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**DEVIATION REQUEST
AND DECISION FORM**

Updated: 6/26/2019

PROJECT INFORMATION

Project Name : Eagle Rising Filing No. 1 PCD File No. SP205 & SF2225
 Schedule No.(s) : 52290-00-034 & 52290-00-035
 Legal Description : See Attached.

APPLICANT INFORMATION

Company/Name : Casas Limited Partnership #4, MyPad, Inc., General Partner, Stephen J. Jacobs Jr., President; and
 Company/Name : IQ Investors, LLC, Managed by SESMAR Corp., Stephen J. Jacobs, MD., President
 Owner Consultant Contractor
 Mailing Address : P.O. Box 2076
 Colorado Springs, CO 80901

 Phone Number : (719) 359-1473
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ENGINEER INFORMATION

Company : M.V.E., Inc.
 Name : David R. Gorman Colorado P.E. Number: 31672
 Mailing Address : 1903 Lelaray St, Ste 200
 Colorado Springs, CO 80909

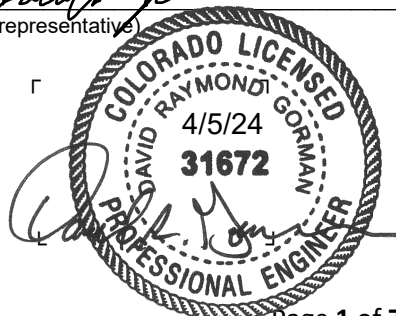
 Phone Number : (719) 635-5736
 FAX Number :
 Email Address : daveg@mvecivil.com

OWNER, APPLICANT, AND ENGINEER DECLARATION

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. 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 will be cause to have the project removed from the agenda of the Planning Commission, Board of County Commissioners and/or Board of Adjustment or delay review until corrections are made, 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.

Stephen Jacobs Jr. _____ Date 4/5/24
 Signature of owner (or authorized representative)

Engineer's Seal, Signature
And Date of Signature



DEVIATION REQUEST (Attach diagrams, figures, and other documentation to clarify request)

A deviation from the standards of or in **Section 2.2.4** Roadway Functional Classifications, Section 6, Figure 2.8, Appendix F SD 2-10 and Section 2.3.4.B of the Engineering Criteria Manual (ECM) is requested. The request is to allow a private roadway section that differs from the DCM standards for Rural Gravel Roadway. Specifically, lane width of 11 feet, shoulder width of 2 feet for total road width of 26 feet, foreslope of 4:1 and elimination of the 5' Public Improvements Easement is requested in this deviation. This request is also to allow a grade steeper than 3% at two cul-de-sac locations, one in a portion of the proposed public Eagle Wing Drive cul-de-sac bulb and another in the existing private Eagle Wing View cul-de-sac bulb. This request is also to allow the center of the existing private Eagle Wing View cul-de-sac bulb to remain undisturbed in a radius of approximately 20' for aesthetic and preservation purposes. A separate subdivision waiver is submitted with the Subdivision application pursuant to LDC Section 8.4.4(E)(3) to allow private roadway having gravel surface as currently constructed and design speed of 20 mph. These items are included in the waiver and are not contained in this deviation request. Please refer to the attached exhibit for the proposed road section.

Identify the specific ECM standard which a deviation is requested:

ECM, Appendix F, SD 2-10 Rural Gravel Local Roadway

The Rural Gravel Local Roadway standard cross section (SD_2-10) indicates:

- 12' wide travel lanes
- 4' wide gravel shoulders
- 6:1 fore slope extending from the gravel shoulder to the ditch centerline.
- Inclusion of a 5' public improvement easements dedicated to El Paso County

This concerns the existing private Eagle Rising View cul-de-sac roadway.

ECM Section 2.2.3.4.B

Maximum and Minimum Grades for Roadways. The maximum and minimum grades for specific roadway classifications are shown in Table 2-15. The centerline grade in the bulb of a cul-de-sac shall not exceed 3 percent. This concerns portions of both the new public Eagle Rising Drive cul-de-sac bulb and the existing private Eagle Rising View cul-de-sac bulb.

ECM Section 2.3.8.A – Roadway Terminations, Cul-de-Sacs

The referenced ECM section indicates that drivable surface be installed throughout the cul-de-sac bulb area with no provisions for leaving the center of the cul-de-sac as non-drivable surface. The owner wants to preserve the existing center garden area. This concerns the existing private Eagle Rising View cul-de-sac roadway.

State the reason for the requested deviation:

Ten new rural residential (2.5 acre minimum) lots are proposed with Eagle Rising Filing No. 1 on 35.28 acres with nine of the ten lots proposed to have access from the private roadway (Eagle Wing View). The applicant and future residential owners wish to maintain a private character of the development by keeping the road within the neighborhood private. They also desire to maintain the rural residential character of the neighborhood by having a narrower gravel road. Adherence to the ECM standard cross section, to include the roadside ditch, would unnecessarily extend disturbance outside of the 60' wide tract set aside for access and into the adjacent lots. The applicant requests a narrower roadway surface consisting of two 11' wide drive lanes and 2' wide gravel shoulders on each side to promote the preservation of the existing natural terrain at the site and to highlight the private and rural residential nature of the development. The narrower width serves to preserve existing, natural grass vegetation, three to four medium sized coniferous trees and existing natural terrain. The existing roadway is proposed to remain private. There is no need for 5' public improvement easements dedicated to El Paso County and there will be no El Paso County public facilities associated with the private road. Sidewalks are not anticipated in rural cross section roadways and the 5' wide public improvement easement is not required.

The requested deviation which is to reduce lane width from 12' to 11' each way, reduce shoulder width from 4' to 2', modify the foreslope of the roadside ditch from 6:1 to 4:1, and eliminate the 5-foot Public Improvements Easement will limit disturbance of areas inside and outside of the provided private roadway tract, preserve existing natural features and terrain and allow access to the nine new lots without further burdening the adjacent existing residents within this anticipated subdivision. The 5' Public Improvements Easement is not needed because sidewalks are not required on rural gravel roads. Due to low ADT (85 vehicles per day for the 9 lots), the reduced roadway width still adequately accommodates two-way traffic and emergency vehicle access. The modified road section is attached.

The existing private cul-de-sac bulb is currently constructed with a 7% centerline grade in the beginning (southern) portion of the cul-de-sac, but transitions to a 3.4% grade at the far end (northern) portion. There is no practical means to modify this condition without creating cascading effect down the roadway profile and creating a tall fill slope all along the northern portion of the road, hindering vehicular driveway access to the adjacent lots. Also, a portion of the proposed public Eagle Wing Drive cul-de-sac exceeds 3.0%. The grade of the proposed public cul-de-sac exceeds 3% with maximum grade reaching less than 4.5% for a very short distance of 19 feet. This condition has no safety, functional, maintenance, or cost impacts.

State the reason for the requested deviation:

There is a 30' diameter circular established garden in the middle of the private cul-de-sac that does not interfere with traffic circulation.

Due to the few number of lots and low ADT, the existing private roadway will adequately accommodate two-way traffic and access.

Explain the proposed alternative and compare to the ECM standards (May provide applicable regional or national standards used as basis):

The proposed alternative Rural Local Gravel Roadway Section is attached.

The requested deviation is to:

- Reduce lane width from 12' to 11' each way;
- Reduce shoulder width from 4' to 2';
- Increase the foreslope from 6:1 to 4:1';
- Eliminate the 5-foot Public Improvements Easement;
- Allow a longitudinal centerline grade that exceeds 3% to be constructed within the proposed public cul-de-sac for approximately 19 feet from station 3+07 to station 3+26;
- allow the center of the existing private cul-de-sac bulb to remain undisturbed in a radius of approximately 15' for aesthetic and preservation purposes (garden area) because the area is unused by vehicular traffic;
- Allow the 7% grade to remain in the southern portion of the existing private Eagle Wing View cul-de-sac. The vehicle turning motion occurs in the northern portion which is 3.4% grade. Vehicular access or movement is not hindered by the existing lane width or slope condition and safety is not compromised. On October 25, 2023, Black Forest Fire District Fire trucks successfully traversed the cul-de-sac in emergency in actual use with no problem encountered.
- Also, allow a short section of the proposed public Eagle Wing Drive cul-de-sac to be up to 4.5% in grade for a short distance of 19 feet. This condition has no safety, functional, maintenance, or cost impacts.

LIMITS OF CONSIDERATION

(At least one of the conditions listed below must be met for this deviation request to be considered.)

- The ECM standard is inapplicable to the particular situation.
- Topography, right-of-way, or other geographical conditions or impediments impose an undue hardship and an equivalent alternative that can accomplish the same design objective is available and does not compromise public safety or accessibility.
- A change to a standard is required to address a specific design or construction problem, and if not modified, the standard will impose an undue hardship on the applicant with little or no material benefit to the public.

Provide justification:

The applicant requests a narrower roadway surface consisting of two 11' wide drive lanes and 2' wide gravel shoulders on each side to promote the preservation of the existing natural terrain at the site and to highlight the private and rural residential nature of the development. The narrower width serves to preserve three to four existing medium sized coniferous trees, natural grass vegetation, and existing natural terrain. Since the roadway will be private, there is no legal need or useful purpose for a 5' wide public improvement easement dedicated to El Paso County along the outside edge of the roadway tract (Tract A). The elimination of the standard 5' wide public improvement easement is requested. The proposed existing private roadway is low volume, serving only 9 residential lots producing 85 ADT. The narrower roadway is adequate to allow two-way traffic on this low volume roadway. Additionally, a new public cul-de-sac turnaround for Eagle Wing Drive, constructed to El Paso County standards, except as allowed by this deviation, is provided at the private roadway west entrance which is to be gate controlled. Said gate is shown on the construction documents and will comply with El Paso County standards. Another turnaround is provided at the north terminus of the existing Eagle Wing View private road. The existing private road is already constructed to the requested design configuration as shown on the roadway plan (attached). The grade of the proposed public cul-de-sac exceeds 3% (attaining less than 4.5%) for a very short distance of 19 feet. This condition has no safety, functional, maintenance, or cost impacts. The allowance of the existing 7% grade at the southern portion of the existing private Eagle Wing View cul-de-sac will not hinder vehicular access or movement thought the turn-around since the vehicle turning motion occurs in the northern portion which is 3.4% grade. The center area of the existing private cul-de-sac which is to remain undisturbed is not a required vehicular travel area for the functioning of the cul-de-sac turnaround. This area, also called a "Garden Area" is 15' in radius and contains no constructed barriers. It serves to reduce site imperviousness and preserve existing natural topography and vegetation.

Topographical, Right-of-way and Geographical conditions – Adhering to the ECM standard section would expand the area of construction and disturbance outside of the proposed tract set aside for access to the subdivision. It would also unnecessarily destroy valuable existing natural features, terrain, three to four existing medium sized coniferous existing and existing natural grass vegetation trees along both sides of the road. With the low traffic volume of the private road, it is preferable to adopt the alternative road section. Other types of standard typical roadway sections, including the Rural Local roadway (paved), already

allow 4:1 foreslopes in place of 6:1 shown on the gravel standard typical section. 4:1 foreslopes are appropriate in this application also. Dedicating a 5' easement for El Paso County public facilities is not practical, necessary or useful when not associated with a public right of way. Additionally, the roadway is already constructed and is demonstrated to provide safe and adequate travel within the existing parcel as referenced above.

Public Safety – The private road will provide safe and reliable access to the subdivision. The presence of low traffic volumes for the nine lots of 85 ADT allows for use of the modified roadway with no out-of-the-ordinary potential hazard. The road meets Design Speed requirements of 20 mph and will be posted with speed limit signs for 15 mph. The responsibility for maintenance of said private road shall be carried out as described in a private access maintenance agreement. The alternative design for the roadway will not pose a threat to the public safety, health, or welfare, nor will it be injurious to any other property.

Vehicular access or movement, including horse trailers, semi-tractors with trailers, construction equipment and concrete trucks, is not hindered by the steeper grade at the cul-de-sac entrance and safety is not compromised. The private roadway and cul-de-sac is already constructed. Fire trucks have successfully traversed the cul-de-sac in an emergency in actual use with no problem encountered. It is not anticipated that larger articulating trucks will have difficulty negotiating the turn-around. The existing private cul-de-sac is constructed with an outer radius of approximately 48 feet and inside radius of approximately 20 feet. The adequacy of the existing private cul-de-sac is demonstrated by events on October 25, 2023 when Black Forest Fire District Fire trucks successfully traversed the cul-de-sac in emergency in actual use with no problem encountered. The Black Forest Fire District already serves lots 6 and 7 and the associated existing structures from the end of the public Eagle Wing Drive Cul-de-Sac and the private road Cul-de-Sac. This deviation request does not negatively impact any fire safety or other safety considerations.

CRITERIA FOR APPROVAL

Per ECM section 5.8.7 the request for a deviation may be considered if the request is **not based exclusively on financial considerations**. The deviation must not be detrimental to public safety or surrounding property. The applicant must include supporting information demonstrating compliance with **all of the following criteria**:

The deviation will achieve the intended result with a comparable or superior design and quality of improvement.

Granting the proposed deviation will allow safe and reliable access to the nine lots of Eagle Rising Filing No. 1.

The few number of lots will produce low traffic volumes so the alternate road section will not hinder safety or usability of the roadway. The alternate road section fulfills the intended purpose of the roadway by providing safe and adequate access while preserving the existing natural features and terrain that make the site attractive for residential use. The private road will be privately owned and maintained by the Eagle Rising residents in accordance with an Access and Maintenance Agreement.

The alternate road section also eliminates the Public Improvements Easements granted to El Paso County which has no purpose or place on this private rural roadway where no sidewalks are required or feasible. Acceptable turnarounds are provided at both the end of the public Eagle Wing Drive location and the end of the private Eagle Wing View location.

The deviation will not adversely affect safety or operations.

The requested alternative road section featuring travel lane width of 11' each way, shoulder width of 2', foreslope of 4:1 and no 5-foot Public Improvements Easement will not adversely affect safety or operations of the roadway.

The low traffic volume of the road together with the gated access at the west subdivision entrance, posted speed of 15 mph as requested in the Private Road Waiver which is associated with the Minor Subdivision application, provides intended safety and use of the roadway.

The private road will provide safe and reliable access to the subdivision. The presence of low traffic volumes for the nine lots of 85 ADT allows for use of the modified roadway with no out-of-the-ordinary potential hazard. The road meets Design Speed requirements of 20 mph and will be posted with speed limit signs for 15 mph. The responsibility for maintenance of said private road shall be carried out as described in the CCRs. The alternative design for the roadway will not pose a threat to the public safety, health, or welfare, nor will it be injurious to any other property.

Vehicular access or movement is not hindered by the steeper grade at the two cul-de-sac locations mentioned above. Adequate access and safety are not compromised.

On October 25, 2023, Black Forest Fire District Fire trucks successfully utilized the existing private Eagle Wing View cul-de-sac in an emergency in actual use with no problem encountered. The Black Forest Fire District already serves lots 6 and 7 and the associated existing structures from the end of the public Eagle Wing Drive cul-de-sac and the existing private road cul-de-sac. This deviation request does not negatively impact any fire safety or other safety considerations.

The deviation will not adversely affect maintenance and its associated cost.

- The deviation will not adversely affect maintenance cost. The road will be privately maintained by the residential lot owners in accordance with the CCRs. The road design is conducive to regular private maintenance. A new asphalt apron extending 50 feet into the site from the proposed public cul-de-sac terminus of Eagle Wing Drive will provide an appropriate transition from the paved public way to the private gravel road, protecting existing Eagle Wing Drive from increased wear due to the gravel interface.

The deviation will not adversely affect aesthetic appearance.

The allowance of this deviation will enhance, not adversely affect, aesthetic appearance of the roadway. The existing narrower road section fits and blends with the existing terrain. The requested design modifications of road width will allow the site to remain more harmonious with the existing terrain.

The deviation meets the design intent and purpose of the ECM standards.

- The design intent of adequate and safe access is met with adequate travel surface area, and improvement over existing conditions as well as proper direction of storm drainage, and proper travel surface.
- The traffic volume on Eagle Wing View will remain low with nine residents using for access so the design fits the anticipated usage of the roadway.

The deviation meets the control measure requirements of Part I.E.3 and Part I.E.4 of the County's MS4 permit, as applicable.

- The proposed deviation request meets the control measure requirements specified by the County's MS4 Permit.
- Appropriate stormwater control measures will be implemented by the project in accordance with the approved Drainage Report Grading and Erosion Control Plans and Drainage Plans.

REVIEW AND RECOMMENDATION:

Approved by the ECM Administrator

This request has been determined to have met the criteria for approval. A deviation from Section _____ of the ECM is hereby granted based on the justification provided.

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Denied by the ECM Administrator

This request has been determined not to have met criteria for approval. A deviation from Section _____ of the ECM is hereby denied.

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ECM ADMINISTRATOR COMMENTS/CONDITIONS:

Applicant shall complete construction of the public road per approved plans.

1.1. PURPOSE

The purpose of this resource is to provide a form for documenting the findings and decision by the ECM Administrator concerning a deviation request. The form is used to document the review and decision concerning a requested deviation. The request and decision concerning each deviation from a specific section of the ECM shall be recorded on a separate form.

1.2. BACKGROUND

A deviation is a critical aspect of the review process and needs to be documented to ensure that the deviations granted are applied to a specific development application in conformance with the criteria for approval and that the action is documented as such requests can point to potential needed revisions to the ECM.

1.3. APPLICABLE STATUTES AND REGULATIONS

Section 5.8 of the ECM establishes a mechanism whereby an engineering design standard can be modified when if strictly adhered to, would cause unnecessary hardship or unsafe design because of topographical or other conditions particular to the site, and that a departure may be made without destroying the intent of such provision.

1.4. APPLICABILITY

All provisions of the ECM are subject to deviation by the ECM Administrator provided that one of the following conditions is met:

- The ECM standard is inapplicable to a particular situation.
- Topography, right-of-way, or other geographical conditions or impediments impose an undue hardship on the applicant, and an equivalent alternative that can accomplish the same design objective is available and does not compromise public safety or accessibility.
- A change to a standard is required to address a specific design or construction problem, and if not modified, the standard will impose an undue hardship on the applicant with little or no material benefit to the public.

1.5. TECHNICAL GUIDANCE

The review shall ensure all criteria for approval are adequately considered and that justification for the deviation is properly documented.

1.6. LIMITS OF APPROVAL

Whether a request for deviation is approved as proposed or with conditions, the approval is for project-specific use and shall not constitute a precedent or general deviation from these Standards.

1.7. REVIEW FEES

A Deviation Review Fee shall be paid in full at the time of submission of a request for deviation. The fee for Deviation Review shall be as determined by resolution of the BoCC.



212 N. Wahsatch Ave., Ste. 305
Colorado Springs, CO 80903
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Colorado Springs, CO 80901
719.955.5485

**EAGLE RISING FILING NO. 1
LEGAL DESCRIPTION**

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER (SW1/4 NE1/4) AND THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER (NW1/4, SE1/4) SECTION 29, T12S, R65W, OF THE 6th P.M., EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THAT PARCEL DESCRIBED BY WARRANTY DEED RECORDED UNDER RECEPTION NO. 216091687 OF THE RECORDS OF EL PASO COUNTY, COLORADO;

THENCE N00°13'10"W ALONG THE EAST LINE THEREOF, 1,324.32 FEET TO THE SOUTH LINE OF "PARK FOREST ESTATES FILING NO. 2" AS RECORDED IN BOOK B-2 AT PAGE 52 OF THE RECORDS OF EL PASO COUNTY, COLORADO;

THENCE N89°20'54"E ALONG THE SOUTH LINE THEREOF, 405.98 FEET;

THENCE S00°42'15"E A DISTANCE OF 128.76 FEET;

THENCE S34°43'55"E A DISTANCE OF 165.41 FEET;

THENCE S36°51'01"E A DISTANCE OF 37.27 FEET;

THENCE S41°13'47"E A DISTANCE OF 32.71 FEET;

THENCE S42°40'08"E A DISTANCE OF 258.35 FEET;

THENCE S45°59'28"W A DISTANCE OF 314.01 FEET;

THENCE S43°17'37"E A DISTANCE OF 540.81 FEET;

THENCE S42°52'53"E A DISTANCE OF 499.61 FEET;

THENCE S33°45'28"W A DISTANCE OF 165.64 FEET;

THENCE N61°46'05"W A DISTANCE OF 467.41 FEET;

THENCE S50°41'14"W A DISTANCE OF 334.09 FEET;

THENCE 334.73 FEET ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 405.00 FEET, A CENTRAL ANGLE OF 47°21'17" THE CHORD OF 325.28 FEET WHICH BEARS S07°17'14"W;

THENCE S56°14'32"E, NON-TANGENT TO THE PREVIOUS COURSE, 474.06 FEET;

THENCE S83°30'06"W A DISTANCE OF 384.26 FEET;

THENCE S06°58'34"E A DISTANCE OF 325.86 FEET;

THENCE N72°11'14"W A DISTANCE OF 437.27 FEET;

THENCE N00°13'51"W A DISTANCE OF 298.01 FEET;

THENCE 19.87 FEET ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 100.55 FEET, A CENTRAL ANGLE OF 11°19'26" THE CHORD OF 19.84 FEET WHICH BEARS N84°20'17"W TO A POINT OF TANGENT;

THENCE S90°00'00"W A DISTANCE OF 8.37 FEET TO THE EAST LINE OF "EAGLE WING ESTATES" AS RECORDED UNDER RECEPTION NO. 204074316 OF THE RECORDS OF EL PASO COUNTY, COLORADO;

THENCE N00°14'32"W ALONG SAID EAST LINE, 805.58 FEET TO THE POINT OF BEGINNING.

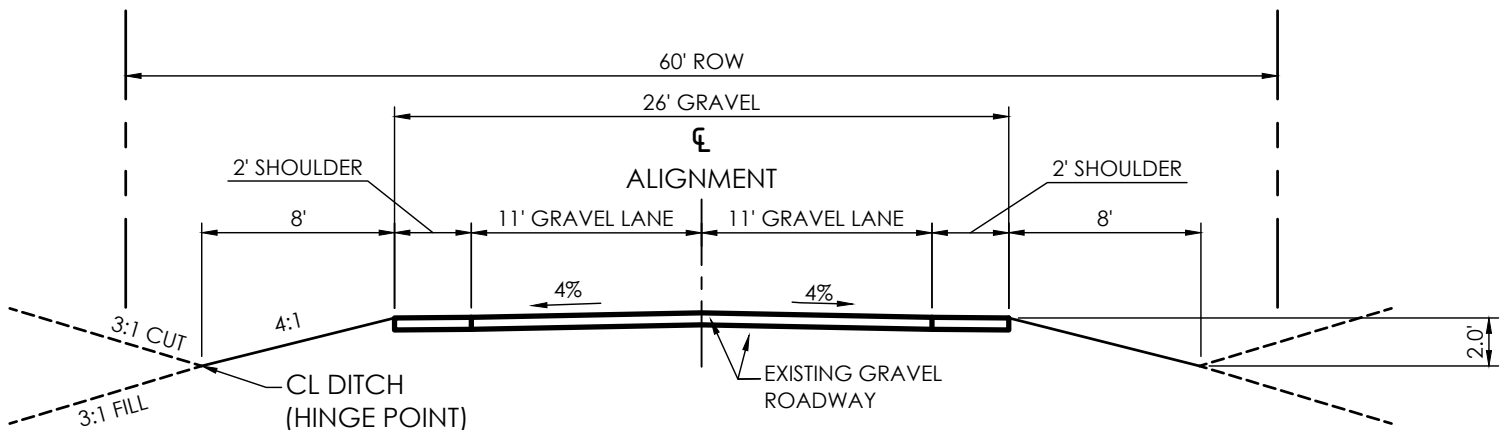
SAID PARCEL CONTAINS A CALCULATED AREA OF 1,537,499 SQUARE FEET (35.296 ACRES, MORE OR LESS).

BASIS OF BEARINGS:

THE WEST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER (SW1/4 NE 1/4) SECTION 29, T12S, R65W, 6TH P.M., EL PASO COUNTY, COLORADO, BEING MONUMENTED ON THE SOUTH BY A FOUND 3 1/4" ALUMINUM CAP STAMPED "PLS 4842" AND ON THE NORTH BY A 1 1/2" ALUMINUM CAP STAMPED "PLS 26965", AND IS ASSUMED TO BEAR N00°13'10"W, A DISTANCE OF 1,324.32 FEET.

PREPARED BY:

VERNON P. TAYLOR, COLORADO PLS NO. 25966 DATE
FOR AND ON BEHALF OF M&S CIVIL CONSULTANTS, INC



***MODIFIED RURAL GRAVEL LOCAL ROADWAY (EXISTING)**

SCALE: NOT TO SCALE

* MODIFIED PER PRIVATE ROAD WAIVER AND DEVIATION

