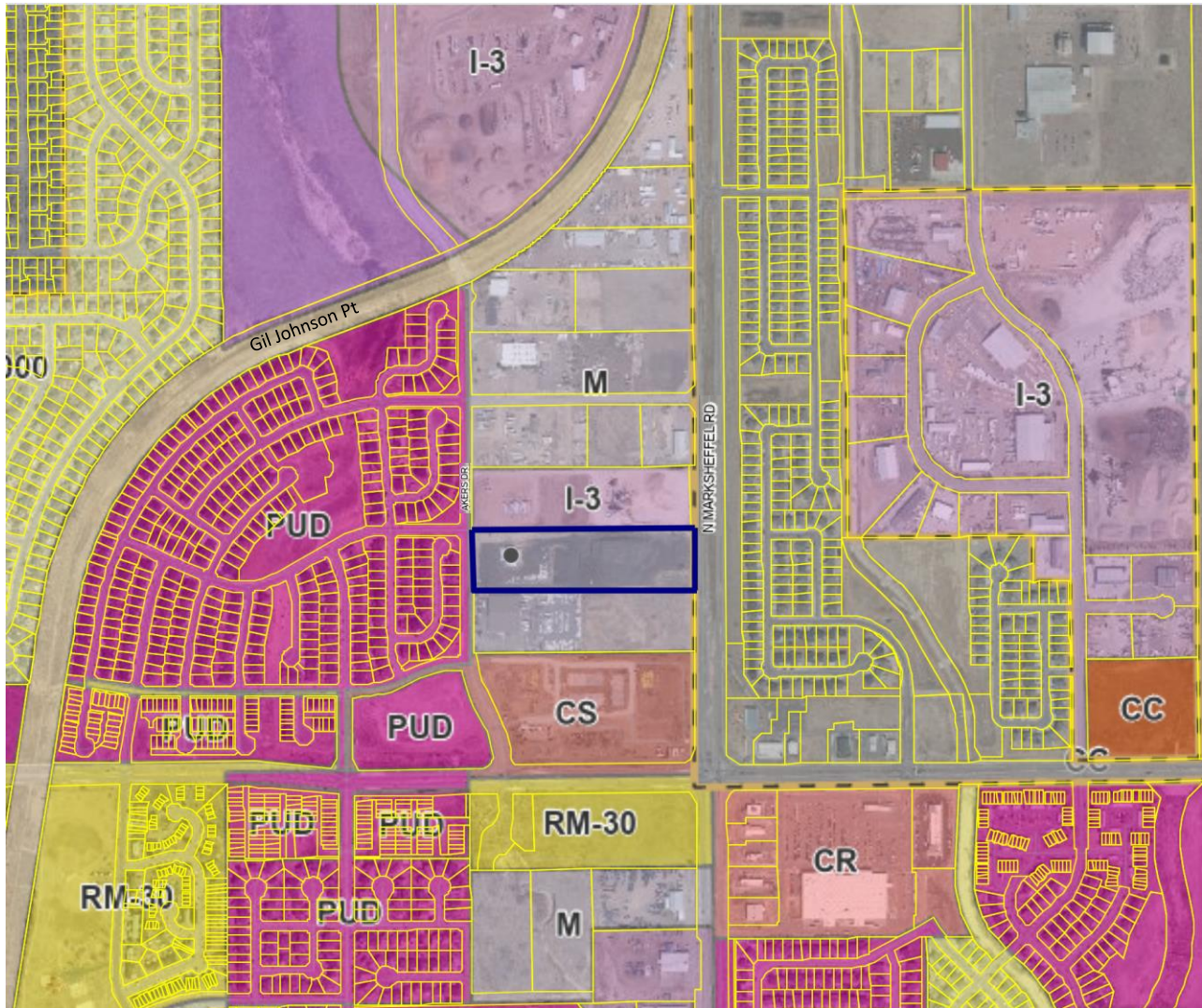
**Commissioner District: 2**

<b>Planning Commission Hearing Date:</b>	<b>3/21/2023</b>
<b>Board of County Commissioners Hearing Date:</b>	<b>4/11/2023</b>

**EXECUTIVE SUMMARY**

A request by Steve Seder for approval of a 9.37-acre Vacation and Replat creating two industrial lots. The property is zoned M (Industrial), and is located at 2725 Akers Drive, which is roughly one tenth of a mile south of the intersection of Electric Drive and Akers Road. This project has background with a code enforcement case under file number "CE20185".





**Zoning Map (Subject Property)**

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**A. WAIVERS AND AUTHORIZATION**

**Waiver(s):**

There are no waivers associated with this request.

**A. APPROVAL CRITERIA**

Section 7.2.3.C, Actions Vacating or Altering a Recorded Plat, Replat, of the El Paso County Land Development Code (As Amended) states that a replat, “involves two actions, the vacation of the portion of the subdivision plat where the change is proposed and approval of a new subdivision plat.” The Code goes on to define a replat as providing a replat of a subdivision or lots in a subdivision, in which the original subdivision is substantially modified, or additional lots are created. In approving a replat, the following findings shall be made:

- The replat complies with this Code, and the original conditions of approval associated with the recorded plat;
- No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
- The replat is in keeping with the purpose and intent of this Code;
- The replat conforms to the required findings for a minor or major subdivision, whichever is applicable;
- 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;
- The approval 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 replat has been resolved.

**B. LOCATION**

North:	I-3 (Heavy Industrial)	Warehouse/Storage
South:	M (Industrial)	Warehouse/Storage
East:	City of Colorado Springs	Single Family Residential
West:	PUD (Planned Unit Development)	Single Family Residential



## C. BACKGROUND

This subject property was a part of a plat known as “Akers Acres Subdivision No. 1” and was created in July of 1965. The Vacate and Replat project has an associated Early Assistance meeting, file number “EA2355”. This parcel is associated with a Code Enforcement case under file number in EDARP “CE20185”. The Code Enforcement case was created based on the property owner having a large amount of roofing materials (shingles) on site and not removing the materials. Additionally, the shingles have been deemed non-recyclable.

Due to the length and nature of the project, the Hazardous & Solid Waste/CERCLA Litigation Unit (with the Colorado Department of Law) became involved and has specifications associated with the project and clean-up of the site. Based on the case and current information provided to county staff, this project, if approved, would create two lots. This would allow the property owner to sell off a lot and use that income to remove the roofing materials from the property. There is anticipated to be timelines associated with the clean-up of the site, as directed by the State to the applicant.

## D. ANALYSIS

### 1. Land Development Code and Zoning Compliance

The proposed replat would create two lots; as proposed they will conform to the standards of the M (Industrial) zoning district. The M (Industrial) zoning district density and dimensional standards are as follows:

- Minimum zoning district area: none
- Minimum front yard setback: 15 feet +\*
- Minimum side yard setback: none
- Minimum rear yard setback: 15 feet ^
- Maximum lot coverage: none
- Maximum height: 50 feet

+Gasoline pumps and canopies shall be at least 15 feet from the front property line or public right-of-way, except where the landscaping regulations require a greater setback.

\*If the building is established as or converted to condominium units in accordance with Chapter 7 of this Code, the building and lot shall meet the minimum lot area and setbacks, but the individual units are not required to meet the minimum lot area, maximum lot coverage, or setback requirements.

\*The setback for stables and corrals is 50 feet.

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## F. MASTER PLAN COMPLIANCE

### 1. Your El Paso County Master Plan

#### a. Placetype Character: Urban Residential

*The Urban Residential placetype consists of established neighborhoods immediately adjacent to equally dense or more dense urban neighborhoods in incorporated areas, as well as new, largely residential neighborhoods in previously undeveloped areas where centralized utility services are available. The Urban Residential placetype provides for a mix of development densities and housing types within a neighborhood. Urban Residential placetypes generally support accessory dwelling units as well. The dense urban development and high intensity of existing Urban Residential areas make it difficult to distinguish them from adjacent incorporated areas. The development of an Urban Residential placetype will strongly depend upon availability of water and wastewater services.*

*An interconnected network of pedestrian and bicycle infrastructure make Urban neighborhoods walk-able internally and well-connected to adjacent placetypes. Highly accessible parks and open space are integrated throughout the neighborhood. Neighborhood-serving retail areas in this placetype should be conveniently connected and accessible to residents of the nearby neighborhood. Commercial uses should be located along main or perimeter streets rather than imbedded within primarily residential areas. Cimarron Hills is the most prominent example of this placetype.*

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

##### *Primary*

- *Single-family Detached Residential (5 units per acre lots or more)*
- *Single-family Attached Residential*
- *Multifamily Residential*

##### *Supporting*

- *Mixed Use*
- *Restaurant*
- *Commercial Retail*
- *Commercial Service*
- *Institutional*
- *Parks*
- *Office*



**Analysis:**

Urban residential will mainly consist of residential uses but we can anticipate uses such as commercial. In the area, there is PUD and other residential zoning. Additionally, we see industrial uses abutting existing residential and the City of Colorado Springs’s jurisdiction. The industrial zoning was put in place prior to the Masterplan and placetypes creation. This Vacate and Replat does not change zoning or create a variety of uses. An approval will give the applicant a means of funding the process of removing waste from the site with the sale of one of the lots. Lastly, this is inconsistent with the placetype due to mixed uses with residential nearby, however it is preexisting and can be a way to help mitigate issues with the property.

**b. Area of Change Designation:** Transition

*Transition areas are fully developed parts of the County that may completely or significantly change in character. In these areas, redevelopment is expected to be intense enough to transition the existing development setting to an entirely new type of development. For example, a failing strip of commercial development could be redeveloped with light industrial or office uses that result in a transition to an employment hub or business park. Another example of such a transition would be if a blighted suburban neighborhood were to experience redevelopment with significant amounts of multifamily housing or commercial development of a larger scale in line with a commercial center.*

**Analysis:**

This area has existing industrial and commercial uses, and zoning abutting residential uses. The transition area of change and this area match and are compliant with the Master Plan. There are various businesses that represent similar industrial and commercial uses such as, Aspen Roofing Inc., Tab Construction, and Mountain States Pipes & Supply. This area of change expects to see re-development too, which may be an outcome of this project if approved.

**c. Key Area Influences:** Enclaves or Near Enclaves

*Enclaves are areas of unincorporated El Paso County that are surrounded on all sides by an incorporated municipality, primarily the City of Colorado Springs but enclaves or near enclaves exist within or adjacent to other municipalities. The largest enclave*



*is Cimarron Hills, an urbanized community with nearly 18,000 residents, but several smaller enclaves exist around other areas of Colorado Springs as well.*

*The majority of the enclaves are developed or partially developed in a manner that would require significant improvement for annexation. These include roadway improvements, storm-water improvements and utility infrastructure upgrades. Most enclave areas are accessed by municipal roads, experience the impacts of urban stormwater runoff, or are otherwise served by one or more municipal utilities. The character and intensity of new development or redevelopment in these enclaves should match that of the development in the municipality surrounding it. Discussion with the City of Colorado Springs and other municipalities regarding the possible annexation of these areas should be continued and revisited regularly to explore means to finance improvements and service debt to make annexation a feasible consideration.*

**Analysis:**

This property is west of the City of Colorado Springs jurisdiction which is why it is considered in the “enclave” area. The area is seeing residential mixed with commercial and industrial zoning. The El Paso County Planning and Community Development Department and City of Colorado Springs are in communication on various projects which include annexation projects into the City’s jurisdiction that we typically see in the area.

**2. Water Master Plan Analysis**

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

**Goal 3.6** – *Develop and maintain partnerships with water providers.*

**Objective HC1-3:** *Prioritize higher-quality redevelopment of any primary or supporting land use for the Urban Residential placetype as opportunities arise.*



The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 5 of the Plan, which is an area anticipated to experience growth by 2040. The following information pertains to water demands and supplies in Region 5 for central water providers:

The Plan identifies the current demand for Region 5 to be 4,396 acre-feet per year (AFY) (Figure 5.1) with a current supply of 4,849 AFY (Figure 5.2). The projected demand in 2040 for Region 5 is at 6,468 AFY (Figure 5.1) with a projected supply of 68,000 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region is 5 is at 9,608 AFY (Figure 5.1) with a projected supply of 10,131 AFY (Figure 5.2) in 2060. This means that by 2060 a surplus of 523 AFY is anticipated for Region 5.

See the Water section below for a summary of the water findings and recommendations.

### **3. 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 and EPC Environmental Division were each sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies upland 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.

## **F. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

No hazards are associated with this project.

### **2. Floodplain**

The property is not located within a defined floodplain as determined by FEMA Flood insurance Rate Map panel number 08041C0756G, dated December 7, 2018.

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

The property is in the Sand Creek Drainage Basin (FOFO4000) which is a part of the El Paso County Drainage Basin Fee program. Drainage fees will be due at the plat recording.

The property has an existing sand filter basin located at the southeast corner for water quality. Water quality and detention analysis is required with subsequent site development. No private or public improvements are proposed with this vacation and replat request.

### **4. Transportation**

The subdivision receives access off Akers Drive, which is owned and maintained by El Paso County. A traffic study was not required as the proposed subdivision is not expected to generate 100 daily vehicle trips. Lots 1 and 2 will be accessed by a shared private driveway within a proposed shared access easement along the southern boundary of site.

The El Paso County 2016 Major Transportation Corridors Plan Update does not depict roadway improvements in the immediate vicinity.

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471, as amended).

## **G. SERVICES**

### **1. Water**

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

### **2. Sanitation**

Sanitation is provided by Cherokee Metropolitan District.

### **3. Emergency Services**

The property is within the Falcon Fire Protection District.

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#### **4. Utilities**

Colorado Springs Utilities

#### **5. Metropolitan Districts**

Cherokee Metro District

#### **6. Parks/Trails**

Fees in lieu of park land dedication in the amount of no regional fees and no urban park fees will be due at the time of recording the replat due to this being a commercial site.

#### **7. Schools**

Fees in lieu of school land dedication will not be due at the time of recording the replat.

### **H. APPLICABLE RESOLUTIONS**

See attached resolution.

### **I. STATUS OF MAJOR ISSUES**

This project has an ongoing code enforcement case that has now involved the State of Colorado. Due to the large amount of shingles and roofing materials on site that the property owner has not removed, the state has deemed specific timelines that must be met in order to successfully remove the shingles. Staff has included conditions of approval to move the project forward in a way that meets both expectations of the state and EPC code enforcement.

### **J. RECOMMENDED CONDITIONS AND NOTATION**

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.3.C, Actions Vacating or Altering a Recorded Plat, Replat, of the El Paso County Land Development Code (As Amended) staff recommends the following conditions and notations:

#### **CONDITIONS**

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



shall submit the Mylar to Enumerations for addressing. The applicant must have the Mylar recording for the project finished with Planning and Community Development by May 2, 2024.

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. 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.
5. 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.
6. 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.



7. Once the newly created lot is sold, the Seders will be given three (3) months to remove a minimum of 2,400 tons of shingles waste each month from the property until the total of 7,600 tons is completely removed.
8. Drainage fees in the amount of \$141,258.53 and bridge fees in the amount of \$57,775.99 shall be paid for the Sand Creek drainage basin at the time of plat recordation.

#### **NOTATION**

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.

#### **K. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified 108 adjoining property owners on March 5, 2024, for the Planning Commission and Board of County Commissioners meetings. Responses will be provided at the hearing.

#### **L. ATTACHMENTS**

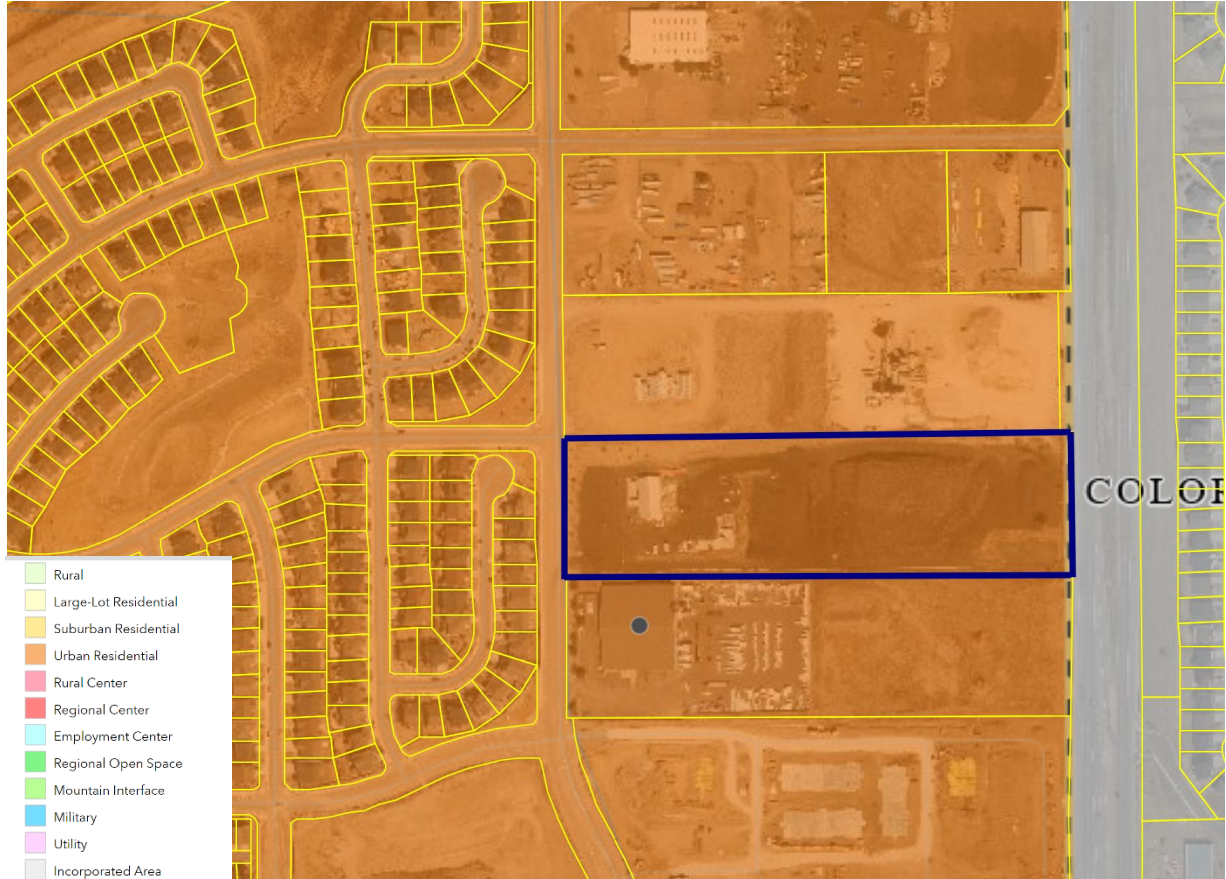
Map Series  
Letter of Intent  
Plat Drawing  
State Engineer's Letter  
County Attorney's Letter  
Draft Resolution



# Map Series

VR2319

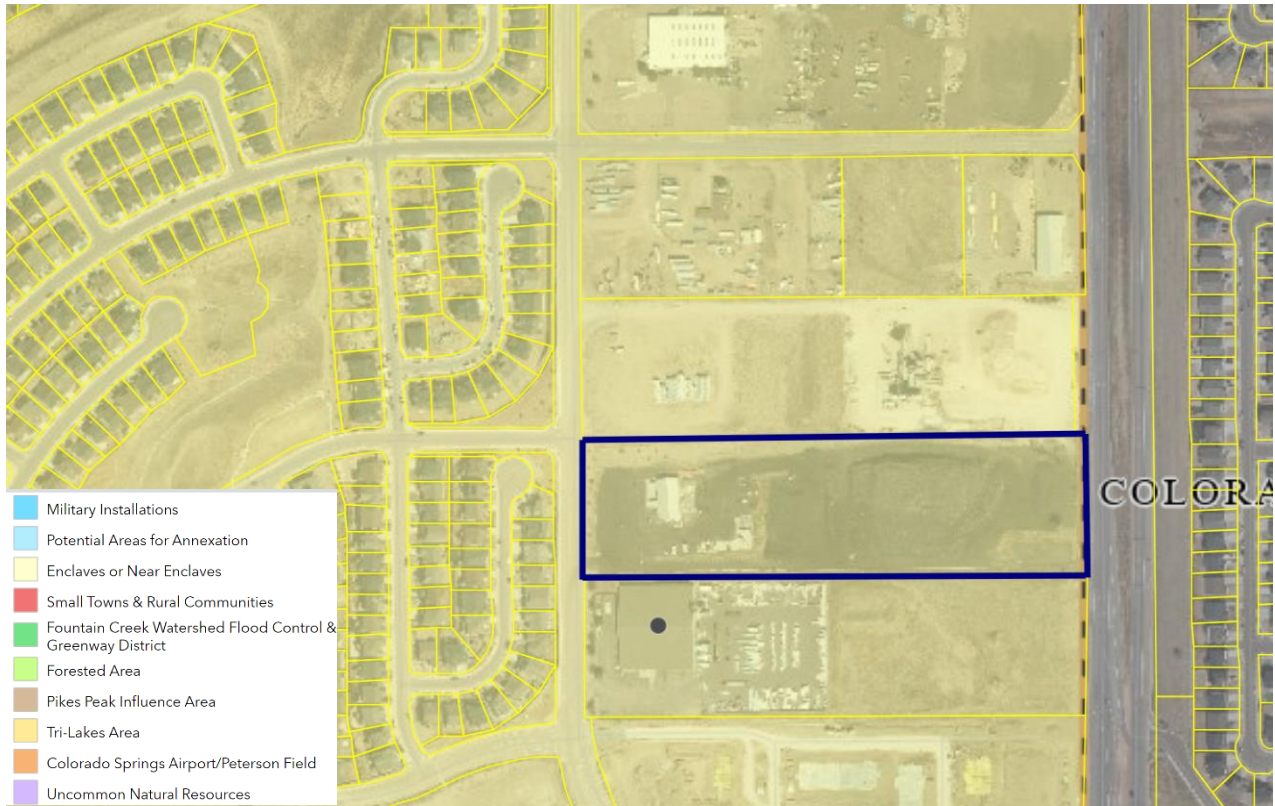
Placetype: Urban Residential



Area of change: Transition



Key Area: Enclaves or Near Enclaves



September 18, 2023

*Revised November 20, 2023*

El Paso County Development Services Department  
Attn: Ms. Ashlyn Mathy  
2880 International Circle  
Colorado Springs, CO 80910

Re: Letter of Intent for Seder Subdivision (Vacation & Replat of Lot 7, Akers Acres Subdivision No. 1) EA 2355

Dear Ms. Mathy,

This Letter of Intent has been prepared to support an application for the Vacation and Replat of Lot 7, Akers Acres Subdivision No. 1. The lot is to be subdivided into a two lots to be known as Seder Subdivision. The Letter of Intent has been divided into the following sections:

1. General Information
2. Supporting Documentation
3. Existing & Proposed Conditions
4. Master Plan Compliance
5. Final Plat Requirements

### **Section 1: General Information**

#### Property Owner

Name: Steve & Karen Seder, Seder Investment, LLC  
Address: 2725 Akers Dr., Colorado Springs, CO, 80922-1500  
Telephone: (719) 596-2988

#### Applicant

Name: Steve Baggs, Baseline Engineering  
Address: 1046 Elkton Dr, Colorado Springs, CO 80907  
Telephone: (719) 531-6200

#### Property Information

Location: 2725 Akers Dr., Colorado Springs, CO 80922  
Legal Description: Lot 7, Akers Acres Subdivision No. 1  
Parcel: 5332002015  
Plat Number: 2510  
Acreage: 9.37 ac  
Zoning: M CAD-O  
Current Land Use: Industrial/Special Use Recycling

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## Section 2: Supporting Documents

Supporting documents for this vacation and replat application include general documents, utility documents and other reports and plans. More specifically the documents are as follows:

### General Documents:

- Letter of Intent
- Vicinity Map
- Application
- Mineral Rights Certification
- Legal Description
- Title Commitment
- Subdivision Summary Sheet
- PBMP Applicability Form
- Adjacent Property Owner Notification

### Utility Documents:

- Water Commitment Letter (Cherokee Metropolitan Dist.)
- Wastewater Commitment Letter (Cherokee Metropolitan Dist.)
- Electric Commitment Letter (Mountain View Electric Assoc.)
- Natural Gas Commitment Letter (Colorado Springs Utilities)
- Fire Protection Commitment Letter (Falcon Fire Protection Dist.)
- Water Supply Information Summary
- Water Resources Report
- Wastewater Disposal Report
- Fire Protection Report

### Plans & Reports:

- Final Plat Drawing
- Closure Sheet
- Final Drainage Report
- Geotechnical Report
- Colorado Geological Survey Receipt

Inclusion of these documents as requested by El Paso County Development Services will provide the information necessary to evaluate the application for this replat. In general utility providers including Cherokee Metropolitan District, Mountain View Electric Association, Colorado Springs Utilities and Falcon Fire Protection District have provided commitment letters for this proposed subdivision. Utility reports indicate adequate conditions for this proposed replat. Drainage and Geotechnical reports indicate that the existing conditions at the site will be unaffected by the subdivision of one lot into two lots. A Site Development Plan will be required for future development.

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### Section 3: Existing & Proposed Conditions

#### Existing Conditions:

The site is currently occupied by a closed asphalt shingle recovery facility. A single commercial building is located on the site. The site still has some shingle stockpiles that are in the process of being removed. The removal of these shingle piles is the focus of an El Paso County code enforcement case and a Colorado Department of Public Health & Environment recent legal proceedings. A main goal of this replat procedure is to subdivide the site and sell the developed lot to provide funding necessary to complete the shingle removal. The recent court proceeding acknowledged this as an acceptable plan for compliance. The site is accessed from Akers Drive through an existing driveway. There are various access roads on the lot. There is also an existing water quality and detention facility in the southeast corner of the lot. The site is currently zoned M CAD-O which is an obsolete zone but there is no intent to rezone for this request.

#### Proposed Facilities:

The planned development will create two lots so one lot can be sold and the remaining lot will be developed. The driveway cut is proposed to be utilized by both lots with an appropriate access agreement. The lot to be sold will contain the existing building and a possible future building as indicated on a previously approved plot plan (PPR 1312). The remainder lot is being considered for RV and boat storage though a Site Development Plan application would be required for the development of the lot. A small office could also be utilized at the storage facility. The existing water quality/detention facility would continue to be used for both lots.

Traffic generation as a result of this replat is not anticipated to change significantly based on the existing use on Lot 1 and the early concept use of Lot 2. The existing office use with minimal employees generates morning and evening trips with minimal customer trips. The removal of the shingles will result in temporary truck trips for the duration of the removal process. The truck traffic will be less than the traffic levels when the shingle recycling facility was operational. The proposed RV and Boat storage will generate variable trips due to the nature of the use. It is unlikely to have the traffic impact of a shingle recycling facility. A Traffic Study was not a requirement of this submittal.

Community outreach for this project included mailing notifications for this submittal action to adjacent landowners. The mailing described the development request including the explanation that the shingle stockpiles are to be removed from the site. The letter indicated how to provide comments and described the notification process for public hearings. It is anticipated that removal of the shingle stockpiles will be well received by the community.

Seder Subdivision will also seek a waiver of the cistern requirement for the proposed subdivision. There are currently no cisterns on this site. The location of this subdivision

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within the developed area of the County and adjacent to the City of Colorado Springs lessens the chance of a water emergency at this site. Additionally, the site is on a central water system provided by Cherokee Metropolitan District and is within relatively close proximity to Fire Station 4 (one mile away) in the Falcon Fire Protection District. It is our belief that a cistern is unnecessary for this subdivision and respectfully request a waiver of the cistern requirement.

#### **Section 4: Master Plan Compliance**

Your El Paso County Master Plan (May 26, 2021):

The site is located within the following areas as identified in the Master Plan:

Key Area: Enclaves or Near Enclaves  
Area of Change: Transition  
Placetype: Urban Residential

This proposed replat will provide the opportunity for a development change for the site. The current use as a shingle recycling facility has ceased operation. This will allow for more compatible uses on the site. The site is considered an Enclave area that is surrounded by the City of Colorado Springs. The Master Plan notes that significant improvements would typically be required in Enclave areas for annexation. The replat of this property will not create a negative impact on the future possibility for annexation.

The Area of Change for this project has been identified in the map area as a Transition area. The Transition area is typically a fully developed area of the County that may completely or significantly change in character. This is true of the proposed Seder Subdivision which will be replacing an industrial recycling use with two lots available for commercial purposes. This Vacation and Replat application does not include specific development plans at this time but a commercial use on proposed Lot 1 and a potential Recreational Vehicle/Boat storage facility on proposed Lot 2 would meet the character of a Transition Area change. A Site Development Plan will be required for future development of these lots.

The Placetype for this site is designated as Urban Residential. The primary use in this placetype is single-family and multifamily residential with supporting uses including mixed use, restaurant, commercial retail, commercial service, institutional, parks and office. The new lot configuration will be conducive to the supporting uses of this placetype. In addition, the elimination of the industrial

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recycling use of the site will make the site more compatible with the Urban Residential placetype.

Water Master Plan (February, 2019):

The proposed Seder Subdivision is located in Water Region No. 5. This region is not expected to experience significant growth by 2060 according to the Water Master Plan. The water supplier is Cherokee Metropolitan District which currently provides a central water supply to the existing building on the lot. Cherokee Metropolitan District has provided a Water/Wastewater commitment letter which confirms available water for this replat and therefore confirms compliance with the Water Master Plan.

Other County Master Plans:

Since this is a Vacation & Replat application only at this time, a Site Development Plan has not been prepared and no construction is planned yet. Therefore, no Transportation or Parks Master Plan impacts are expected or identified at this time.

## Section 5: Final Plat Requirements

The final plat criteria for approval as listed in LDC 7.2.1.D.3.F is listed below with commentary appropriate for this Vacation & Replat request.

- The subdivision is in conformance with the goals, objectives, and policies of the Master Plan; *Yes, see discussion above.*
- The subdivision is in substantial conformance with the approved preliminary plan; *A preliminary plan has not been prepared for this application.*
- 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; *Yes, all requested items have been submitted.*
- Either a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code, or, with respect to applications for administrative final plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval; *A commitment letter has been received from Cherokee Metropolitan District which verifies water sufficiency.*
- 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

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regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of this Code; *The existing building has central sewerage service and future development requirements for the undeveloped lot will determine sewer requirements. A wastewater commitment letter has been received from Cherokee Metropolitan District confirming service availability.*

- 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 Geotechnical Report in accordance with El Paso County development requirements has been prepared for the site. The removal of the recycling materials (asphaltic shingles) stored on the site is ongoing and will be completed prior to any development of the undeveloped portion of the site.*
- 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; *A Final Drainage Report was previously prepared for this site and a Drainage Letter has been prepared with this application acknowledging Drainage fee requirements and the unchanged drainage conditions since the new development is not proposed as part of the Replat application.*
- 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; *A flag lot configuration is proposed in the replat and provides access from Akers Drive. A Shared Access & Maintenance Agreement will be recorded for the dual lot access.*
- Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision; *Commitment letters have been obtained from emergency service and utility providers. This includes Falcon Fire Protection District, Cherokee Metropolitan District, Mountain View Electric Association and Colorado Springs Utilities.*
- The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; *A Site Development Plan (SDP) has not been prepared for the undeveloped portion of this site however a fire protection report has been prepared for the site indicating commitment to provide emergency services. Determination of additional fire protection requirements would be a requirement in the SDP application.*
- 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; *No offsite improvements would be anticipated at this time since no development is proposed at this time. Road impact fees would be determined at time of building permit for future development.*

Corporate Office: 112 North Rubey Drive, Suite 210; Golden, Colorado 80403

- 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; *At this time no construction improvements are proposed so there are no impacts to be mitigated.*
- The subdivision meets other applicable sections of Chapter 6 and 8; *The replat meets applicable sections of those chapters. Additional sections of those chapters would be addressed at the time of a Site Development Plan application.*
- The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq. *There is no existing or proposed commercial mining activity for this site.*

This Letter of Intent has been prepared to accompany a Vacation and Replat application for Seder Subdivision which is a proposed two-lot replat of Lot 7, Akers Acres Subdivision No. 1. This letter as well as supporting documents have been submitted as requested by El Paso County Planning and Community Development.

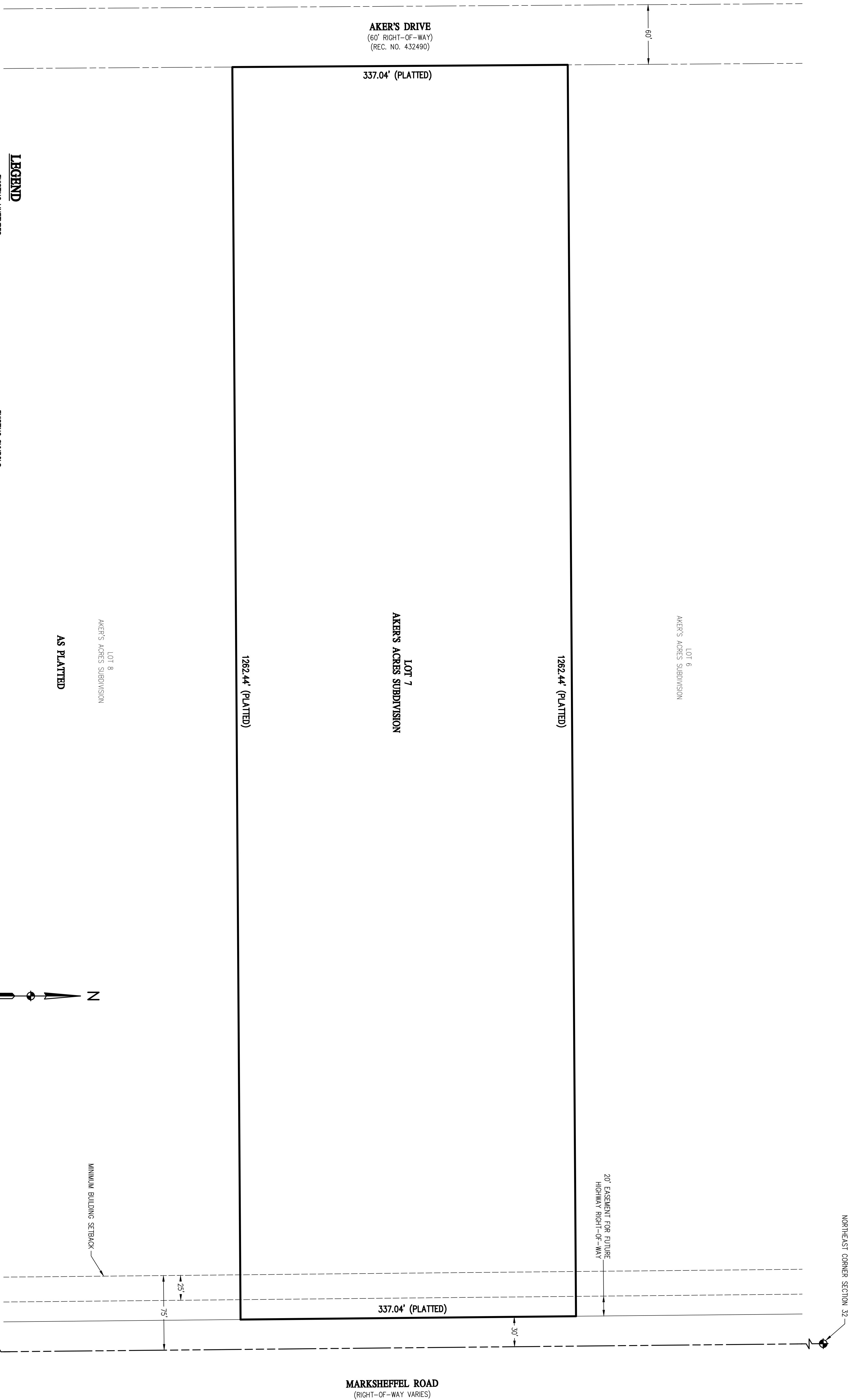
Sincerely  
**Baseline Engineering Corp.**

*Steven Baggs*

Steven Baggs, P. E.  
Project Manager



**SEDER SUBDIVISION**  
**A REPLAT OF LOT 7, AKERS ACRES SUBDIVISION NO. 1**  
 LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH P.M.  
 EL PASO COUNTY, COLORADO



**LEGEND**

**EXISTING LINES/TYPES**

--- SECTION LINE

--- PROPERTY BOUNDARY

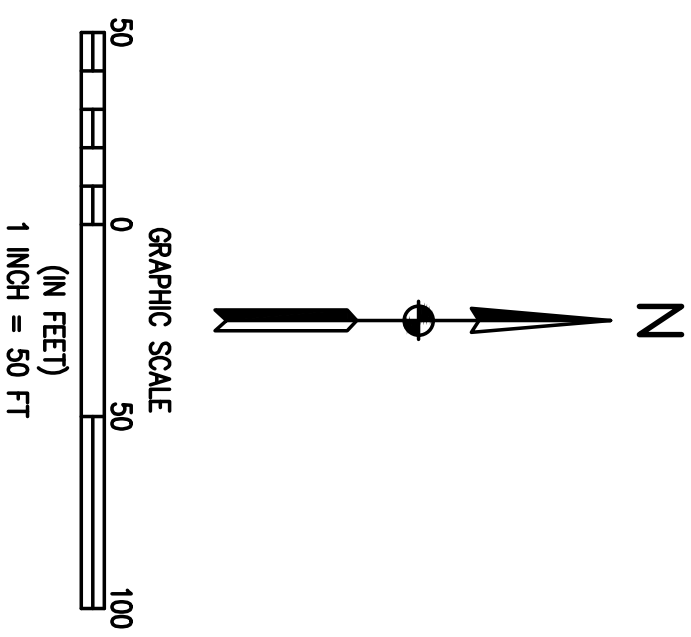
--- LOT LINE

--- EASEMENT

**EXISTING SYMBOLS**

⬇️ ALIQUOT CORNER AS DESCRIBED

⊙ FOUND PROPERTY PIN AS DESCRIBED



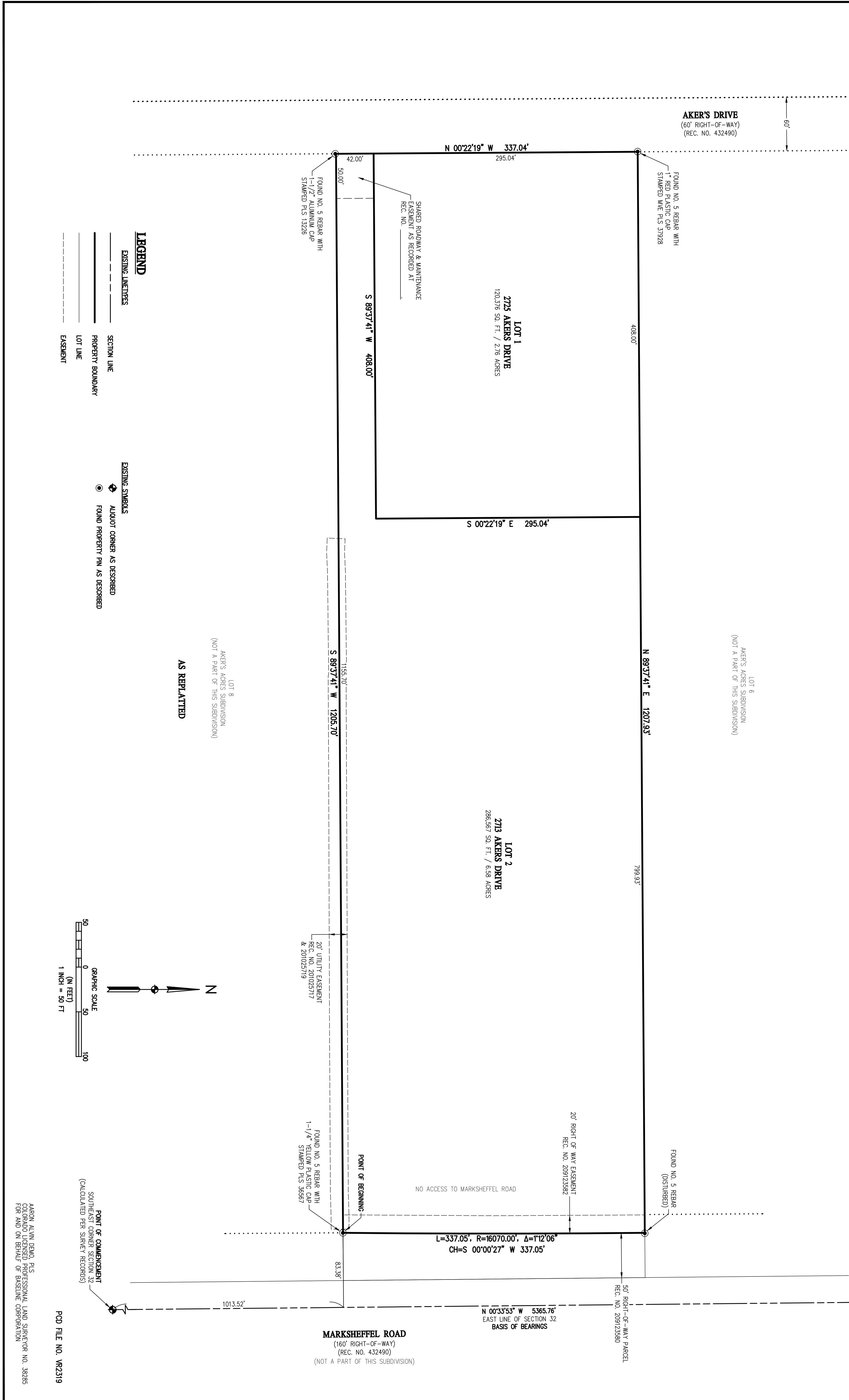
POD FILE NO. WR2319

AARON ALVIN DEMO, PLS  
 COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 38295  
 FOR AND ON BEHALF OF BASELINE CORPORATION

<p><b>SEDER INVESTMENT, LLC</b></p> <p style="text-align: center;">SEDER SUBDIVISION</p> <p style="text-align: center;">SE 1/4 OF SEC. 32, T13S, R65W OF THE 6TH P.M.</p> <p style="text-align: center;">2725 AKERS DR, COLORADO SPRINGS, CO 80922</p>	<p>EL PASO COUNTY</p>	<p><b>REVISION DESCRIPTION</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>COUNTY COMMENTS</td> <td>PREPARED BY DAM/DEW</td> <td>DATE 11/22/2023</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	COUNTY COMMENTS	PREPARED BY DAM/DEW	DATE 11/22/2023							<p><b>DESIGNED BY</b></p> <p>DAM</p> <p><b>CHECKED BY</b></p> <p>AAD</p>	<p style="text-align: center;"><b>BASELINE</b></p> <p style="text-align: center;">Engineering · Planning · Surveying</p> <p style="text-align: center; font-size: small;">4862 INNOVATION DR SUITE 100 • FORT COLLINS, COLORADO 80525                  P. 970.353.7600 • F. 866.679.4864 • www.baselinecorp.com</p>
COUNTY COMMENTS	PREPARED BY DAM/DEW	DATE 11/22/2023											



**SEDER SUBDIVISION**  
**A REPLAT OF LOT 7, AKERS ACRES SUBDIVISION NO. 1**  
 LOCATED WITHIN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH P.M.  
 EL PASO COUNTY, COLORADO

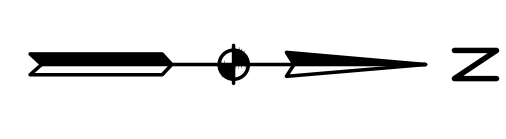
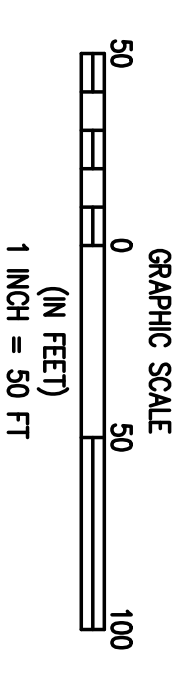


**LEGEND**

- EXISTING LINE TYPES**
- SECTION LINE
  - PROPERTY BOUNDARY
  - LOT LINE
  - - - EASEMENT
- EXISTING SYMBOLS**
- ⬠ ALIQUOT CORNER AS DESCRIBED
  - ⊙ FOUND PROPERTY PIN AS DESCRIBED

**AS REPLATTED**

LOT 8  
 AKERS ACRES SUBDIVISION  
 (NOT A PART OF THIS SUBDIVISION)



**POINT OF COMMENCEMENT**  
 SOUTHEAST CORNER SECTION 32  
 (CALCULATED PER SURVEY RECORDS)

AARON ALVIN DEMO, PLS  
 COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 38295  
 FOR AND ON BEHALF OF BASELINE CORPORATION

POD FILE NO. WR2319

<p><b>SEDER INVESTMENT, LLC</b></p> <p style="text-align: center;">SEDER SUBDIVISION                  SE 1/4 OF SEC. 32, T13S, R65W OF THE 6TH P.M.                  2725 AKERS DR, COLORADO SPRINGS, CO 80922</p>	<p>EL PASO COUNTY</p>	<p><b>REVISION DESCRIPTION</b></p> <p>COUNTY COMMENTS</p>	<p><b>PREPARED BY</b></p> <p>DAM/DEW</p>	<p><b>DATE</b></p> <p>11/22/2023</p>	<p><b>DESIGNED BY</b></p> <p>DAM</p>	<p><b>DRAWN BY</b></p> <p>DAM</p>	<p><b>CHECKED BY</b></p> <p>AAD</p>	<p>4862 INNOVATION DR SUITE 100 • FORT COLLINS, COLORADO 80525                  P. 970.353.7600 • F. 866.679.4864 • www.baselinecorp.com</p>
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October 27, 2023

Ashlyn Mathey  
El Paso County Planning and Community Development  
Transmission via portal EDARP

**Re: Seder Subdivision VR  
Sec 32, T13S, R65W of the 6th PM  
Water Division 2, Water District 10**

Dear Ashlyn Mathey;

We have reviewed your October 17, 2023 submittal concerning the above referenced proposal to subdivide 9.37 acres into 2 lots; lot 1 consisting of 2.76 acre and Lot 2 consisting of 6.58 acres. This project is a replat of Akers Acres Subdivision, Lot 7.

### Water Supply Demand

According to the submittal, no future development of the new lots has been planned. The water requirements for the existing building on Lot 1 will remain the same, and the estimated water use for Lot 2 is based on the lot being used as an RV/boat storage yard with a small office. The total water requirement for the subdivision has been estimated to be 1.3 acre-feet per year.

### Source of Water Supply

The proposed water supplier is the Cherokee Metropolitan District (“District”). The District has provided a letter dated September 6, 2023 committing to serve the subdivision. Information in our files indicates the district has approximately 830 acre-feet per year of Denver Basin ground water available for additional commitments.

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 allowed average annual amount of withdrawal of 12.8 acre-feet/year would be reduced to one third of that amount, or 4.27 acre-feet/year, which is greater [not greater] than the annual demand for this subdivision. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

### State Engineer’s Office Opinion

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

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

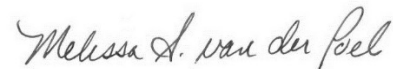


Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory **allocation** approach, for the proposed uses is greater than the annual amount of water required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

The amounts of water in the Denver Basin aquifers, and identified in this letter, are calculated based on estimated current aquifer conditions. For planning purposes the county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 300 years used for **allocation** due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.

Should you have any questions, please contact Melissa A. van der Poel of this office at 303-866-3581.

Sincerely,



Melissa A. van der Poel, P.E.  
Water Resources Engineer

cc: Subdivision File 31006

County Attorney

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

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

February 9, 2024

VR-23-19 Seder Subdivision  
Vacation and Replat

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

**WATER SUPPLY REVIEW AND RECOMMENDATIONS**

Project Description

1. This is a vacation and replat proposal by Seder Investment LLC (“Applicant”) to replat one commercial lot into 2 commercial lots on 9.37 acres. The property is currently zoned M CAD-O (Commercial Aviation District Overlay).

Estimated Water Demand

2. Pursuant to the *Water Supply Information Summary* (“WSIS”), the annual demand is 1.32 total acre-feet. This allows for 0.166 acre-feet per year for commercial use and 1.15 acre-feet per year for irrigation. Though the WSIS does not identify the square footage of the commercial uses upon which this figure is based, the commitment letter from Cherokee Metropolitan District (“District” or “Cherokee”) states that the existing commercial use on the property has historically used 0.016 acre-feet/year and bases the estimate for the new commercial use on that amount. Based on this, the Applicant must provide a supply of 396 acre-feet of water (1.32 acre-feet/year x 300 years) to meet the County’s 300-year water supply requirement for the subdivision.

**ASSISTANT COUNTY ATTORNEYS**

## Proposed Water Supply

3. The Applicant has provided for the source of water to derive from the District. The District currently provides central water service to the existing uses on the property. As identified in the *Water Resources Report* the annual water demand for the development is 1.316 acre-feet per year. Per the *Water Resources Report*, Cherokee's total available water supply is approximately 4,364.8 acre-feet/year, while its existing water commitments total 4,152.1 acre-feet per year before the addition of the proposed development.

4. The General Manager of the District provided a letter dated January 23, 2024, committing to continue to provide water service for the commercial lots within the Seder Subdivision, which is located within the District's boundaries. The District commits to 1.32 acre-feet per year.

The District notes that these commitments are "hereby made exclusively for this specific development project at this site within the District." The District's commitment is only a conditional commitment: "[t]o confirm this commitment you must provide the District with a copy of the final plat approval from El Paso County Development Services within 12 months of the date of this letter. Otherwise, the District may use this allocation for other developments requesting a water commitment."

## State Engineer's Office Opinion

5. In a letter dated October 27, 2023, the State Engineer reviewed the application to subdivide the 9.37 acres into 2 lots. The State Engineer confirmed that the Cherokee Metropolitan District has committed a water supply of 1.3<sup>1</sup> acre-feet/year, which is the water demand identified in the WSIS. Further, the State Engineer states that "[a]ccording to the records of this office, Cherokee has sufficient water resources to supply the development as described above." Further, the State Engineer declared that "[p]ursuant to Section 30-28-136(1)(h)(II), C.R.S., it is the opinion of this office that the proposed water supply can be provided without causing injury to decreed water rights, and the supply is expected to be adequate."

## Recommended Findings

6. Quantity and Dependability. Applicant's water demand for Seder Subdivision is 1.32 acre-feet per year to be supplied by Cherokee Metropolitan District. **Based on the water demand of 1.32 acre-feet/year for the development and the District's availability of water sources, but given the conditional nature of the District's commitment to serve, the County Attorney's Office recommends a finding**

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<sup>1</sup> The Colorado Division of Water Resources provided a letter based on a demand of 1.3 acre-feet per year. The County Attorney's Office will require that prior to recording the final plat, the developer must obtain a new letter or a written acknowledgement from the Colorado Division of Water Resources that they have been advised of the updated amount of 1.32 acre-feet per year.

of conditional sufficiency as to water quantity and dependability for Seder Subdivision.

7. Quality. Section 8.4.7(B)(10)(g) of the El Paso County Land Development Code allows for a presumption of water quality when water is supplied from an existing Community Water Supply operating in conformance with the Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

8. Basis: The County Attorney's Office reviewed the following documents in preparing this review: the *Water Supply Information Summary*, the *Water Resources Report* dated December 29, 2023, the *Cherokee Metropolitan District* letter dated January 23, 2024, and the *State Engineer's Office Opinion* dated October 27, 2023. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect or should the below requirement not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

#### REQUIREMENTS:

A. Applicant and all future owners of lots within this filing shall be advised of and comply with the conditions, rules, regulations, and specifications set by the District.

B. Applicant must obtain a new letter or a written acknowledgement from the Colorado Division of Water Resources that they have been advised of the updated demand amount of 1.32 acre-feet per year.

C. Applicant must obtain final plat approval and provide evidence thereof to the District within 12 months of the District's commitment letter dated January 23, 2024 (approval must be provided by January 23, 2025), to retain the District's water commitment. **If Applicant fails to do so, this recommended finding of conditional sufficiency will be deemed moot and no longer valid. Once Applicant provides proof to the District that satisfies the District's condition of final plat approval, this conditional finding of sufficiency will automatically convert to a full sufficiency finding.**

cc: Ashlyn Mathy, Project Manager, Planner

VACATION AND REPLAT (RECOMMEND APPROVAL)

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

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. VR2319  
SEDER SUBDIVISION - VACATE AND REPLAT

WHEREAS, Steven Seder did file an application with the El Paso County Planning and Community Development Department for approval of a Vacation and Replat request to create two (2) lots within the M (Industrial) zoning district 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 March 21, 2024; and

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

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;

6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County subdivision regulations; and
7. For the above-stated and other reasons, the proposed Vacation and Replat is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, in approving a Vacation and Replat of a Subdivision, the El Paso County Planning Commission and Board of County Commissioners shall find that the application meets the criteria of approval listed in Section 7.2.3(C)(4) of the Land Development Code ("Code") (as amended):

1. The Replat complies with the Code and the original conditions of approval associated with the recorded Plat;
2. No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
3. The Replat is in keeping with the purpose and intent of the Code;
4. The Replat conforms to the required findings for a Minor or Major Subdivision, whichever is applicable;
5. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement acceptable to the County in compliance with the Code and the Engineering Criteria Manual ("ECM");
6. The approval will not adversely affect the public health, safety, and welfare; and
7. 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 Replat has been resolved.

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

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Steven Seder for approval of a Vacation and Replat to allow two (2) lots within the M (Industrial) zoning district be approved by the Board of County Commissioners with the following conditions and notation:



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. The Applicant shall submit the Mylar to Enumerations for addressing. The applicant must have the Mylar recording for the project finished with Planning and Community Development by May 2, 2024.
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. 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.
5. 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.
6. 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.
7. Once the newly created lot is sold, the Seders will be given three (3) months to remove a minimum of 2,400 tons of shingles waste each month from the property until the total of 7,600 tons is completely removed.
8. Drainage fees in the amount of \$141,258.53 and bridge fees in the amount of \$57,775.99 shall be paid for the Sand Creek drainage basin at the time of plat recordation.

NOTATION

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.

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

\_\_\_\_\_ seconded the adoption of the foregoing Resolution.

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

Thomas Bailey	aye / no / non-voting / recused / absent
Sarah Brittain Jack	aye / no / non-voting / recused / absent
Jim Byers	aye / no / non-voting / recused / absent
Jay Carlson	aye / no / non-voting / recused / absent
Becky Fuller	aye / no / non-voting / recused / absent
Jeffrey Markewich	aye / no / non-voting / recused / absent
Brandy Merriam	aye / no / non-voting / recused / absent
Eric Moraes	aye / no / non-voting / recused / absent
Kara Offner	aye / no / non-voting / recused / absent
Bryce Schuettpelz	aye / no / non-voting / recused / absent
Wayne Smith	aye / no / non-voting / recused / absent
Tim Trowbridge	aye / no / non-voting / recused / absent
Christopher Whitney	aye / no / non-voting / recused / absent

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

DONE THIS 21st day of March 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: \_\_\_\_\_  
Thomas Bailey, Chair

EXHIBIT A

LOT 7 AKERS ACRES SUB 1, EX THAT PT CONV TO COUNTY BY REC #209123580