


**EL PASO COUNTY**  
**COLORADO**

COMMISSIONERS:  
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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:** Nina Ruiz, Planning Manager  
 Gilbert LaForce, PE Engineer III  
 Craig Dossey, Executive Director

**RE:** Project File #: VR-18-002  
 Project Name: Dancing Wolf  
 Parcel Nos.: 61220-03-020, 31220-03-035, 61220-04-002, 61220-04-001, and 61220-03-036

OWNER:	REPRESENTATIVE:
Multiple, see application attached	David & Alyce McElhoes 16605 Dancing Wolf Way Colorado Springs, CO 80908

**Commissioner District: 1**

Planning Commission Hearing Date:	12/16/2021
Board of County Commissioners Hearing Date	12/21/2021

**EXECUTIVE SUMMARY**

A request by David McElhoues, Alyce McElhoes, Robert Tello, Joshua Fuson, and Ruth Anne Fuson for approval of a vacation and replat of five (5) platted lots and right-of-way and into seven (7) single-family residential lots. The applicants are requesting approval of a concurrently reviewed application to amend the Dancing Wolf PUD (Planned Unit Development) to allow for the increase in density. The five (5) lots, totaling 25.15 acres, are zoned PUD (Planned Unit Development) and are located at the northeast corner of the Highway 83 and Hodgen Road intersection and are within Section 22, Township 11 South, and Range 66 West of the 6th P.M.

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 David McElhoues, Alyce McElhoes, Robert Tello, Joshua Fuson, and Ruth Anne Fuson for approval of a vacation and replat of five (5) platted lots and right-of-way and into seven (7) single-family residential lots.

**Waiver(s)/Deviation(s):** There are no waivers or deviations being requested.

**Authorization to Sign:** Final Plat, Subdivision Improvements Agreement, Detention Pond Maintenance Agreement and any other documents necessary to carry out the intent of the Board of County Commissioners.

**B. PLANNING COMMISSION SUMMARY- Information unavailable at the time of required posting.**

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

**C. APPROVAL CRITERIA**

Section 7.2.3.C, Actions Vacating or Altering a Recorded Plat, Replat, of the El Paso County Land Development Code 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

**D. LOCATION**

North: RR-2.5 (Residential Rural)	Vacant
South: PUD (Planned Unit Development)	Vacant
East: PUD (Planned Unit Development)	Residential
West: PUD (Planned Unit Development)	Residential

**E. BACKGROUND**

The property was initially zoned A-5 (Agricultural) on January 3, 1955 when zoning was initiated for this portion of El Paso County. Due to changes in the nomenclature of the Land Development Code, the A-5 zoning district was renamed as the RR-5 (Residential Rural) zoning district. The land was then rezoned to PUD (Planned Unit Development) pursuant to the Dancing Wolf PUD on September 10, 1998 (PCD file no. PUD-98-005). The PUD allowed for the creation of seven (7) residential lots and one (1) commercial lot. The PUD limited the number of lots to those seven (7) residential lots and one (1) commercial lot with an overall residential density of one (1) dwelling unit per 4.59 acres. Those uses allowed within the commercial lot were to remain in conformance with the NBD (Neighborhood Business District), excluding bars, mineral extraction, heavy industrial, gas station, and a convenience store, and did not include any language allowing the list of uses to change as the Land Development Code was amended. The NBD zoning district has since been removed from the Code, but the PUD would follow the NBD in place at the time of approval.

The Dancing Wolf Estates Subdivision included the platting of the “Dancing Wolf Way” right-of-way. A portion of Dancing Wolf Way has been constructed and currently ends in a cul-de-sac. The Dancing Wolf Way cross-section was approved with the previous PUD and final plat. The anticipated increase in traffic generated with the amendment does not require any further analysis or improvement of the existing roadway conditions. The northern section of the right-of-way was never constructed. This portion of the right-of-way was to continue north, which would parallel with Highway 83 and function as a frontage road. The Colorado Department of Transportation (CDOT) has indicated that this roadway connection is no longer desired. Several lot line adjustments have been approved and recorded throughout the years for the land included within the Dancing Wolf Estates PUD area, but the total number of residential lots has remained at seven (7).

The applicants are requesting approval of a concurrently reviewed application for a map amendment (rezoning) to amend the previously approved Planned Unit Development (PUD) to allow for the vacation of the additional right-of-way, allow for two (2) additional lots to be created for a total of nine (9) lots within the PUD area, as well as to allow for all uses in the CC (Commercial Community) zoning district, as amended, for the commercial area of the PUD, with bars, mineral extraction, heavy industrial, gas station, and convenience store being excluded. The applicant is now requesting a vacation and replat to allow for the creation of the two (2) additional lots.

## **F. ANALYSIS**

### **1. Land Development Code Compliance**

This application meets the requirements of Sections 7.2.3.A (Vacation) and 7.2.3.C (Replat), Actions Vacating or Altering a Recorded Plat, the vacation and replat submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the Land Development Code.

### **2. Zoning Compliance**

The proposed replat will create two (2) additional residential lots. The lots, as proposed, will conform to the standards of the concurrently reviewed PUD (Planned Unit Development) zoning district provided the PUD map amendment (rezoning) is approved.

### **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. A finding of consistency with the Policy Plan was previously made by the Board of County Commissioners with approval of a map amendment (rezone) from RR-5 (Residential Rural) to the PUD (Planned Unit Development) and with approval of the Dancing Wolf Estates Subdivision. The proposed vacation and replat is generally consistent with the findings of the prior approvals.

### **4. Small Area Plan Analysis**

The property is included within the Black Forest Preservation Plan (1987), specifically Subarea 6, Northern Grasslands. A finding of consistency with the Plan was previously made by the Board of County Commissioners with approval of a map amendment (rezoning) from RR-5 (Residential Rural) to the PUD (Planned Unit Development) and with approval of the Dancing Wolf Estates

Subdivision. The proposed vacation and replat is generally consistent with the findings of the prior approvals.

The Black Forest Land Use Committee was sent a referral for the currently proposed development and provided a response recommending approval of the request.

## **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. The Water Master Plan was adopted for implementation in February of 2019 and the map amendment (rezoning) application was submitted February of 2018; therefore, a finding of consistency with the Plan is not required.

## **6. Other Master Plan Elements**

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a moderate wildlife impact potential. El Paso County Community Services, Environmental Division, was sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies potential stream terrace in the area of the subject parcels. A mineral rights certification was prepared by the applicants indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

The El Paso County Parks Master Plan (2013) depicts the Fox Run Primary Regional Trail on a portion of the southern boundary of the PUD development area. Additionally, a bike route is depicted along both Hodgen Road and Highway 83. The Park Advisory Board was sent a referral for the proposed vacation and replat and provided comments indicating that no dedication would be required but that fees in lieu of land dedication in the amount of \$860.00 will be due at the time of recording the vacation and replat.

Please see the Transportation section below for information regarding conformance with the 2016 Major Transportation Corridor Plan Update (MTCP).

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

No hazards were identified during review of the map amendment (rezoning).

## **2. Wildlife**

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

## **3. Floodplain**

The development is not impacted by any designated 100-year floodplain (Zone X) as indicated by FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0285G, which has an effective date of December 7, 2018.

## **4. Drainage and Erosion**

The development is located in the West Cherry Creek drainage basin (CYCY0400), which is an unstudied basin and has no applicable drainage or bridge fees.

The development generally drains to the north. Stormwater runoff is conveyed by an existing drainageway along the west side of Dancing Wolf Way. Water quality detention is excluded for the large lot single family sites per Section I.7.1.B.5 of the Engineering Criteria Manual (ECM). On-site flood control detention was not required since the addition of two residential lots resulted in a negligible increase in runoff. The need for water quality and detention for the commercial lot will be assessed at the time of reviewing the site development plan. Due to the required driveway culvert size required to access Lots 3 and 4, the plat notes that an engineered site plan is required when the shared driveway access is constructed.

The drainage letter concludes that the project “will not have negative drainage impacts to the surrounding properties.”

## **5. Transportation**

The MTCP does not depict roadway improvement projects in the immediate vicinity of the development.

The development is accessed from Hodgen Road, via Dancing Wolf Way. No roadway improvements are proposed. The applicants submitted a traffic memorandum addressing how the applicants satisfied the criteria in ECM Section B.1.2.D for no traffic study.

Lots within the subdivision are subject to the El Paso County Road Impact Fee Program (Resolution 19-471). Fees for each lot shall be paid in full at the time of building permit issuance.

## **H. SERVICES**

### **1. Water**

Sufficiency:

Quality: Sufficient

Quantity: Sufficient

Dependability: Sufficient

Attorney's summary: Water is provided by an onsite 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 quantity and dependability.

### **2. Sanitation**

Wastewater service is proposed to be provided by individual onsite wastewater treatment systems (OWTS). The applicant submitted an onsite wastewater treatment system report demonstrating a minimum of two potential locations for septic systems per lot. El Paso County Public Health, Environmental Health Division, has made a recommendation for a finding of water quality sufficiency.

### **3. Emergency Services**

The property is within the Tri-Lakes-Monument Fire Protection District. The District was sent a referral for the map amendment (rezoning) and responded indicating that any new driveway will need to comply with Appendix D of the 2009 International Fire Code (IFC).

### **4. Utilities**

Electrical service will be provided by Mountain View Electric Association and natural gas service will be provided by Black Hills Energy. They were both sent a referral on the vacation and replat and have no outstanding comments.

### **5. Metropolitan Districts**

The area included within the vacation and replat is not located within a metropolitan district.

**6. Parks/Trails**

Fees in lieu of park land dedication in the amount of \$860 for regional fees will be due at the time of recording the replat.

**7. Schools**

Fees in lieu of school land dedication in the amount of \$616 will be due at the time of recording the replat.

**I. APPLICABLE RESOLUTIONS**

See attached resolution

**J. STATUS OF MAJOR ISSUES**

There are no outstanding issues.

**K. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.3.C, Actions Vacating or Altering a Recorded Plat, Replat, of the El Paso County Land Development Code (2018) 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. 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.

6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
8. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.
9. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 18-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
10. Fees in lieu of park land dedication in the amount of \$860 for regional fees will be due at the time of recording the replat.
11. Fees in lieu of school land dedication in the amount of \$816 shall be paid to El Paso County for the benefit of Lewis Palmer School District No. 38 at time of plat recording.

#### **NOTATION**

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

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

The Planning and Community Development Department notified fifteen (15) adjoining property owners on December 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

El Paso County Health Department Letter

County Attorney's Letter

Application

Board of County Commissioners' Resolution

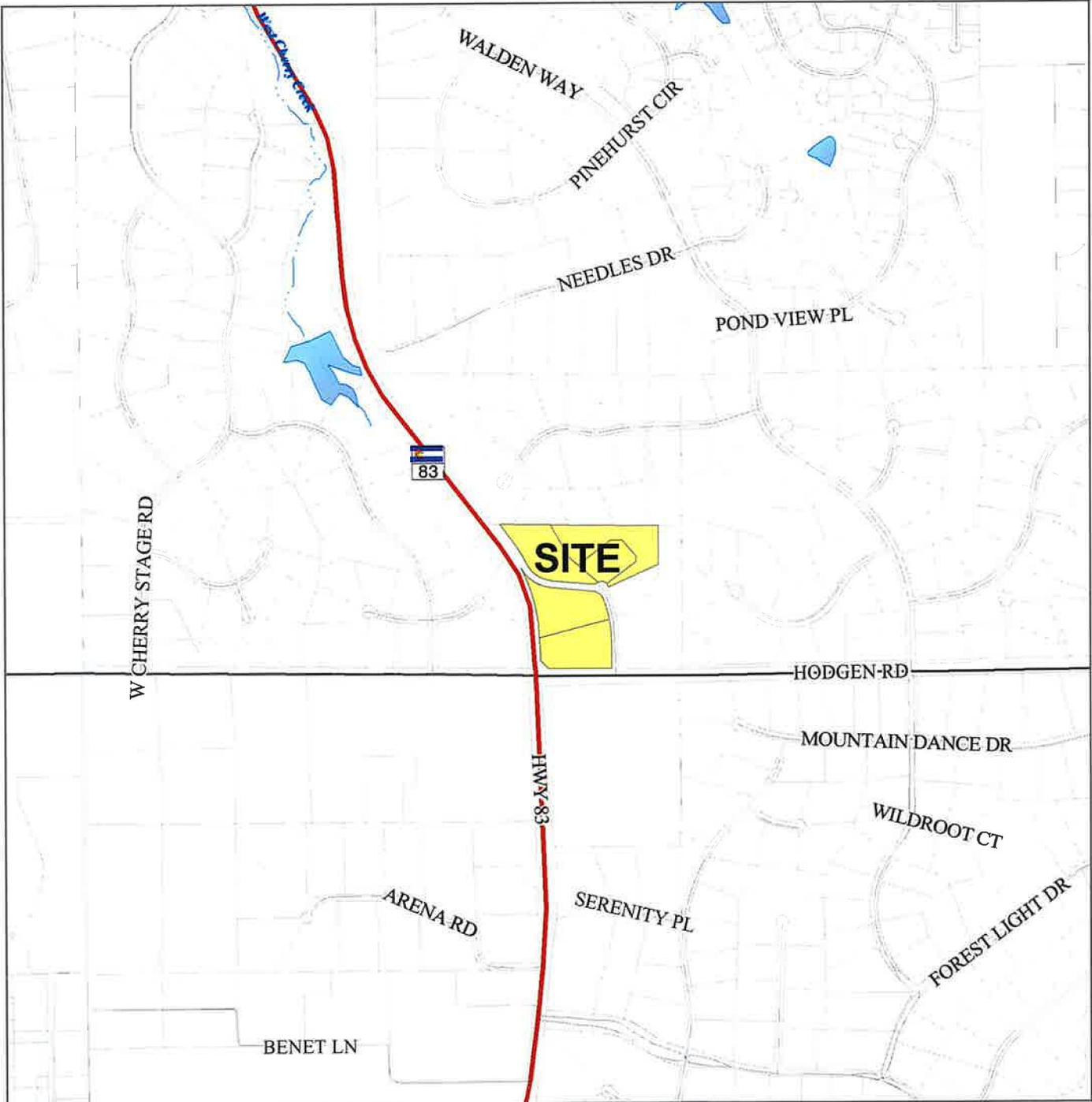
### El Paso County Parcel Information

File Name: PUD-18-002

Zone Map No. --

PARCEL	NAME
6122004001	MCELHOES DAVID B
6122004002	MCELHOES DAVID
6122003020	TELLO ROBERTO JR
6122003036	MCELHOES DAVID B
6122003035	FUSON JOSHUA

Date: Dec. 1



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



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Date: February 5, 2018

Revised: August 1, 2020

### Letter of Intent

### Dancing Wolf PUD Amendment-18-002 and Vacation/Replat-18-002

#### Project Representative

David or Alyce McElhoes  
16605 Dancing Wolf Way  
Colorado Springs, CO 80908  
719-337-8124 or 719-440-5390 (email: [alyce@customcoloradohomes.com](mailto:alyce@customcoloradohomes.com))

<b>Owners</b>	David & Alyce McElhoes 16605 Dancing Wolf Way Colorado Springs, CO 80908	Joshua & Ruth Anne Fuson 16615 Dancing Wolf Way Colorado Springs, CO 80908	Roberto Tello Jr 860 Daymist Ct Colorado Springs, CO 80916
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#### Site Location

Dancing Wolf Estates (DWE) is a 40 acre PUD subdivision located at the NE corner of Highway 83 and Hodgen Road in El Paso County. This PUD Amendment involves 25.16 acres within DWE. Black Forest Preservation Plan (BFPP) is the Small Area Plan that includes DWE within its boundaries. More specifically, Dancing Wolf Estates is within the Spruce Hill Corridor of the BFPP.

#### Request Overview

**Request A:** To amend the PUD to reduce the size of 2, 5+ acre parcels to 2.5+ acre parcels and update the PUD development uses and guidelines. Total acreage in this PUD amendment is 25.16 acres.

**Request B:** To vacate an existing ROW that was dedicated for a parcel of land to the north of DWE and replat lot lines as necessary for both the ROW vacation and division of the 5+ acre lots.

#### Justification

**Conformance to the El Paso County Policy Plan (EPCPP) and Black Forest Preservation Plan (BFPP):** Dancing Wolf Estates is a 40 acre PUD that was developed from a 40 acre parcel into 7- 5 acre lots in 1996; then in 1998 DWE was rezoned to a PUD, with a Community Commercial parcel (formerly called Neighborhood Business District). During the 1998 rezoning, one residential parcel was divided into 2-2.5 acre parcels. This PUD amendment and vacation/replat proposal is consistent with numerous policies and is overall consistent with the El Paso County Policy Plan and the Black Forest Preservation Plan (BFPP is addressed after the EPCPP justification below). Not all policies that are consistent with the EPCPP or BFPP are presented.

#### El Paso Count Policy Plan

**REQUEST A: Divide 2- 5+ acre residential parcels into 2.5+ acre, define the Community Commercial Uses, and update the PUD development guidelines.**

**Policy 5.1.1** Encourage economic development that enhances a sense of community, provides vigor to the economy and considers the environment while contributing to the overall health of the County. **Smaller parcels within DWE will be more community oriented, more affordable for potential residents, and easier to maintain, especially related to noxious weeds that are common in our open areas. Commercial nodes spread out into the community reduces commuting distances between residential and commercial areas alleviating congestion in commercially heavy areas which is environmentally sound.**

**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. **At the time of the two original DWE submittals the land around DWE was undeveloped agricultural land. Now DWE adjoins 2.5 acre residential subdivisions on 3 sides, and a 39 acre PUD parcel on the 4<sup>th</sup> side that is not yet developed. Reducing the size of a majority of the lots within DWE will make the parcels more residential in nature and more consistent with neighboring subdivisions. There will be no change in covenants for residential structure requirements or building setbacks from Hodgen or Highway 83.**

**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. **DWE would like a majority of the parcels to be smaller and encourage more residential uses of parcels, similar to adjoining properties both within and surrounding DWE.**

**Policy 6.1.15** Recognize the need for new development and redevelopment to respond to changes in demographic, market and technological conditions. **As the parcels around DWE have been developed, 2.5 acre residential parcels have become the norm and yet there is still a very open and rural feel on the northern end of El Paso County. As growth has come to Northern El Paso County, 2.5 acre parcels are more desirable to potential residents.**

**Policy 6.2.3** Encourage land use planning and design approaches which create or reinforce the neighborhood concept. **Due to weather conditions (frequently hostile on the Palmer Divide) and terrain issues, 5 acre parcels have made it difficult to have a neighborhood feel in DWE. The smaller parcels currently within DWE have encouraged enjoyable and helpful interactions among neighbors and we would like to promote that.**

**Policy 6.2.7** Utilize the PUD (Planned Unit Development) zone district approach to allow for the accommodation of neighborhood-oriented design features. **DWE is already zoned a PUD and has a Community Commercial Site (CCS) (formerly known as Neighborhood Business District zoning on Lot 1.) and defining its uses better are necessary for the changing environment.**

**Policy 6.3.6** Where feasible, when compatible and service level issues have been addressed; smaller commercial, office and institutional uses should be allowed to locate within, or convenient to, the residential neighborhoods they serve or complement. **The corner lot is zoned CCS for this reason and defined uses show better how it may be utilized**

**Policy 6.3.9** Promote the multiple use combination of non-residential uses such as shopping, offices, government and education in a manner which maximizes the use of available infrastructure during weekdays, evenings and weekends. **Community Commercial Site (CCS) will better allow for a variety of different options, such as those listed above, when developed in the future. The square footage on the CCS is 7,000 sf. a similar structure size to many homes in the adjoining developments.**

**Issue 6.4...** And finally, some residents wish to maintain a rural life style by maintaining a number of grazing animals (horses) or domestic pets, while other residents do not. The County experiences many problems concerning neglect of animals, associated animal smells and noises, and overgrazing leading to the occurrence of noxious weeds. **When the majority of lots in DWE are reduced to 2.5+ acres, the covenants will restrict housing large animals, have reduced outside well water use, and require the planting of 4-6' pine trees. This will reduce mixed use dissent possibilities and restricts uses to be similar to the other 2.5+acre lots within DWE and the surrounding subdivisions.**

**REQUEST B:** The deeded ROW from 1996 for access to the land north of DWE, now known as Majestic Pines (MP), is no longer needed as MP accesses entirely through Blue Heron Springs Lane. Currently the ROW is unused and unmaintained. We are requesting this land be returned back to adjoining land owners.

**Policy 6.2.2** Promote the unique identity of neighborhoods through the use of focal points, parks, trails and open spaces, preservation of significant natural features, compatible location and design of mixed uses, and promotion of pedestrian and other non-motorized means of travel. **Eliminating an unnecessary ROW and allowing the land to return to adjoining owners assures it will be properly maintained and mowed to keep noxious weeds down. It also allows some of the ROW to be utilized for trails for the residents of DWE and, with additional land set aside by the original owners of DWE, trails will connect to the future County Regional Trail along Hodgen Road that was dedicated in the original plat in 1996. The natural no-build drainage easement running the length of DWE will also remain open and undeveloped.**

**Policy 6.2.9** Discourage high volume traffic through neighborhoods by use of innovative techniques including traffic calming. **Eliminating the unnecessary ROW ensures Dancing Wolf Way will stay a quiet, low use, cul-de-sac that serves just the residents within DWE.**

**Policy 8.2.4** Encourage the use of a coordinated County-wide approach in all applicable parks, trails and open space planning efforts. **Part of the ROW will be used for trails connection to the existing trail easement along Hodgen. This supports the El Paso County Health suggestion for planned walk-ability of residential communities. Walk-ability features help in the effort to reduce obesity and associated heart diseases.**

**Policy 9.2.3** Strictly limit direct access onto major transportation corridors in order to preserve their functional capacity. **There will be no additional roads or access points other than the existing Dancing Wolf Way which only accesses Hodgen.**

### **Black Forest Preservation Plan: Requests A & B**

The Black Forest Preservation Plan (BFPP) is a Small Area Plan that includes Dancing Wolf Estates within its boundaries. More specifically, Dancing Wolf Estates falls within the Spruce Hill/Highway 83 Corridor. Applied holistically, Dancing Wolf Estates PUD Amendment is in keeping with the overall plan, spirit and intent of the Black Forest Preservation Plan both in its residential and commercial development. When referencing BFPP "The Plan" Introduction paragraph 3, this request is in keeping with all listed guidelines.

Black Forest Preservation Plan, Land Use Scenario: Page 93 #5 Spruce Hill/Highway 83 Corridor: "Commercial projects should be approved only if they are clearly oriented toward the needs of local residents. Those commercial activities which meet this criterion should be encouraged to locate only at the intersections of Hodgen and Walker Roads with State Highway 83. Access to these potential commercial centers should be designed so that satisfactory through traffic movements are maintained. A rustic or rural design theme is suggested for any commercial development in this area." **Dancing Wolf Estates is located at one of these identified areas and was approved for a PUD in in 1998. At that time, the corner lot was approved as a Neighborhood Business District (now called a Community Commercial Parcel). When developed, buildings will be low profile, country barn style buildings similar to adjoining buildings within Dancing Wolf Estates. Site specific traffic studies, will be completed when the parcels are submitted for development and the sites will only have access from the existing Dancing Wolf Way onto Hodgen Road.**

**Policy 3.5** Generally support residential development which compliments and enhances the areas' terrain, vegetation, and natural resources. **DWE has developed a road, lots, and home sites that preserve the natural terrain and a 3.76 acre no-build area that runs the entire North/South length of DWE, thereby maintaining high environmental quality and a rural feel. Homes are covenanted to be of natural earth tones, are low profile and generally built to fit into the natural terrain. Very minimal trees were removed when homes were built and no trees were removed for the initial land and road development in 1996.**

**Policy 1.2:** "Allow nodes of higher density residential, commercial...in areas specified on the concept plan and described in the land use scenario." Further, the Land Use Scenario and Unit Boundaries states "densities comparable to those in the Walden III subdivision (on the order of one dwelling unit per acre) would be appropriate if development is carefully sited and it can be shown that adequate services can be provided." **DWE is specified on the concept plan as having a commercial node and a higher residential density area. Density with this PUD amendment is approximately one dwelling unit for every 3.60 acres (25.16/7 units), well below that stated as appropriate for this area and below neighboring subdivisions. DWE also has a water augmentation plan and OWTS (septic systems) analysis which are adequate services for each parcel. An augmentation plan and an OWTS analysis are presented with this submittal.**

**Policy 8.6** Prevent overgrazing in the area: **Smaller lots in DWE will be restricted from housing large grazing animals, thereby reducing the possibility of overgrazing of the parcels.**

**Table 11: Small Lot Subdivisions Black Forest Planning Area.** There are sixteen subdivisions listed in this table and the average size of lots in these subdivisions is 1.71 acres per dwelling. **The density for DWE is below all of these 16 subdivisions and has larger acreage per dwelling unit.**

## Waiver Request: Open Space Allocation

When originally platted in 1996, PUD Development Plans were not bound to the current 10% open space requirement. We are requesting a waiver to this newer requirement as we have extensive trails and no-build areas within DWE. When platted, we dedicated a 20' trail along Hodgen to the El Paso County Parks Master Plan. Further, dedicated public bicycle ROWs already exist along Hodgen and Highway 83. DWE also has a large no-build area and added trails are proposed inside DWE for the residents of Dancing Wolf. These will be dedicated to the residents of DWE and will be maintained by the DWE HOA. The County Regional Trail easement along Hodgen Road is .518 acres. The dedicated no-build natural drainage area that runs the North/South length of DWE constitutes approximately 3.76 acres. A landscape tract of approximately .5 acre is proposed to be added, for beautification, in the middle of this drainage area (see plat map). With this PUD amendment another .34 acres in walking/biking trails within DWE is proposed and will connect to the County Regional Trail along Hodgen. The original dedicated trail on Hodgen, the no-build land, and the added proposed trails totals 4.62 acres, which exceed the 10% open space requirement (2.51 acres) and makes the common land more useable for DWE residents. In lieu of open space we are requesting to have usable land in the form of trails and no-build areas.

## Drainage/Grading/Erosion Control Plan

Drainage and erosion control in DWE will follow **Policy 11.3.1** in the El Paso County Policy Plan which states: "Where feasible, support the use of natural or naturalistic drainage approaches rather than hard line solutions." **When DWE was originally developed in 1996 a drainage study was completed with a safety factor of one home per acre (well above what will ever be in DWE). At that time a natural drainage area ran the length of the property and was designated as a no-build area. No change in the drainage is anticipated with this amendment request except where an additional driveway crosses the main drainage/no build area for the added Lot 3. A drainage letter/analysis has been completed for that specific area and is included in this submittal as a separate document. No further grading will be done within DWE with this request, except what has been addressed with Lot 3, so no additional erosion control is necessary. The grading for Lot 3 & 4 driveway will be done when the parcel is developed.**

**Purposes & Need for Replat:** To better utilize the land for more residential purposes rather than for horses or other large grazing animals and to be more consistent in land density to neighboring parcels. To add trails to increase the walk-ability within the subdivision for the residents within DWE. To return the unused ROW land to adjoining owners for maintenance and trails. To adapt Community Commercial sites to better meet growth and uses in the area.

**Total Acres in Requested Area:** The acreage in the PUD Amendment and vacation/replat is 25.16 acres.

**Total Residential Units/Densities for Each Dwelling Unit:** Total residential units in the requested area are 6. Densities for residential dwelling units in requested area will be 1 unit in 3.09 acres (residential acreage 18.55/6).

**Number of Commercial Sites Proposed & Floor Area Ratio of Commercial Uses:** A Community Commercial site has already be approved. Total Community Commercial units in the requested area are 1 and the density will be 1 unit in 5 acres. Proposed floor area of commercial sites is 7,000. Floor area ratio is an average of 3.2% for the parcel.

**Number of mobile home units and densities:** None

**Typical Lot Sizes: Length and width:** Typical lot sizes after the proposed divisions will be 2.5+ acres, and the average lengths/widths are as follows (only divided lots listed; flag stems excluded): Amended DWE Lot 1- 358' x 318', Lot 2- 291' x 379', Lot 3- 299' x 388'; Lot 4- 311' x 411', Lot 5 268' x 525', Lot 6- 308' x 319'.

**Type of Proposed Recreational Facilities:** Added trails within DWE to be maintained by the active DWE HOA and adjoin to a current trail along Hodgen Road which is dedicated to the El Paso County Regional Trail System.

**Phased Construction:** This DWE PUD amendment will allow for the development of all residential parcels upon final platting. The sequence of construction and development of Lots 1 and 2, if developed as Community Commercial, will be per current Land Development Code (LDC) requirements. The timeline of development for Community Commercial sites may adjust due to economic conditions. The additional trails will be useable upon platting. If any grading of trails is desired, it will be completed upon HOA approval. Any necessary maintenance of the trail land will commence upon platting.

**Water and Sewer Provided:** The water source for all lots will be individual wells through an existing water decree and augmentation plan (original decree 94CW198 and revised decree 18CW3006). Sewer will be provided through individual OWTS.

**Proposed Uses, Relationship between Uses and Densities:** DWE will consist of nine Residential parcels and two Community Commercial parcels. For all of Dancing Wolf Estates the densities of the residential lots are 6, 2.5+ acre lots and 3, 5.0+ acre lots. The 2.5+ acre lots allow less outside watering and have some large animal restrictions. The 5+ acre lots have some equestrian and other animal uses. Some fencing between smaller and larger lots exists and there are a variety of natural screens from trees and land topography between the smaller and larger lots. All lots, large and small, have the same overall atmosphere created by the neighborhood's desire to enjoy the land through outdoor living, animal keeping (pets and professional), and residential home occupation. The 5 acre Community Commercial lots has a 7,000 sf size limit, a maximum of 35' height restriction, and neutral color requirements to help the buildings feel blended into the surrounding residences. Additionally, when developed, it will abide by the current LDC.

**Areas of Landscaping:** DWE has a developed entrance with a landscaped, decorative sign and significant mature trees. This was completed in 1996. Each residential lot within the amended area of DWE that currently has less than a minimum of 5-4' or greater pine trees will be required to plant an additional 4- 6' pine trees and re-vegetate all disturbed areas. Homeowners will plant these additional trees on their property where they choose, as they develop their lots per covenants. Since there will be no way to irrigate plantings until homes are occupied applicant does not propose plantings for which no water will be available. A landscape easement of approximately .5 acre will be added in the no-build area on Lot 3 (see map). This area is wet in nature and will be planted with 4-6' aspen trees and 2-6' cottonwood trees. It is already vegetated with natural, low growing grass. Landscaping for the Community Commercial sites will comply with current LDC and will be completed at the time of development, again for available water reasons.

**Proposed Access Locations:** All lots within DWE will be accessed only from Dancing Wolf Way, a cul-de-sac into the 40.273 acres. Each lot will adjoin Dancing Wolf Way with a minimum 30' of frontage. There will be no access to Highway 83.

Per CDOT, a Traffic Impact Letter has been submitted with this amendment.

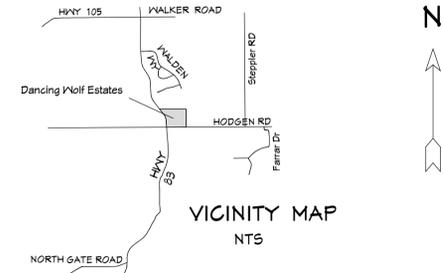
**Approximate Acres and percent of Land to be set aside as Open Space:** Please see "waiver request" on this item. With the existing and added trails and the no-build area 4.62 acres will be open, undeveloped land. With this PUD amendment Dancing Wolf Estates will remain very open and continue to have a rural feeling from all perspectives: to residents within the neighborhood, to adjoining neighborhoods, and from the major arterials it borders.

# DANCING WOLF ESTATES SUBDIVISION IV

## A REPLAT OF

LOTS 1-3 DANCING WOLF ESTATES AND LOTS 1-2 DANCING WOLF ESTATES III

## El Paso County, Colorado



### General Notes:

- The following reports have been submitted in association with the PUD amendment (PUD 182), or vacation and replat for this subdivision and are on file at the County Planning and Community Development Department: Geology and Soils Report, Water Augmentation Plan, Preleps mouse letter, Army Corp letter, Updated Drainage Report, Traffic memo.
- Lots serviced by individual wells for water. Individual wells are the responsibility of each property owner. Permits for individual wells must be obtained from the State Engineer who by law has the authority to set conditions for the issuance of these permits. 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 indicated due to anticipated water level declines. Furthermore, the water supply plan should not rely solely on 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. Water withdrawal and wells are subject to limitations, restrictions and augmentation requirements and responsibilities as found within the Covenants for this subdivision recorded in Reception No. \_\_\_\_\_ and \_\_\_\_\_ of the Office of the El Paso County Clerk and Recorder and the terms of the water court approved water augmentation plan.
- Lots serviced by ~~OWTS~~ systems for sewer. Sewage treatment is the responsibility of each individual property owner. The El Paso County Department of Health and Environment must approve each system and, in some cases the Department may require an engineer designed system prior to permit approval. These systems may cost more to design, install and maintain.
- Natural Gas serviced by Black Hills
- Electricity serviced by MVEA; easements are noted on the plat
- Unless otherwise indicated, all side, front, and rear lot lines are hereby platted on either side with a 10' public utility and drainage easement. All exterior subdivision boundaries are hereby platted with a 20' public utility and drainage easement. The sole responsibility for maintenance of these easements is hereby vested with the individual property owners.
- Any portion of a lot is buildable within noted setbacks and outside of designated no-build drainage areas and easement areas. Landscape Easement is designated within the Open Space and maintained by Lot 2 Dancing Wolf Estates IV.
- All foundations require a soils report and an engineered design by a professional engineer currently registered in the state of Colorado; radon mitigation may be recommended, and building perimeter drains may be required per the engineer.
- The address' exhibited on this plat are for informational purposed only. They are not the legal description and are subject to change.
- Mailboxes shall be installed in accordance with all El Paso County and United States Postal Service regulations.
- No driveway shall be established unless an access permit has been granted by El Paso County. Individual lot purchasers are responsible for constructing driveways, including necessary drainage culverts from Dancing Wolf Way per Land Development Code Section 6.3.3.C.2 and 6.3.3.C.3. Common driveway agreement between Lot 3 & 4 recorded at Reception # \_\_\_\_\_. Maintenance and drainage easement agreement is granted to Lots 3 & 4 for the purposed of drainage, installation and maintenance of drainage facilities with Lot 2 recorded at Reception # \_\_\_\_\_. Driveways over 150' shall conform to Appendix D of the 2009 IFC and approved by the Tri-Lakes Monument Fire Protection District.
- An engineered site plan for the common driveway between Lots 3 & 4 is required on whichever lot submits for a building or driveway permit first. The size of the driveway culverts and riprap protection is identified in the approved drainage report. The common driveway, including necessary drainage culverts from Dancing Wolf Way, shall per Land Development Code Section 6.3.3.C.2 and 6.3.3.C.3.
- Notice: current or future owners of lots 1 and 5 are advised that El Paso County's approval of this plat does not include certification of water rights or the structural stability of the existing dry stock pond or retention berm located on the subject properties. The State of Colorado has jurisdiction regarding the modification or elimination of the dry stock pond.
- All property owners are responsible for maintaining proper storm water drainage in and through their property. Public drainage easements as specifically noted on the plat shall be maintained by the individual lot owners unless otherwise indicated. Structures, fences, materials or landscaping that could impede the flow of runoff shall not be placed in drainage easements.
- Interior trails shall be utilized for interior residents use. Ownership and maintenance of interior trails shall be vested to Dancing Wolf HOA. Perimeter trails shall be utilized by the public. Ownership and maintenance shall be vested to El Paso County. Ownership and maintenance of Landscape easement on Lot 2 shall be vested to the Owner of Lot 2.
- Flood Plain Map; This property is not located within a designated FEMA floodplain per Map 08041C0285G, updated 12/7/2018. It is designated in Zone X, which is considered minimal flood hazard.
- All foundations require a soils report and engineered design by a professional engineer currently registered in the state of Colorado; radon mitigation may be recommended, and building perimeter drains may be required per that engineer.
- Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of the applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corp of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Specs Act, particularly as it related to the listed species (e.g., Preble's Meadow Jumping Mouse).
- There shall be no direct lot access to Hodgen Road or State Highway 83.
- All property within this subdivision is subject to a Declaration of Covenants as recorded at Reception No. \_\_\_\_\_ of the records of the El Paso County Clerk and Recorder.

### Vacation/Replat Dimensional Standards

#### Overall Land Use

Total Replat Area: 18.55 acres  
Existing Zoning: PUD

#### Site Data:

Residential Units: 6  
Average Residential Lot Size: 1 Unit per 3.09 acres  
Open Space Acreage\*: 4.62

\* open space consists of interior trails, no-build drainage area w/ landscape easement, county trails

#### Commercial Site Data:

Community Commercial Unit: 1  
Community Commercial Acreage: 5.02 acres  
Total Floor Area of Community Commercial Site: 7,000sf  
Floor Area Ratio: 3.2%  
Maximum Building Height 35'  
Building Setback 20' unless otherwise noted on the plat map  
Tax ID Number: 6122004002

### OWNERS CERTIFICATE:

The undersigned, being all the owners, mortgagees, beneficiaries of deeds of trust and holders of other interest in the land described herein, have laid out, subdivided and platted said lands into lots, tracts, streets, and easements as shown hereon under the name and subdivision of Dancing Wolf Estates IV. All public improvements so platted are hereby dedicated to the public use and said owner does hereby covenant and agree that the public improvements will be constructed to El Paso County standards and that proper drainage and erosion control for the same will be provided at said owner's expense, all to the satisfaction of the Board of County Commissioners of El Paso County, Colorado. Upon acceptance by resolution, all public improvements so dedicated will become matters of maintenance by El Paso County, Colorado. The utility easements shown hereon are hereby dedicated for public utilities and communication systems and other purposes as shown hereon. The entities responsible for providing the services for which the easements are established are hereby granted the perpetual right of ingress and egress from and to adjacent properties for installation, maintenance, and replacement of utility lines and related facilities.

NOTARIAL: STATE OF COLORADO)  
COUNTY OF EL PASO) ss  
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED  
BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_ 2021  
MY COMMISSION EXPIRES \_\_\_\_\_  
NOTARY PUBLIC \_\_\_\_\_

NOTARIAL: STATE OF COLORADO)  
COUNTY OF EL PASO) ss  
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED  
BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_ 2021  
MY COMMISSION EXPIRES \_\_\_\_\_  
NOTARY PUBLIC \_\_\_\_\_

NOTARIAL: STATE OF COLORADO)  
COUNTY OF EL PASO) ss  
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED  
BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_ 2021  
MY COMMISSION EXPIRES \_\_\_\_\_  
NOTARY PUBLIC \_\_\_\_\_

### SURVEYORS CERTIFICATE

FOR AND ON BEHALF OF POLARIS SURVEYING, INC.  
I, RANDALL D. HENY, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE ON THE DATE OF THE SURVEY, BY ME OR UNDER MY DIRECT SUPERVISION AND THAT ALL MONUMENTS EXIST AS SHOWN HEREON; THAT MATHEMATICAL CLOSURE ERRORS ARE LESS THAN 1:10,000; AND THAT SAID PLAT HAS BEEN PREPARED IN FULL COMPLIANCE WITH ALL APPLICABLE LAWS OF THE STATE OF COLORADO DEALING WITH MONUMENTS, SUBDIVISION, OR SURVEYING OF LAND AND ALL APPLICABLE PROVISIONS OF THE EL PASO COUNTY LAND DEVELOPMENT CODE.

I ATTEST THE ABOVE ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.

RANDALL D. HENY DATE  
COLORADO REGISTERED PLS #27605

Registered Land Surveyor in the State of Colorado, NO 27605 for and on behalf of David and Alyce McElhoes  
Notice: According to Colorado Law, you must commence any legal action based upon any defect in this survey within three years after you first discover such defect, in no event, may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.

### OWNERS:

David & Alyce McElhoes: Lots 1 & 2 DIVE; Lot 2 DIVE III  
Joshua & Ruth Anne Fuson: Lot 1 DIVE III  
Roberto Tello: Lot 3 DIVE

### KNOW ALL MEN BY THESE PRESENTS:

That David McElhoes, Alyce McElhoes, Joshua Fuson, and Ruth Anne Fuson, and Roberto Tello Jr being the owners of the described tracts of land to wit:

Lot 1 Dancing Wolf Estates, El Paso County, Colorado  
Lot 2 Dancing Wolf Estates, El Paso County, Colorado  
Lot 3 Dancing Wolf Estates, El Paso County, Colorado  
Lot 1 Dancing Wolf Estates III, El Paso County, Colorado  
Lot 2 Dancing Wolf Estates III, El Paso County, Colorado

### For Replats Requiring BoCC action:

This plat for "Dancing Wolf Estates IV" was approved for filing by the El Paso County, Colorado Board of County Commissioners on the \_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_, A.D., subject to any notes specified hereon and any conditions included in the resolution of approval. The dedications of land to the public (streets, easements) are accepted, but the public improvements thereon will not become the maintenance responsibility of El Paso County until preliminary acceptance of the public improvements in accordance with the requirements of the Land Development Code and Engineering Criteria Manual, and the Subdivision Improvements Agreement. Previous plat name in entirety is vacated and amended for the areas described by this replat subject to all covenants, conditions, and restrictions recorded against and appurtenant to the original plat recorded in the Office of the El Paso County Clerk and Recorder, Reception # \_\_\_\_\_.

CHAIR, BOARD OF COUNTY COMMISSIONERS DATE

This plat for Dancing Wolf Estates IV was approved for filing by the El Paso County, Colorado Planning and Community Development Department Director on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A. D., subject to any notes or conditions specified hereon.

PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR DATE

### RECORDING

STATE OF COLORADO)  
COUNTY OF EL PASO)

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD AT MY OFFICE AT \_\_\_\_ O'CLOCK \_\_\_\_ M, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021, AND IS DULY RECORDED AT RECEPTION NO. \_\_\_\_\_ OF THE RECORDS OF EL PASO COUNTY, COLORADO.

BY \_\_\_\_\_  
CHUCK BROERMAN, COUNTY CLERK AND RECORDER

FEE \_\_\_\_\_ BY \_\_\_\_\_

School Fees: \$300 per each added lot. Total \$616  
Park Fees: \$490 per added lot. Total: \$860  
Bridge Fees: None  
Drainage Fees: None

### SHEET INDEX:

SHEET 1 - COVER PAGE  
SHEET 2 - CURRENT PLAT  
SHEET 3 - AMENDED PLAT

#### Owners:

David & Alyce McElhoes  
18605 Dancing Wolf Way  
Colorado Springs, CO 80903

Joshua and Ruth Anne Fuson  
18615 Dancing Wolf Way  
Colorado Springs, CO 80903

Roberto Tello Jr  
860 Dayton CT  
Colorado Springs, CO 80916

Lots 1-3 Dancing Wolf Estates & Lots 1-2 Dancing Wolf Estates III, portions of land whose Legal Boundary is known as:

A TRACT OF LAND BEING PORTIONS OF THE SE 1/4 OF THE SE 1/4 OF SECTION 22, T. 11 S., R. 68 W. OF THE 88th PM LYING EASTERLY OF THE EASTERLY RIGHT OF HWY LINE OF COLORADO STATE HIGHWAY No. 83, SITUATED IN EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF THE SE 1/4 OF THE SE 1/4 OF SECTION 22; THENCE S88W51'12" ON THE NORTH LINE OF SAID SE 1/4 OF THE SE 1/4 A DISTANCE OF 118.28' TO THE NORTHEAST CORNER OF SAID SE 1/4 OF THE SE 1/4; THENCE S60W29'39" ON THE EAST LINE OF SAID SE 1/4 OF THE SE 1/4 A DISTANCE OF 128.81' TO A POINT ON THE NORTH RIGHT OF HWY LINE OF HODGEN ROAD, A COUNTY ROAD; THENCE N88W13'39" ON SAID NORTH RIGHT OF HWY LINE A DISTANCE OF 114.92' TO A POINT ON THE EASTERLY RIGHT OF HWY LINE OF COLORADO STATE HIGHWAY No. 83, THE FOLLOWING SIX COURSES: 1) N88W63'04" 128.81' 2) N22W53'04" 40.40'; 3) N58W44'30" 294.32'; 4) THENCE ON A CURVE TO THE LEFT HAVING A RADIUS OF 1482.52' THROUGH A CENTRAL ANGLE OF 288'03" AN ARC DISTANCE OF 811.41'; THE LONG CHORD OF WHICH BEARS N88W37'04" 888.34'; 5) THENCE N88W37'04" A DISTANCE OF 294.32'; 6) THENCE N86W52'39" A DISTANCE OF 42.92' TO A POINT ON THE NORTH LINE OF THE SE 1/4 OF THE SE 1/4; THENCE S88W51'12" ON SAID NORTH LINE OF THE SE 1/4 OF THE SE 1/4 A DISTANCE OF 384.98' TO THE POINT OF BEGINNING CONTAINING 40.2724 ACRES MORE OR LESS.

#### Preparer and Follower:

David & Alyce McElhoes  
18605 Dancing Wolf Way  
C.S., CO 80903  
719-337-8124  
Alyce@customcolorshomes.com

SHEET 1 OF 3

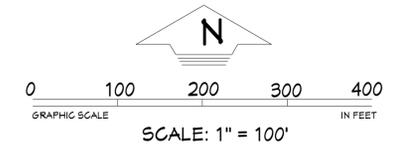
Dancing Wolf Estates  
PCD file - VR-18-002

# DANCING WOLF ESTATES SUBDIVISION IV

## A REPLAT OF

LOTS 1-3 DANCING WOLF ESTATES AND LOTS 1-2 DANCING WOLF ESTATES III

## El Paso County, Colorado AS PLATTED



### SHEET INDEX:

SHEET 1 - COVER PAGE  
SHEET 2 - CURRENT PLAT  
SHEET 3 - AMENDED PLAT

Owners:  
David + Alyce McElroes  
16605 Dancing Wolf Plwy  
Colorado Springs, CO 80908  
Joshua and Ruth Anna Fuson  
18615 Dancing Wolf Plwy  
Colorado Springs, CO 80908  
Roberto Tello Jr.  
860 Dayton Ct.  
Colorado Springs, CO 80916

Lots 1-3 Dancing Wolf Estates &  
Lots 1-2 Dancing Wolf Estates III,  
portions of land whose legal boundary is known as:

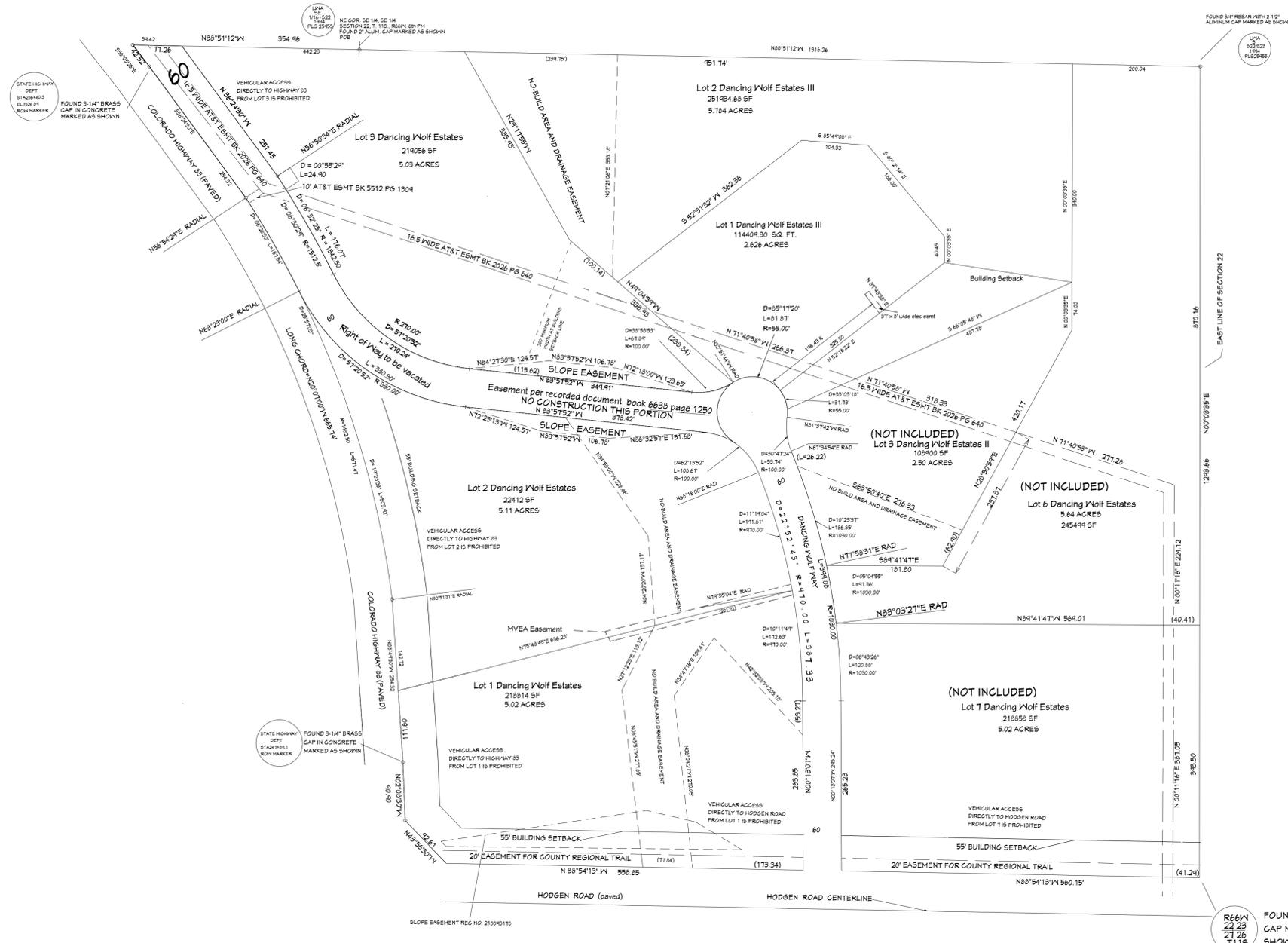
A TRACT OF LAND BEING PORTIONS OF THE SE 1/4 OF THE SE 1/4 OF THE SW 1/4 OF THE SE 1/4 OF SECTION 22, T. 11 S., R. 68 W. OF THE 68th LYING EASTERLY OF THE EASTERLY RIGHT OF WAY LINE OF COLORADO STATE HIGHWAY NO. 53, SITUATED IN EL PASO COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF THE SE 1/4 OF THE SE 1/4 OF SECTION 22; THENCE S68°51'12"E ON THE NORTH LINE OF SAID SE 1/4 OF THE SE 1/4 A DISTANCE OF 118.28' TO THE NORTHEAST CORNER OF SAID SE 1/4 OF THE SE 1/4; THENCE S00°03'33"W ON THE EAST LINE OF SAID SE 1/4 OF THE SE 1/4 A DISTANCE OF 128.86' TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF HODGEN ROAD, A COUNTY ROAD; THENCE N88°15'15"W ON SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 114.92' TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF COLORADO STATE HIGHWAY NO. 53; THE FOLLOWING SIX COURSES: 1) N88°05'07"W 128.91'; 2) N26°55'57"W 40.40'; 3) N03°44'50"W 284.32'; 4) THENCE ON A CURVE TO THE LEFT HAVING A RADIUS OF 1462.52' THROUGH A CENTRAL ANGLE OF 28°17'09" AN ARC DISTANCE OF 81.41'; 5) THE LONG CHORD OF WHICH BEARS N26°07'07"W 685.34'; 6) THENCE N86°09'29"W A DISTANCE OF 42.92' TO A POINT ON THE NORTH LINE OF THE SW 1/4 OF THE SE 1/4; THENCE S68°51'12"E ON SAID NORTH LINE OF THE SE 1/4 OF SECTION 22 TO THE POINT OF BEGINNING CONTAINING ACROSS ACRES MORE OR LESS.

### Preparer and Plotter:

David + Alyce McElroes  
16605 Dancing Wolf Plwy  
C.S., CO. 80908  
714-337-0124  
Alyce@customcolorshomes.com

SHEET 2 OF 3

Dancing Wolf Estates  
PCD file - VR-18-002







March 21, 2018

Nina Ruiz  
El Paso County Development Services Department  
[DSDcomments@elpasoco.com](mailto:DSDcomments@elpasoco.com)

**RE:** Dancing Wolf Estates Replat (Filing IV)  
S 1/2 of the SE 1/4, Section 22, T11S, R66W, 6<sup>th</sup> P.M.  
Water Division 1, Water District 8

Dear Ms. Ruiz,

We have reviewed the submittal documents related to Dancing Wolf Estates Replat IV, concerning the above referenced proposal to replat Lot 1 of Dancing Wolf Estates into two commercial lots of approximately 2.5 acres, replat Lot 2 of Dancing Wolf Estates into two residential lots of approximately 2.5 acres and replat Lot 2 of Dancing Wolf Estates III into two residential lots of approximately 2.5 acres.

**Water Supply Demand**

Based on the water supply plan from James J. Petrock dated January 18, 2018 (water supply plan) the estimated annual demand for each residential lot is 0.57 acre-feet per year for 300 years, which will be used for in house use (0.35 acre-feet), irrigation of 2400 square-feet of irrigated area (0.17 acre-feet), and stockwatering of up to 4 large domestic animals (0.05 acre-feet). The two commercial lots will have a total of approximately 14,000 square-feet of commercial space, which requires approximately 1.56 acre-feet per year for 300 years based on the El Paso County value of 0.1 gallons per day for each square foot of space. The total annual water requirement for the six proposed lots is 3.84 acre-feet.

According to the Water Requirements for Dancing Wolf Estates All Filings the estimated water requirements for filing 1- 4 of Dancing Wolf Estates is a total of 6.69 acre-feet for nine residential units, 14,000 square feet of commercial use, 29,300 square-feet of irrigation and stock watering of 21-28 animals.

**Source of Water Supply**

The proposed water source is individual on lot wells constructed in the Dawson or Denver aquifers operating pursuant to the decreed augmentation plans in Division 1 Water Court Case nos. 94CW198 and 99CW065.

According to the water supply plan the proposed water source for two of the proposed lots will be existing Dawson aquifer wells permitted under well permit nos. 78470-F and 60477-F. The remaining proposed lots will be served by proposed individual on lot wells to be constructed into the Denver aquifer.

The applicant states there are existing wells on the property with well permit nos. 46995-F, 52988-F, 60477-F, 78470-F. These wells, in addition to the well constructed under permit no.



50391-F in filings 1-4 of Dancing Wolf Estates, are constructed in the Dawson aquifer and operate pursuant to the decreed augmentation plan in Division 1 Water Court Case no. 94CW198 and may withdraw 0.57 acre-foot/year for in house use in one single family dwelling, animal watering and lawn and garden irrigation. The number of animals that can be watered and allowed irrigation varies based on the terms and conditions of the well permits.

The decreed augmentation plan in Division 1 Water Court Case no. 94CW198 allows for the annual withdrawal of 12 acre-feet from the not nontributary Dawson aquifer for seven individual lots, based on a 100 year allocation approach. For a 300 year allocation approach the annual withdrawal would be limited to 4 acre-feet (0.57 acre-foot per lot).

The decreed augmentation plan in Division 1 Water Court Case no. 99CW065 allows for the annual withdrawal of 5.26 acre-feet per year from the not nontributary Denver aquifer, based on a 300 year allocation approach. The augmentation plan states the ground water will be used for in house use in three houses (0.3 acre-foot per house), the irrigation of not more than 30,000 square feet (1.8 acre-feet), the filling of a swimming pool (0.26 acre-foot) and commercial use of 2.3 acre-feet per year.

The augmentation plans decreed in Division 1 Water Court Case nos. 94CW198 and 99CW065 would allow for 10 residential lots, served by seven wells in the Dawson aquifer and three wells in the Denver aquifer and 2.3 acre-feet of water available for commercial use from the Denver aquifer.

The Applicant has an application pending in Division 1 Water Court Case no. 18CW3006 to change the augmentation plan in Court Case no. 99CW065, to withdraw the in house, irrigation and swimming pool uses from the augmentation plan. Court Case no. 18CW3006 is requesting an augmentation plan to withdraw 2.96 acre-feet per year from the Dawson aquifer based on a 300 year allocation approach for two residences (0.57 acre-foot per residence), for in house use (0.35 acre-foot), the irrigation of 2,400 square feet of home lawn, garden and trees (0.17 acre-foot), the stockwatering of up to four large domestic animals (0.05 acre-foot) and commercial use (1.82 acre-feet), which could alternatively be used for in house use, irrigation and stockwatering for two residences.

If the augmentation plan in Division 1 Water Court Case no. 18CW3006 is approved as proposed, 9 -11 residential lots could be served by Dawson aquifer wells (seven lots pursuant to Court Case no. 94CW198 and two pursuant to 18W3006) to withdraw 0.57 acre-feet/year per lot and commercial lots could withdraw a total of 1.82 acre-feet/year of Denver aquifer water.

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 consolidated case no. 94CW198 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 subdivision is less than 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.

Applications for on lot well permits, submitted by entities other than the water court Applicants must include evidence that the Applicant has acquired the right to the portion of the water being requested on the application.

### 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.

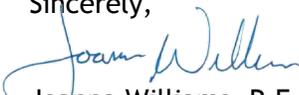
Our opinion is qualified by the following:

The Division 1 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, 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. 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 100 years (or 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,



Joanna Williams, P.E.

Water Resource Engineer

### Dancing Wolf Estates, VR-18-2 (Revised)

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

- The proposed 21.32 acre development will be provided water from individual private wells. Wastewater service is proposed to be by onsite wastewater treatment systems (OWTS).
- A finding for sufficiency in terms of water quality was made in 1996 for the original 40 acre, 7 lot development. Further tests for water quality are not necessary for El Paso County Public Health unless the Land Development Code requires additional testing for review.
- The 1996, RMG Engineers Soil, and Wastewater Study Report was reviewed to determine the feasibility of using wastewater treatment through onsite wastewater treatment systems (OWTS). The referenced report supports the use of onsite wastewater treatment systems for this proposed development project. Some OWTS's may require a Colorado Professional Engineer design either due to poor soil conditions, or commercial use of the proposed Community Commercial lots. Also, all undeveloped lots now require a soil test pit excavation for soil evaluation and OWTS permitting verses a soil percolation test.
- Radon resistant construction building techniques/practices are encouraged to be used in this area. The EPA has determined that Colorado, and the specifically the El Paso County area, have potentially higher radon levels than other areas of the country.
- Earthmoving activity in excess of one acre, but less than twenty-five acres, will require a Construction Activity Permit from El Public Health. Go to <https://www.elpasocountyhealth.org/service/air-quality/construction-activity-application> for more information, and links to the Colorado Department of Public Health and Environment for earthmoving activity greater than 25 acres.
- El Paso County Public Health encourages planned walk-ability of residential communities. Please consider appropriate connections to commercial areas through the use of sidewalks, and bike trails. Walk-ability features help to reduce obesity and associated heart diseases.

**Mike McCarthy**  
**El Paso County Public Health**  
**Environmental Health Division**  
**719.575.8602**  
**[mikemccarthy@elpasoco.com](mailto:mikemccarthy@elpasoco.com)**  
**12Mar2018, Revised 20Apr2020**

# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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October 18, 2021

VR-18-2            Dancing Wolf Estates IV  
                         Vacation and Replat

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

## **WATER SUPPLY REVIEW AND RECOMMENDATIONS**

### Project Description

1. This is a proposal by David and Alyce McElhoes ("Applicant") for vacation and replat of lots within Dancing Wolf Estates and Dancing Wolf Estates III into 6 residential lots and 1 commercial lot on a total of approximately 25 +/- acres (the "Property"). Specifically, Applicant intends to replat Lots 1, 2, and 3 of Dancing Wolf Estates into 1 commercial lot and 3 residential lots and to replat Lots 1 and 2 of Dancing Wolf Estates III into 3 residential lots. The property is zoned PUD ("Planned Unit Development").

### Estimated Water Demand

2. Pursuant to the Water Supply Information Summary ("WSIS"), the residential water demand is 0.35 acre-feet for each lot for household use, plus an additional 1.02 acre-feet total for irrigation and 0.30 acre-feet total for stock watering, resulting in a per-lot demand of 0.57 acre-feet/year and a total demand of 3.42 acre-feet/year for the residential lots. The water demand for the 1 commercial lot is 2.8 acre-feet/year. Based on this total demand, Applicant must be able to provide a supply of 1,866 acre-feet of water (6.22 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement.

### Proposed Water Supply

3. The Applicant has provided for the source of water to derive from individual on-lot wells, as provided in the following decrees issued by the Colorado Division 1 Water Court: Case No. 1994CW198, 1999CW065, and 2018CW3006. In Case No. 94CW198, the Court decreed water in the following amounts for the benefit of Applicant's predecessor in title:

Aquifer	Total Decreed Amount	Annual amount (100 years)	Annual amount (300 Years) <sup>1</sup>
Dawson	3510 AF	35.1 AF	11.7 AF
Denver	3790 AF	37.9 AF	12.63 AF
Arapahoe	1600 AF	16.0 AF	5.33 AF
Laramie-Fox Hills	1180 AF	11.8 AF	3.93 AF

The Court also approved an augmentation plan for the withdrawal of 12 AF/year for 100 years (equating to 4 AF/year for 300 years), for a total of 1200 AF, of water from the Dawson aquifer, to be used to serve up to 7 residential lots (equating to 0.57 AF/year/lot for 300 years). During pumping, depletions must be replaced with return flows from septic systems. The Court required the reservation of 20 AF of Arapahoe water and 1180 AF of Laramie-Fox Hills water to replace post-pumping depletions.

4. In 1997 and 1999, Applicant conveyed Lots 6 and 7, Dancing Wolf Estates to a third party. In 2000, Applicant conveyed Lot 3, Dancing Wolf Estates II to a third party. These lots are not part of this vacation and replat. While no water was explicitly conveyed in connection with the lots, the covenants grant each lot the right to withdraw 0.57 AF/year of Dawson water. Presuming that the intent was to meet the County's 300-year water supply requirement, it is assumed for the purposes of this review that these 3 lots will each use 171 acre-feet, for a total of 513 acre-feet of Dawson water unavailable to supply the current vacation and replat.

Furthermore, in 1999, 20 AF of Arapahoe water and 1180 of Laramie-Fox Hills water were conveyed to the Dancing Wolf Estates HOA for post-pumping depletions under 94CW198.

5. The augmentation plan approved by the Court in Case No. 99CW065 was later amended in 18CW3006. The combined result of these two decrees was two-fold. First, an augmentation plan for the withdrawal of 690 AF of Denver water (2.3 AF/year for 300 years) for commercial use was approved. During pumping, depletions must be replaced with return flows from septic systems. The Court required the reservation of 692 AF of Arapahoe water to replace post-pumping depletions. Second, an augmentation plan for the withdrawal of 888 AF of Dawson water (2.96 AF/year for 300 years) was approved for a) 2 residential lots at 0.57 AF/lot/year PLUS b) commercial use at 1.82 AF/year OR 0.68 AF/year for commercial and 2 more residential lots at 0.57 AF/lot/year. During pumping, depletions must be replaced with return flows from septic systems. The Court required the reservation of 888 AF of Arapahoe water to replace post-pumping depletions.

6. The total amount of water legally available to applicant for this vacation and replat thus appears to be:

- Residential: 1029 – 1371 AF Dawson (3.43-4.57 AF/year for 300 years)
- Commercial: 690 AF Denver + (204-546) AF Dawson = total 894-1236 AF (2.98-4.12 AF/year for 300 years)

<sup>1</sup> As calculated by County Attorney's Office

State Engineer's Office Opinion

7. In a letter dated May 18, 2021, the State Engineer reviewed the submittal to replat Dancing Wolf Estates and Dancing Wolf Estates III into a total of 7 lots (6 residential and 1 commercial). The State Engineer referred to the water supply plan from Eric K. Trout dated March 30, 2021 ("Water Supply Plan") which identified the water supply and augmentation plans in the cases referenced above.

The below table is a synopsis of the water supply and demand as summarized in the Water Supply Plan and by the State Engineer:

Case No.	Aquifer	Annual Amount decreed per year (300 years)	Annual Withdrawal permitted per year - Augmentation Plan (300 years)	Annual water needed to meet demand
94CW198	Dawson (NNT)	4.0 acre-feet	0.57 acre-feet/lot (for up to 7 residential lots)	<b>2.28 AF<sup>2</sup></b>
99CW065	Denver (NNT)	2.3 acre-feet	2.3 acre-feet Commercial	<b>2.3 AF</b>
18CW3006	Dawson (NNT)	2.96 acre-feet	2.96 acre-feet Commercial & 2-4 residential lots	<b>0.5 AF comm. 1.14 AF resid.</b>
<b>Total</b>				<b>6.22 acre-feet</b>

As described by the State Engineer, the identified water demand is 0.57 acre-feet/year for each residential lot and 2.8 acre-feet/year for the commercial lot, for a period of 300 years. The State Engineer's Office stated that the "proposed water source is individual on lot wells constructed in the Dawson or Denver aquifers<sup>3</sup> operating pursuant to the decreed augmentation plans in Division 1 Water Court Case nos. 94CW198, 99CW065 and 18CW3006." The State Engineer further notes that "two of the proposed residential lots will be [served by] existing Dawson aquifer wells permitted under well permit nos. 78470-F and 60477-F. The remaining proposed residential lots will be served by proposed individual on lot wells to be constructed into the Dawson aquifer. The applicant states that there are existing wells on the property with well permit nos. 46995-F, 52988-F, 60477-F, 78470-F. These wells, in addition to the well constructed under permit no. 50391-F in filings 1-4 of Dancing Wolf Estates, are constructed in the Dawson aquifer and operate pursuant to the decreed augmentation plan in Division 1 Water Court Case no. 94CW198 and may withdraw 0.57 acre-foot/year for in house use in one single family dwelling, animal watering and lawn and garden irrigation. The number of animals that can be watered and allowed irrigation varies based on the terms and conditions of the well permits. The decreed augmentation plan in Division 1 Water Court Case no. 94CW198 allows

<sup>2</sup> Though not discussed in either the Water Supply Plan or the SEO Opinion, this figure represents the amount of Dawson water available under 94CW198 after the conveyance of water to the 3 lots identified in paragraph 4 above.

<sup>3</sup> Note: All water supply for the 6 residential lots will be supplied by the Dawson aquifer and water supply for the commercial lot will be a combination of Dawson and Denver aquifers.

for the annual withdrawal of 12 acre-feet from the not nontributary Dawson aquifer for seven individual lots, based on 100 year allocation approach. For a 300 year allocation approach the annual withdrawal would be limited to 4 acre-feet (0.57 acre-foot per lot).”

The State Engineer summed up the water supply by noting the augmentation plans described above that “could allow 9 – 11 residential lots in Dancing Wolf Estates filings 1 – 4 to be served by Dawson aquifer wells (seven lots pursuant to Court Case No. 94CW198 and two - four lots pursuant to 18CW3006) to withdraw 0.57 acre-feet/year per lot and the commercial lot could withdraw a total of 2.98 – 4.12 acre-feet/year (2.3 care-feet/year from Denver aquifer water operating pursuant to case no. 99CW065 and 0.68 – 1.82 acre-feet/year from the Dawson aquifer operating pursuant to case no. 18CW3006).”

The State Engineer stated that the “[b]ased upon the above and pursuant to Section 30-28-136(1)(h)(I), it is our opinion that proposed water supply is adequate and can be provided without causing injury to decreed water rights.”

#### Recommended Findings

8. Quantity and Dependability. Applicant’s water demand for the Dancing Wolf Estates IV vacation and replat is 6.22 acre-feet per year from the Dawson and Denver aquifers for a total demand of 1,866 acre-feet for the subdivision for 300 years.

- The demand for the 6 residential lots can be met by the remaining 684 AF (2.28 AF/year) of Dawson aquifer water authorized for withdrawal in Case No. 94CW198 and 342 AF (1.14 AF/year) of the Dawson aquifer water authorized for withdrawal in Case No. 18CW3006.
- Case Nos. 99CW065 and 18CW3006 authorize withdrawal of at least 894 acre-feet from the Dawson and Denver aquifers for commercial use (2.98 acre-feet/year), which exceeds the demand of 2.8 acre-feet/year for the commercial lot.

**Based on the water demand of 1,866 acre-feet/year for the vacation and replat and the augmentation plans permitting withdrawals in excess of that amount, the County Attorney’s Office recommends a finding of sufficient water quantity and dependability for Dancing Wolf Estates IV.**

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

10. Basis. The County Attorney’s Office reviewed the following documents in preparing this review: the Water Supply Information Summary provided July 25, 2021, the Water Supply Report dated March 30, 2021, the State Engineer Office’s Opinion dated May 18, 2021, and the decrees and augmentation plans in Court Case Nos. 94CW198, 99CW065, and 2018CW3006. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be***

***found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

**REQUIREMENTS:**

A. Applicant and its successors and assigns shall comply with all requirements of Colorado Water Division 1 Court Case Nos. 94CW198, 99CW065, and 18CW3006. Water use shall not exceed 0.57 acre-feet/lot/year for each of the 6 residential lots in the subdivision and 2.8 acre-feet/year for the commercial lot. All stream depletions will be replaced with non-evaporative septic system return flows for a period of 300 years pursuant to the Court's approved augmentation plans.

B. The County requires that when there is a plan for augmentation, Applicant create a homeowners' association ("HOA") for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water decrees and augmentation plans for the property.

C. Applicant shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of Colorado Water Division 1 Court Case Nos. 94CW198, 99CW065, and 2018CW3006, as well as their obligations to comply with the plans for augmentation in the respective cases.

The covenants shall specifically address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 684 acre-feet of not nontributary Dawson aquifer water pursuant to Court Case No. 94CW198, 492 acre-feet of Dawson aquifer water pursuant to Court Case No. 18CW3006, and 690 acre-feet of not nontributary Denver aquifer water to satisfy El Paso County's 300-year water supply requirement for the 7 lots of the Dancing Wolf Estates IV vacation and replat. The Covenants shall further identify that 171 acre-feet (0.57 AF/year) of Dawson aquifer water is allocated to each residential lot, that 150 acre-feet (0.5 AF/year) of Dawson aquifer water is allocated to the commercial lot, and that 690 acre-feet (2.3 AF/year) of Denver aquifer is allocated to the commercial lot.

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

3) Require non-evaporative septic systems and reserve return flows from the same. The Covenants shall require each lot owner to use a non-evaporative septic system to ensure

that return flows from such systems are made to the stream system to replace actual depletions during pumping, 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 residential 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. The Covenants shall also include the following or similar language to ensure that such return flows shall only be used for replacement purposes: "Return flows shall only be used for replacement purposes, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose."

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

"The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to explicitly convey the water rights, such water rights shall be deemed intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not the plan for augmentation in Colorado Water Division 1 Court Case Nos. 94CW198, 99CW065, and 2018CW3006 and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

5) Advise of monitoring requirements. The Covenants shall advise lot owners and their successors and assigns of their responsibility for any metering and data collecting that may be required regarding water withdrawals from existing or future wells in the Dawson and Denver aquifers and future wells which may be constructed in the Laramie-Fox Hills and Arapahoe aquifers.

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

"Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Dancing Wolf Estates IV vacation and replat and pursuant to the plans for augmentation in Colorado Water Division 1 Court Case Nos. 94CW198, 99CW065, and

18CW3006. 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."

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

"These Covenants shall not terminate unless the requirements of the plans for augmentation in Colorado Water Division 1 Court Case Nos. 94CW198, 99CW065, and 18CW3006 are also terminated by order of the Water Court, and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County."

D. Applicant and its successors and assigns shall reserve in the Covenants and in any deeds of the Property Dawson aquifer water in the decreed amount of at least 0.57 acre-feet annually per residential lot and 2.3 acre-feet annually for the commercial lot, and the decreed amount of at least 0.5 acre-feet annually for the commercial lot, equating to 6.22 acre-feet annually for the subdivision for a period of 300 years, for a total of 1,866 acre-feet for the 7-lot subdivision. Said reservation shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply.

E. Applicant and its successors and assigns shall convey by recorded warranty deed these reserved Dawson and Denver aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Dawson or Denver aquifer underlying the respective lots pursuant to Colorado Water Division 1 Court Case Nos. 94CW198, 99CW065, and 2018CW3006 to satisfy El Paso County's 300-year water supply requirement. Sufficient water rights are 171.0 acre-feet from the Dawson aquifer (0.57 acre-feet/year x 300 years) for each of the residential lots, and a total of 840 acre-feet for the commercial lot, which equates to 690 acre-feet from the Denver aquifer (2.3 acre-feet/year) and 150 acre-feet from the Dawson aquifer (0.5 acre-feet/year).

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary supply (Dawson and/or Denver 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 7 lots of the Dancing Wolf Estates IV vacation 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.”

F. 20 acre-feet of water in the Arapahoe aquifer and 1,180 acre-feet of water in the Laramie-Fox Hills aquifer reserved pursuant to Case No 94CW918 have already been conveyed to the HOA or use in the augmentation plan to replace post-pumping depletions. Applicant and its successor and assigns shall reserve in the Covenants and in any deeds of the Property an additional 692 acre-feet of water in the Arapahoe aquifer from Case No. 99CW065 for the commercial lot and an additional 888 acre-feet of water in the Arapahoe aquifer from Case No. 2018CW3006 for the commercial and residential lots. Pursuant to the augmentation plans, 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 Arapahoe and Laramie-Fox Hills aquifer water rights to the HOA or to the individual lot owners (with appropriate deed restrictions) for use in the augmentation plan.

G. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney’s Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney’s Office prior to recording the final plat. Said Declaration shall cross-reference Colorado Water Division 1 Court Case Nos. 94CW198, 99CW065, and 2018CW3006 and shall identify the obligations of the individual lot owners thereunder.

H. Applicant and its successors and assigns shall record all applicable documents, including, but not limited to, the decrees in Colorado Water Division 1 Court Case Nos. 94CW198, 99CW065, and 2018CW3006, 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.

I. As noted by the State Engineer’s Office, applications for well permits submitted by persons other than the Applicants must include evidence that the permittee has acquired the right to the portion of the water being requested.

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.”

K. Prior to recording the final plat, Applicant shall upload into eDARP an updated Water Supply Information Summary that:

- corrects the Name of Existing Parcel in Section 3 as Recorded to “Lots 1, 2, and 3, Dancing Wolf Estates and Lots 1 and 2, Dancing Wolf Estates III”
- checks “Yes” in Section 6.B and describes the previous action as “Dancing Wolf Estates and Dancing Wolf Estates III”
- checks New Wells in Section 10 and checks the aquifers into which new wells will be drilled
- lists the Water Court Decree Case Numbers in Section 10

cc: Nina Ruiz, Planning Manager



# Planning and Community Development Department

2880 International Circle, Colorado Springs, CO 80910

Phone 719.520.6300 | Fax 719.520.6695 | [www.elpasoco.com](http://www.elpasoco.com)

## Type D Application Form (1-2C)

Please check the applicable application type (Note: each request requires completion of a separate application form):

- Appeal
- Approval of Location
- Board of Adjustment
- Certification of Designation
- Const. Drawings, Minor or Major
- Development Agreement
- Final Plat, Minor or Major
- Final Plat, Amendment
- Minor Subdivision
- Planned Unit Dev. Amendment, Major
- Preliminary Plan, Major or Minor
- Rezoning
- Road Disclaimer
- SIA, Modification
- Sketch Plan, Major or Minor
- Sketch Plan, Revision
- Solid Waste Disposal Site/Facility
- Special District
- Special Use
  - Major
  - Minor, Admin or Renewal
- Subdivision Exception
- Vacation
  - Plat Vacation with ROW
  - Vacation of ROW
- Variances
  - Major
  - Minor (2<sup>nd</sup> Dwelling or Renewal)
  - Tower, Renewal
- Vested Rights
- Waiver or Deviation
- Waiver of Subdivision Regulations
- WSEO
- Other: \_\_\_\_\_

This application form shall be accompanied by all required support materials.

**PROPERTY INFORMATION:** Provide information to identify properties and the proposed development. Attached additional sheets if necessary.

Property Address(es):	
Tax ID/Parcel Numbers(s)	Parcel size(s) in Acres:
Existing Land Use/Development:	Zoning District:

- Check this box if **Administrative Relief** is being requested in association with this application and attach a completed Administrative Relief request form.
- Check this box if any **Waivers** are being requested in association with this application for development and attach a completed Waiver request form.

**PROPERTY OWNER INFORMATION:** Indicate the person(s) or organization(s) who own the property proposed for development. Attach additional sheets if there are multiple property owners.

Name (Individual or Organization):	
Mailing Address:	
Daytime Telephone:	Fax:
Email or Alternative Contact Information:	

**Description of the request:** *(submit additional sheets if necessary):*

### For PCD Office Use:

Date:	File :
Rec'd By:	Receipt #:
DSD File #:	



# Planning and Community Development Department

2880 International Circle, Colorado Springs, CO 80910

Phone 719.520.6300 | Fax 719.520.6695 | [www.elpasoco.com](http://www.elpasoco.com)

**APPLICANT(S):** Indicate person(s) submitting the application if different than the property owner(s) (attach additional sheets if necessary)

Name (Individual or Organization):	
Mailing Address:	
Daytime Telephone:	Fax:
Email or Alternative Contact Information:	

**AUTHORIZED REPRESENTATIVE(S):** Indicate the person(s) authorized to represent the property owner and/or applicants (attach additional sheets if necessary).

Name (Individual or Organization):	
Mailing Address:	
Daytime Telephone:	Fax:
Email or Alternative Contact Information:	

**AUTHORIZATION FOR OWNER'S APPLICANT(S)/REPRESENTATIVE(S):**

An owner signature is not required to process a Type A or B Development Application. An owner's signature may only be executed by the owner or an authorized representative where the application is accompanied by a completed Authority to Represent/Owner's Affidavit naming the person as the owner's agent

**OWNER/APPLICANT AUTHORIZATION:**

To the best of my knowledge, the information on this application and all additional or supplemental documentation is true, factual and complete. I am fully aware that any misrepresentation of any information on this application may be grounds for denial or revocation. I have familiarized myself with the rules, regulations and procedures with respect to preparing and filing this application. I also understand that an incorrect submittal may delay review, and that any approval of this application is based on the representations made in the application and may be revoked on any breach of representation or condition(s) of approval. I verify that I am submitting all of the required materials as part of this application and as appropriate to this project, and I acknowledge that failure to submit all of the necessary materials to allow a complete review and reasonable determination of conformance with the County's rules, regulations and ordinances may result in my application not being accepted or may extend the length of time needed to review the project. I hereby agree to abide by all conditions of any approvals granted by El Paso County. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale. I acknowledge that I understand the implications of use or development restrictions that are a result of subdivision plat notes, deed restrictions, or restrictive covenants. I agree that if a conflict should result from the request I am submitting to El Paso County due to subdivision plat notes, deed restrictions, or restrictive covenants, it will be my responsibility to resolve any conflict. I hereby give permission to El Paso County, and applicable review agencies, to enter on the above described property with or without notice for the purposes of reviewing this development application and enforcing the provisions of the LDC. I agree to at all times maintain proper facilities and safe access for inspection of the property by El Paso County while this application is pending.

Owner (s) Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Owner (s) Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Applicant (s) Signature: \_\_\_\_\_

Date: \_\_\_\_\_

January 29, 2020

Other Petitioners/Owners Addresses

Roberto Tello Jr.

860 Daymist Ct, CS, CO 80916-5610

(Lot 3 DWE; 16635 Dancing Wolf Way); 5.03 acres; Tax Schedule #6122003020

Joshua & Ruth Anne Fuson

16615 Dancing Wolf Way, Colo Sps, CO 80908

(Lot 1 DWE III; 16615 Dancing Wolf Way); 2.626 Acres; Tax Schedule #6122003035

David & Alyce McElhoes

16605 Dancing Wolf Way, Colo Sps, CO 80908

Lot 1 DWE; 16550 Dancing Wolf Way); 5.02 acres; Tax Schedule #6122004002

Lot 2 DWE; 16570 Dancing Wolf Way); 5.11 acres; Tax Schedule #6122004001

Lot 2 DWE III; 16605 Dancing Wolf Way); 5.784 acres; Tax Schedule #6122003036

RESOLUTION NO. 21-

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

APPROVE VACATION AND REPLAT OF DANCING WOLF (VR-18-002)

**WHEREAS**, David McElhoes, Alyce McElhoes, Robert Tello, Joshua Fuson, and Ruth Anne Fuson, did file an application with the Planning and Community Development Department of El Paso County for approval of a vacation and replat of Dancing Wolf 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 December 16, 2021, upon which date the Planning Commission did by formal resolution recommend approval of the vacation and replat; and

**WHEREAS**, a public hearing was held by the El Paso County Board of County Commissioners on December 21, 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 of El Paso County.
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. That the vacation and replat complies with the El Paso County Land Development Code and the original conditions of approval associated with the recorded plat.
6. No nonconforming lots are created and, in the case of existing nonconforming lots, the degree of nonconformity is not increased.
7. That the vacation and replat conforms to the required findings for a minor or major subdivision, whichever is applicable.
8. That 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. Where the lots or parcels are subject to any Covenants, Conditions and Restrictions (CC&Rs) or other restrictions, the vacation and replat will not result in a conflict with the CC&Rs or other restrictions unless specifically approved by the Homeowners Association or controlling authority.
10. The vacation and replat is in general conformance with the goals, objectives, and policies of the Master Plan.
11. 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.
12. The proposed Replat of land conforms to the El Paso County Zoning Resolutions.
13. 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.

**NOW, THEREFORE, BE IT RESOLVED** the Board of County Commissioners of El Paso County, Colorado, hereby approves the vacation and replat of Dancing Wolf;

**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. 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.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
8. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.
9. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with

the El Paso County Road Impact Fee Program Resolution (Resolution No. 18-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

10. Fees in lieu of park land dedication in the amount of \$860 for regional fees will be due at the time of recording the replat.

11. Fees in lieu of school land dedication in the amount of \$816 shall be paid to El Paso County for the benefit of Lewis Palmer School District No. 38 at time of plat recording.

**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 the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 21<sup>st</sup> 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**

Lot 1 Dancing Wolf Estates

Lot 2 Dancing Wolf Estates

Lot 3 Dancing Wolf Estates

Lot 1 Dancing Wolf Estates III

Lot 2 Dancing Wolf Estates III

Within Dancing Wolf Estates Subdivision. Being a subdivision of a portion of the south half of the south east quarter of section 22, T. 11 S., R. 66W., 6<sup>th</sup> PM, located in El Paso County, Colorado