

November 06, 2024

PCD File No.

**Letter of Intent
Berkheimer Subdivision Filing No. 1
Minor Subdivision**

Owner:

John Berkheimer
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Colorado Springs, CO 80908
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Applicant:

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Site Location Size and Zoning:

The proposed subdivision to be known as "Berkheimer Subdivision Filing No. 1" is located within the southeast quarter of the northeast quarter of Section 6, Township 12 South, Range 65 West of the 6th principal meridian in El Paso County, Colorado. The property contains 13.686+/- acres and has El Paso County Tax Schedule No. 5206000063. The current address of the site is 14060 Black Forest Road, Colorado Springs, Colorado 80908. The site is situated on the west side of Black Forest Road, and is surrounded on the north, south and west sides by RR-5 zoned lots. The site has one residence located in the eastern portion of the site and an existing well and septic system.

The site is situated on the west side of Black Forest Road between Vessey Road and Elementary Drive. The corner of Highline Drive and Coolwell Drive is at the southeast corner of the property. The parcel (Zone RR-5) contains a single family residence. The property is bordered to the north and west by several 5 acre plus unplatted parcels, to the south by Apache Woods Subdivision and to the east by Black Forest Road and Wildwood Ranch Estates. A **Vicinity Map** is included in the **Appendix**.

Request and Justification:

The request is for approval of a Minor Subdivision to be known as "Berkheimer Subdivision Filing No. 1" containing 13.686± acres collectively. This proposed Minor Subdivision will create two new rural residential lots. Lot 1 is to be 5.002± acres and will contain the existing residence. Lot 2 is to be 7.906 acres and will be made available for single-family residential construction.

This minor subdivision for proposed Lots 1 and 2 are consistent with the requirements of their respective zoning such as: land use (single-family residential), lot size, minimum building setbacks, water supply, and wastewater disposal. The proposed lots are compatible with the

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surrounding land uses and neighborhood and coincide with the adjacent zoning and platted lot sizes found in all directions being approximately 5 acres or larger. The two lots will each have a single family residence with individual well & septic.

The existing access location for the site is from Black Forest Road, on the east side of proposed Lot 1. The proposed access point for both of the proposed lots 1 and 2, is along the east side of the subdivision which is to be facilitated by a private access easement through Lot 1. A maintenance agreement is being established to facilitate use and maintenance of the common access easement.

This application meets the Minor Subdivision submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivisions in Chapter 8 of the El Paso County Land Development Code (2021). Final Plats are reviewed and approved in consideration of the review criteria found in the El Paso County Land Development Code. Each criteria is listed below followed by the appropriate justification.

- 1) *The subdivision is in conformance with the goals, objectives, and policies of the Master Plan. “Your El Paso Master Plan” (2021)* is a comprehensive document communicating a vision for many factors that influence the quality of in El Paso County, including Land Use. The Master Plan provides a strategy to achieve the vision by putting forth goals and policies that can be used as a framework for decision-making regarding development of the County.

The site is not located within a designated key area according to the Master Plan. The place-type for this area is “Large-Lot Residential” with primary land uses of Single-Family Detached. Supporting land uses for this place type are Agriculture, Commercial Retail, Commercial Service and Parks & Open Space. The proposed plat contains one lot of 5.002± acres containing the existing single family residence and one 7.960± acre lot for future single-family residential use. The proposed subdivision is in compliance with the intended place type shown in the master plan. Additionally, each lot is in compliance with the existing zone of the property, which is RR-5. The site is in an area of Minimal Change: Developed. The proposed development represented by this plat will maintain the existing rural character of property and is compatible with the surrounding land uses. In the Land Use category, Goal 1.1 is “*Ensure compatibility with established character and infrastructure capacity*”. This area of the County is conducive to rural residential development that allows residential use of property but preserves the natural character of the landscape. The proposed subdivision is compatible and identical to the existing neighborhood and surrounding development. The existing community character is preserved with this proposed minor subdivision. The proposed density is less than allowed by zoning. The proposed density will not overburden the existing roadway infrastructure or capacity of the land to support the water and wastewater needs of the development. The proposed minor subdivision will not create the need for additional public roadways or facilities. Goal 2.2 is “*Preserve the character of rural and environmentally sensitive areas*”. The proposed subdivision will keep the existing nature of the area intact. The five-acre lot density has reduced impact on environmental conditions. Density and land use are compatible with the surrounding area and the natural features of the site will remain preserved, even with the addition of one more residence on the site. The private driveway to be used for accessing Lot 2, will have minimal impact on the existing terrain.

No new public roads are proposed with this subdivision since access for these lots will be from the proposed private driveway from Black Forest Road. A proposed driveway access along the south side of Lot 1 will provide access for proposed Lot 2. The advantage of private driveways is lot access is provided while eliminating the need for additional access points and additional public or private roadways.

The proposed subdivision is in compliance with the **2045 Major Transportation Corridors Plan (MTCP)**. Currently, the major road east of the site, Black Forest Road, is a public paved two-lane road and classified as a Rural Minor Arterial in the 2045 Major Transportation Corridors Plan. The proposed two lot subdivision will not significantly impact the traffic on these roadways.

The proposed minor subdivision is in compliance with the **Parks Master Plan**, which does not call for trails or parks in the site. Any required park fees will be paid at the time of plat recording. The proposed subdivision is also in compliance with the Master Plan for Mineral Extraction and the severed mineral right owners for this property have been notified.

The proposed subdivision is in compliance with the **El Paso County Water Master Plan (2019)**. The District Court, Water Division 1 Colorado, has decreed certain water rights and approved a plan for augmentation as necessary to allow use of the existing well (Permit No. 215326) and for the drilling of a second well for the subdivision in Case No. 24CW3038 recorded under reception number 224083006 of the records of El Paso County. The provision of sufficient water quantity is allowed by the decree and Plan for Augmentation. Water quality is demonstrated by the testing results contained in the Water Resources Report for this project. Water Supply Dependability will be a incorporated in the existing and proposed well facilities to be administered under approved State of Colorado Well Permits. The owner seeks a finding of sufficiency from the Colorado Division of Water Resources and El Paso County Board of County Commissioners along with the eventual granting of one additional well permit based on the decreed water rights. The proposed water demand for the site is 1.566 acre-feet per year for a total usage of 469.8 acre-feet over a 300 year period.

Berkheimer Subdivision Filing No. 1 is located within Region 2 in the Water Master Plan. The region is located north of Colorado Springs and generally along the I-25 corridor, including the Tri-Lakes area and to the east boundary at Vollmer Road. The site is not located in a 2040 or 2060 designated Growth Area as determined in the Water Master Plan which predicts low-density developments being expected by 2040 for both the north and south sides of Hodgen Road, along the Highway 83 corridor. The Water Master Plan contains estimates of the demands and available supply by region at the years 2019, 2040 and 2060 Build-Out. The 2019/2040/2060 demands in Region 2 are estimated to be 7,532 acre-feet per year, 11,713 acre-feet per year, and 13,254 acre-feet per year, respectively. The 2019/2040/2060 supplies in Region 2 are estimated to be 13,607 acre-feet per year, 20,516 acre-feet per year, and 20,756 acre-feet per year, respectively, indicating a surplus of supply for the region at each time. A significant portion of the supply is derived from non-renewable Denver Basin groundwater.

According to the Water Master Plan, water providers within region 2 include Woodmoor WSD, Donala WSD, Triview MD, Town of Monument, Town of Palmer Lake, Forest View Acres WD, Academy WSD, Walden WSD, Park Forest WD, Forest Lakes MD, Palmer

Lake Mobile Home Ranch, Grandview MHP, Pioneer Lookout WD, Elephant Rock MHP, Peak Shadow, and Pinon Pines MD. The Region 2 Expected Growth Areas Map provided in the WMP shows that the subject site and its immediate surroundings are not currently located in any *estimated area of development* or within any *district boundaries*.

A listing of some of the policies of the Water Master Plan that are supported by the proposed development follow: *Policy 4.1.3 – Support enhanced monitoring of sources of surface and tributary groundwater in the County*. The referenced decree requires use of metering for the wells to insure compliance with the terms of the permit; *Policy 6.2.1.2 – Encourage re-use of treated wastewater for irrigation and other acceptable uses when feasible*. Both the existing residence and the new single-family residences on all proposed lots will utilize onsite wastewater treatment systems which will provide “Return Flows” to the environment as a condition of the groundwater findings and order and the well permit.

- 2) *The subdivision is in substantial conformance with the approved preliminary plan.*

This is a proposed Minor Subdivision and requires no Preliminary Plan for approval. The subdivision will be developed in accordance with the currently proposed land use applications.

- 3) *The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.*

The proposed Minor Subdivision is prepared in accordance with applicable subdivision design standards. No public improvements are required for this subdivision.

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

Water service is to be provided by individual on site wells operated under a State approved Water Augmentation Plan.

- 5) *A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of this Code.*

Wastewater is intended to be treated via individual on site septic systems designed, constructed and operated under State and County Health Department rules and regulations and in accordance with the Groundwater Determination or future water decree.

- 6) *All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)].*

A soils report has been prepared for the site and the owner will comply with the recommendations of the report. Areas were encountered where the geologic conditions will impose some constraints on development and land use. These include potentially

expansive soils, downslope creep, areas of potential seasonally shallow groundwater, shallow bedrock and potential for elevated radon levels. Locations of On-site Wastewater Treatment Systems (OWTS) and structures can be mitigated through proper engineering design. In proposed Lot 2, there is a proposed drainage easement which will protect any development within potential drainageways. Based on the proposed minor subdivision, it appears that these areas will have minor impacts on the development. These conditions are discussed in further detail in the Soil, Geology, and Geologic Hazard Study produced by Entech Engineering, Inc.

- 7) *Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM.*

The proposed minor subdivision is consistent with the submitted Final Drainage Report. There are no Drainage facilities needed or proposed with this development at this time. The owner will comply with the requirements of the drainage report.

- 8) *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 existing access location for the site is from Black Forest Road, on the east side of proposed Lot 1. The proposed access point for both of the proposed lots is along the south side of the subdivision which is to be facilitated by a private access easement through Lot 1. A maintenance agreement is being established to facilitate use and maintenance of the common access easement.

- 9) *Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.*

The site is located within the jurisdiction of the El Paso County Sheriff's Office. The Sheriff's office currently provides police protection for the site and surrounding area. Berkheimer Subdivision Filing No. 1 is located within the Black Forest Fire Protection District which is providing fire protection for the currently platted site. Water and sanitary sewer provisions are discussed above. The property is located within the service areas of Academy School District 20 and Mountain View Electric Association, which will serve the subdivision. Transportation is being facilitated by the existing adjacent roadway system.

- 10) *The Minor Subdivision plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code.*

Berkheimer Subdivision Filing No. 1 is located within the Black Forest Fire Protection District which provides fire protection for the site and the surrounding area. Building permits for each structure shall be in accordance with the requirements of the Fire District as administered by the Pikes Peak Regional Building Department.

- 11) *Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8.*

All offsite impacts are determined to be insignificant with the addition of one residence. The owner(s) will be responsible to pay park, school, drainage and Traffic Impact fees.

- 12) Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.

There are no public facilities or infrastructure required or proposed for this subdivision. The platting of the site will include the collection of the applicable School Fees, Park Fees and Traffic Impact Fees due for this project.

- 13) The subdivision meets other applicable sections of Chapter 6 and 8.

Upon approval of a waiver to the LDC section 8.4.3 (B) stating “Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to waiver granted under Section 8.4.4 (E)”, the subdivision will meet the requirements of the Land Development Code. The subdivision is in accordance with the Land Development Code with respect to zoning, lot size, building setbacks, provision of utilities and storm drainage. The waiver is requested with this application to allow access by one common private driveway for the two proposed lots. The code allows up to three lots to access one driveway, however the waiver is needed to address the lack of road frontage on Black Forest Road for proposed Lot 2. The waiver is more fully discussed below.

- 14) *The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et seq.].*

There are no Mineral estate owners found for this site.

Requested Waiver:

As previously mentioned, a waiver from LDC section 8.4.3.B.2.e is requested. The provision requires that “Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC”. Proposed Lot 2 will gain access by way of the proposed driveway which is located on the south side of proposed Lot 1, within a private access as shown on the Plat. The responsibility and maintenance of said access shall be carried out as described in a separate private access maintenance agreement.

The proposed driveway will run along the south portion of the parcel. Since the Land Development Code allows access for up to three lots from one private driveway, it is most practical for proposed Lot 2 to obtain access by a single drive, rather than extending a public roadway into the site. The arrangement eliminates the need for additional public right-of-way and additional public maintenance to serve the two large lot rural residential single family lots. Private access drives, coupled with private maintenance agreements have been shown to be effective and efficient modes of access for up to three lots within the county. The driveway will also have a much diminished impact on the natural terrain and landscape of the site compared to a public or private roadway which would be much larger land dedication and require far more disturbance than a smaller private driveway.

Each criteria for approval of waivers as stated in section 7.3.3 of the El Paso County Land Development Code (2021) is listed below followed by the appropriate justification.

- 1) *The waiver does not have the effect of nullifying the intent and purpose of this code; The request for a waiver of the LDC section 8.4.3 (B) does not go against the intent and purpose of this code.*

This request is in line with the requirements set forth in the LDC, and the shared driveway will comply with all applicable design standards.

- 2) *The waiver will not result in the need for additional subsequent waivers;*

With the approval of this waiver the lots will each be provided the required access necessary for their development. There will be no need for additional waivers as all applicable requirements of the El Paso County Land Development Code will be met.

- 3) *The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;*

The proposed shared driveway will be constructed to provide safe and reliable access to each lot on the site. The responsibility and maintenance of said driveway shall be carried out as described in a private access maintenance agreement. The driveway will not pose a threat to the public safety, health, or welfare, nor will it be injurious to any other property.

- 4) *The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;*

Because proposed Lot 1 and proposed Lot 2 are adjacent to each other and does not contain more than three lots, a single driveway may be used to provide access to the entire site in lieu of a public road.

- 5) *A particular non-economical hardship to the owner would result from a strict application of this code;*

With strict application of this code, the subdivision would be required to access by a public roadway in a 60-foot right-of-way constructed to El Paso County standards. The public road would significantly increase disturbance of the natural terrain and forest as well as the impervious area of the site while increasing the maintenance responsibility of the county.

- 6) *The waiver will not in any manner vary the zoning provisions of this code;*

The proposed shared driveway will comply with all zoning provisions of this code.

- 7) *The proposed waiver is not contrary to any provision of the master plan;*

The proposed shared driveway is in harmony with the goals of the master plan with regard to preserving place type characteristics and preserving natural features.

Existing and Proposed Facilities:

There are no required public subdivision improvements required for this site.

Total Number of Residential Units And Densities:

The gross area of Berkheimer Subdivision Filing No. 1 is 13.686± acres and the site is proposed to contain two (2) single-family residential units. The average lot size for the 2 proposed lots is 5.00± acres. The gross density of the site is 0.146 units per acre.

Fire Protection:

The Berkheimer Subdivision Filing No. 1's property is located within the Black Forest Fire Protection District. The fire district already serves the property. The lots and homes are subject to the codes and policies adopted by the said District regarding fire protection.

Proposed Access Locations:

The existing access location for the site is from Black Forest Road, on the east side of proposed Lot 1. The proposed access point for both of the proposed lots is along the east side of the subdivision which is to be facilitated by a private access easement through Lot 1. A maintenance agreement is being established to facilitate use and maintenance of the common access easement.

Traffic Impact and Traffic Impact Fees:

For all proposed lots, there will be one existing and one proposed single family residential unit with access to Black Forest Rd. Referencing Appendix B, Section B.1.2.D, this proposed development meets the criteria for not requiring a Traffic Impact Study as follows:

Vehicular Traffic Summary

- 1) Daily vehicle trip-end generation is less than 100 or the peak hour trip generation is less than 10;

The development is expected to generate a total of 19 trips per day based on 9.44 trips per unit for Single Family Detached Housing (Average weekday trips ends), 1.50 trips in the peak AM Hour (0.75 trips/unit for peak AM traffic), and 2 trips in the peak PM hour (1.00 trips/unit for peak PM traffic) according to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers. This number of trips is below the County threshold of 100 trips per day or 10 trip

- 2) there are no additional proposed minor or major roadway intersections on major collectors, arterials, or State Highways;

There are not any proposed minor or major roadway intersections on major collectors, arterials, or State Highways. Proposed Lot 1 will have immediate access to Black Forest Road via an existing gravel driveway. Proposed Lot 2, will access Black Forest Road through a portion of land on the south side of Lot 1.

- 3) the increase in the number of vehicular trips does not exceed the existing trip generation by more than 10 peak hour trips or 100 daily trip ends;

The increase of one (1) lot in the proposed development is expected to generate a total of 10 trips per day based on 9.44 trips per unit for Single Family Detached Housing (Average weekday trips ends), 0.75 trips in the peak AM Hour (0.75 trips/unit for peak AM traffic), and 1 trips in the peak PM hour (1.00 trips/unit for peak PM traffic) according

to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers. This number of trips is below 10 peak hour trips.

- 4) the change in the type of traffic to be generated (i.e., the addition of truck traffic) does not adversely affect the traffic currently planned for and accommodated within, and adjacent to, the property;

Due to the nature of single family homes, trip generation is likely to include going to work, taking children to school, shopping, local deliveries and service providers, and running various errands. Additional truck traffic is not anticipated as a normal occurrence.

- 5) acceptable LOS on the adjacent public roadways, accesses, and intersections will be maintained;

The addition of 1 more single family, rural, residence is not anticipated to alter the current Level of Service and the LOS shall be maintained.

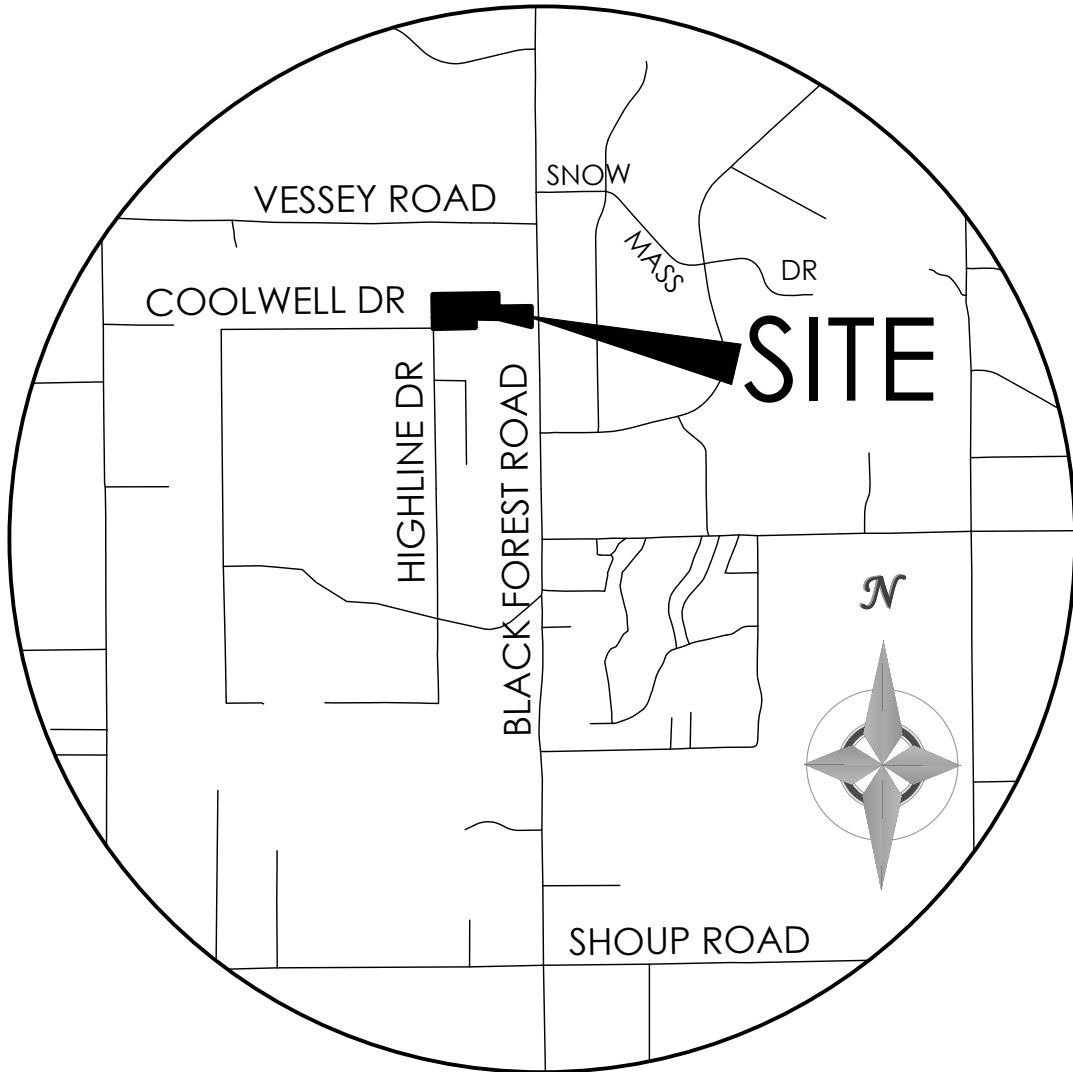
- 6) no roadway or intersection in the immediate vicinity has a history of safety or accident problems;

This proposed development shall be connected to the existing paved road, "Black Forest Road." The access point to Black Forest Road has no sight obstructions. Due to the addition of such a low volume of traffic, a higher incidence of accidents is unlikely.

- 7) there is no change of land use with access to a State Highway.

The land use will continue to be zoned as Resident Rural-5 acre and this site does not directly access a State Highway.

Traffic Impact Fees: This development is subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 19-471. The owners have elected to not be included in any Public Improvements District. Traffic Impact Fees will be paid at time of building permit.



VICINITY MAP

NOT TO SCALE