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

## SUMMARY MEMORANDUM

TO: El Paso County Board of County Commissioners  
FROM: Planning & Community Development  
DATE: 5/9/2024  
RE: SF2324 Hay Creek Valley

### Project Description

A request by View Homes, Inc. for approval of a Final Plat for the Hay Creek Valley Subdivision to create 20 single-family residential lots and 3 tracts. The site is 214.62 acres, zoned RR-5 (Residential Rural) 5-acre minimum lot size. The item was heard on the called-up consent agenda at the April 18, 2024, Planning Commission Hearing. Members of the public spoke in opposition to the proposed Final Plat. The Final Plat application was recommended for denial by the Planning Commission with a vote of 3-5. The property is currently improved with a single-family residence, which will remain on a lot in the western portion of the project. The subject property is located south of the Town of Monument, adjacent to Hay Creek Road (Parcel Nos. 7100000267, 7100000268, 7100000269, 7100000270, 7133000001, & 7133007014) (Commissioner District No. 3)

### Notation

Please see the Planning Commission Minutes for a complete discussion of the topic and the project manager's staff report for staff analysis and conditions.

### Planning Commission Recommendation and Vote

Ms. Brittain Jack moved / Mr. Schuettpelez seconded for approval, for the Final Plat, utilizing the resolution attached to the staff report, with ten (10) conditions, two (2) notations, and a recommended finding of sufficiency with regard to water quality, quantity, and dependability, that this item be forwarded to the Board of County Commissioners for their consideration. The motion was **denied (3-5)**. The item was heard as a called-up consent agenda item.

### Discussion

Discussion was primarily focused on the waiver requests that were previously approved with the Preliminary Plan. The Board of County Commissioners approved the Preliminary Plan on October 12, 2023, authorizing the design standards within Chapter 8 of the Land Development Code. Members of the public were also present during the meeting and spoke in regards to Chapter 8 of the Land Development Code, specifically more than 25 lots on a dead-end road needing to provide a second means of access. The Planning Commission Members felt fire safety, regarding ingress and egress, was not met.

### Attachments

1. Planning Commission Minutes from 4/18/2024.
2. Signed Planning Commission Resolution.
3. Planning Commission Staff Report.
4. Public Comment.
5. Draft BOCC Resolution.

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## **EL PASO COUNTY PLANNING COMMISSION**

### **MEETING RESULTS (UNOFFICIAL RESULTS)**

Planning Commission (PC) Meeting  
Thursday, April 18, 2024  
El Paso County Planning and Community Development Department  
2880 International Circle – Second Floor Hearing Room  
Colorado Springs, Colorado

#### **REGULAR HEARING, 9:00 A.M.**

**PC MEMBERS PRESENT AND VOTING:** SARAH BRITTAIN JACK, JAY CARLSON, BECKY FULLER, BRANDY MERRIAM, KARA OFFNER, BRYCE SCHUETTELPELZ, TIM TROWBRIDGE, AND CHRISTOPHER WHITNEY.

**PC MEMBERS VIRTUAL AND VOTING:** NONE.

**PC MEMBERS PRESENT AND NOT VOTING:** NONE.

**PC MEMBERS ABSENT:** THOMAS BAILEY, JIM BYERS, JEFFREY MARKEWICH, ERIC MORAES, AND WAYNE SMITH.

**STAFF PRESENT:** MEGGAN HERINGTON, JUSTIN KILGORE, KYLIE BAGLEY, JOE LETKE, RYAN HOWSER, ASHLYN MATHY, DANIEL TORRES, ED SCHOENHIET, MIRANDA BENSON, AND LORI SEAGO.

**OTHERS PRESENT AND SPEAKING:** RICHARD SMITH, JEFF PARR, LORNA BENNETT, PHILLIP DREW, MICHAEL HITE, KELLY PARR, AND ROGER LUND.

#### **1. REPORT ITEMS (NONE)**

The next PC Hearing is Thursday, May 2, 2024, at 9:00 A.M.

#### **2. CALL FOR PUBLIC COMMENT FOR ITEMS NOT ON THE HEARING AGENDA (NONE)**

#### **3. CONSENT ITEMS**

##### **A. Adoption of Minutes** for meeting held March 21, 2024.

**Mr. Whitney** disclosed that he requested one revision, which was incorporated.

**PC ACTION: THE MINUTES WERE APPROVED WITH ONE REVISION BY UNANIMOUS CONSENT (8-0).**

**B. VR2316**

**MATHY**

**VACATION AND REPLAT  
BENT GRASS REPLAT**

A request by Virgil Sanchez for approval of a 1.46-acre Vacation and Replat creating 2 commercial lots. The property is zoned CS (Commercial Service) and is located at 8035 Meridian Park Drive, south of the intersection of Bent Grass Meadows Drive and Meridian Park Drive. (Parcel No. 5301104002) (Commissioner District No. 2)

**NO PUBLIC COMMENT OR DISCUSSION**

**PC ACTION: MR. TROWBRIDGE MOVED / MS. BRITTAIN JACK SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3B, FILE NUMBER VR2316 FOR A VACATION AND REPLAT, BENT GRASS REPLAT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SEVEN (7) CONDITIONS, ONE (1) NOTATION, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).**

**C. CS241**

**HAAS**

**MAP AMENDMENT (REZONING)  
7125 N MERIDIAN ROAD REZONE**

A request by CAP Storage Falcon, LLC for approval of a Map Amendment (Rezoning) of 2.13 acres from CR (Commercial Regional) to CS (Commercial Service). The property is located approximately one-quarter mile south of East Woodmen Road on the northwest corner of Old Meridian Road and McLaughlin Road. (Parcel No. 5312114004) (Commissioner District No. 2)

**NO PUBLIC COMMENT**

**DISCUSSION**

**Ms. Merriam** asked for an explanation of the difference between CR and CS zoning districts.

**Ms. Mathy**, who was assigned the project following Mr. Haas' resignation, explained that the applicant is requesting a rezoning to CS (Commercial Service) so they can proceed with the establishment of a mini-warehouse storage facility. The process would be more difficult under its current zoning of CR (Commercial Regional).

**Mr. Carlson** asked for the definitions of each zoning type.

**Mr. Kilgore** stated he put the definitions in the Staff Report packet, found on page 4.

**Ms. Mathy** explained that CR (Commercial Regional) is for regional centers and should ease use of pedestrian and vehicular circulation, serve as a convenience to the public, and should be an esthetic enhancement to the community and region. CS (Commercial Service) is meant to accommodate retail, wholesale, and services of commercial use to the public. Overall, the CS zoning is more suitable to the applicant's intention to establish a mini-warehouse.

**PC ACTION: MS. FULLER MOVED / MR. SCHUETTEL SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3C, FILE NUMBER CS241 FOR A MAP AMENDMENT (REZONING), 7125 N MERIDIAN ROAD REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH ONE (1) CONDITION AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).**

**D. CS235**

**BAGLEY**

**MAP AMENDMENT (REZONING)  
16050 OLD DENVER ROAD REZONE**

A request by Vertex Consulting for approval of a Map Amendment (Rezoning) of 8.07 acres from RR-5 (Residential Rural) to CS (Commercial Service). The property is located at 16050 Old Denver Road, one-half mile north of the intersection of Baptist Road and Old Denver Road. (Parcel No. 7126004010) (Commissioner District No. 3)

**PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER MR. WHITNEY.**

**E. SF2324**

**BAGLEY**

**FINAL PLAT  
HAY CREEK VALLEY SUBDIVISION**

A request by View Homes, Inc. for approval of a Final Plat for the Hay Creek Valley Subdivision to create 20 single-family residential lots and 3 tracts. The site is 214.62 acres, zoned RR-5 (Residential Rural) 5-acre minimum lot size, and is located south of the Town of Monument, adjacent to Hay Creek Road. The property is currently improved with a single-family residence, which will remain on a lot in the western portion of the project. (Parcel Nos. 7100000267, 7100000268, 7100000269, 7100000270, 7133000001, & 7133007014) (Commissioner District No. 3)

**PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER MR. WHITNEY.**

**F. SP238**

**BAGLEY**

**PRELIMINARY PLAN  
OVERLOOK AT HOMESTEAD PRELIMINARY PLAN**

A request by NES for approval of a Preliminary Plan consisting of 346.55 acres to create 62 single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located one-half mile north of the intersection of Elbert Road and Sweet Road, and one-half mile south of the intersection of Elbert Road and Hopper Road. (Parcel Nos. 4100000255, 4100000256, and 4122000005) (Commissioner District No. 2)

**PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER MS. MERRIAM.**

**G. CS234**

**LETKE**

**MAP AMENDMENT (REZONING)  
MAYBERRY FILING NO. 2A CS REZONE**

A request by Mayberry Communities, LLC for approval of a Map Amendment (Rezoning) of 1 acre from PUD (Planned Unit Development) to CS (Commercial Service). A concurrent Vacation and Replat is also being requested (VR2323). The property is located on the south side of Colorado State Highway 94, approximately 2 miles east of the intersection of Highway 94 and Peyton Highway. (Parcel Nos. 3414201031 and 3414201030) (Commissioner District No. 4)

**NO PUBLIC COMMENT**

**DISCUSSION**

**Ms. Merriam** asked if the two Mayberry files (CS234 & VR2323) had a combined staff report. She further asked if they would be voted on individually.

Mr. Trowbridge explained that they are related but considered individually.

Mr. Carlson further explained that the Rezoning request must be considered before the Final Plat.

**PC ACTION: MR. TROWBRIDGE MOVED / MS. OFFNER SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3G, FILE NUMBER CS234 FOR A MAP AMENDMENT (REZONING), MAYBERRY FILING NO. 2A CS REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).**

H. VR2323

LETKE

**VACATION AND REPLAT  
MAYBERRY FILING NO. 2A**

A request by Mayberry Communities, LLC for approval of a Vacation and Replat to reconfigure the properties of 1 tract, 3 lots, and dedication of right-of-way on approximately 3.5 acres. The proposal does not increase the number of lots or tracts on the property. Approval of the Map Amendment (Rezoning) CS234 shall be considered prior to consideration of the Vacation and Replat. The property is located on the south side of Colorado State Highway 94, approximately 2 miles east of the intersection of Highway 94 and Peyton Highway. (Parcel Nos. 3414101001 3414101002 3414201028, and 3414201031) (Commissioner District No. 4)

**NO PUBLIC COMMENT OR DISCUSSION**

**PC ACTION: MR. SCHUETTPELZ MOVED / MS. BRITAIN JACK SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3H, FILE NUMBER VR2323 FOR A VACATION AND REPLAT, MAYBERRY FILING NO. 2A, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SEVEN (7) CONDITIONS, TWO (2) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).**

I. PUDSP235

HOWSER

**PLANNED UNIT DEVELOPMENT / PRELIMINARY PLAN  
ROLLING HILLS RANCH NORTH**

A request by GTL, Inc. for approval of a Map Amendment (Rezoning) of 148.873 acres from a conceptual PUD (Planned Unit Development) to a site-specific PUD (Planned Unit Development) with approval of a Preliminary Plan for 441 single-family residential lots, 3 tracts, 46 acres of open space, and 24 acres of land dedicated for public right-of-way. The property is located at the eastern end of Rex Road, approximately 1.5 miles east of Meridian Road. (Parcel No. 4200000477) (Commissioner District No. 2)

**PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER MR. CARLSON.**

**4. CALLED-UP CONSENT ITEMS**

3D. CS235

BAGLEY

**MAP AMENDMENT (REZONING)  
16050 OLD DENVER ROAD REZONE**

A request by Vertex Consulting for approval of a Map Amendment (Rezoning) of 8.07 acres from RR-5 (Residential Rural) to CS (Commercial Service). The property is located at 16050 Old Denver Road, one-

half mile north of the intersection of Baptist Road and Old Denver Road. (Parcel No. 7126004010) (Commissioner District No. 3)

## **STAFF & APPLICANT PRESENTATIONS**

**Mr. Whitney** asked if Ms. Bagley could further explain the area's location and the relationship between placetype and zoning district during her presentation.

**Mr. Trowbridge** asked if Ms. Bagley could cover any impacts or encumbrances that the applicant will encounter from the non-conformance.

**Ms. Merriam** stated that her questions are associated with rezoning RR-5 to CS in the area.

**Mr. Whitney** added that he's unsure if the conditions within the Staff Report were fully captured in the drafted resolution. Ms. Bagley's presentation then began.

**Ms. Bagley** described the surrounding zoning types and uses in relation to the subject property to address Ms. Merriam's earlier question. The property west is zoned RR-5 (Residential Rural) but is used as a substation for Mountain View Electric Association (MVEA). The property north is zoned I-2 (Industrial) and is used for outside storage. Further north, the property within the Town of Monument is used for industrial and commercial services. The vacant property south is zoned A-35 (Agricultural). To address Mr. Trowbridge and Mr. Whitney's questions, she explained that the existing duplex on the property would not be allowed-by-right in the CS zoning district. She further explained that the LDC requires that duplexes be served by central services, but the existing building is served by well and septic. If the duplex is allowed to remain on the property after rezoning to CS, it would create a legal non-conformity.

**Mr. Whitney** asked if the County would typically authorize a zoning change when it would knowingly create a legal non-conformity.

**Ms. Bagley** answered that it is not typical. The County normally requests that existing uses should cease (if no longer allowed) once rezoning occurs. She further explained that this is the reason the third condition of approval in the Staff Report states that the duplex will only be allowed to remain until commercial development begins.

**Mr. Whitney** asked for clarification on whether the condition is phrased as once commercial development begins or for one year, whichever happens first.

**Ms. Bagley** read the proposed condition of approval number 3. "The existing attached single-family dwelling may continue to be utilized on the property as a residential use until commercial development occurs on the property. Development includes, but is not limited to, any construction, placement, reconstruction, alteration of the size, of a structure on land; any increase in the intensity of use of land; any change in use of land or a structure and the clearing or grading of land as an adjunct of construction." She clarified that the definition was pulled from the LDC.

**Ms. Merriam** asked for additional clarification. She asked if parking RVs, trailers, etc. on the property for outdoor storage constitutes commercial development.

**Ms. Bagley** confirmed that would be a change in use of the land and would be considered commercial development.

**Ms. Fuller** asked if the duplex could be allowed to remain after commercial development if it served on-site management.

**Ms. Bagley** answered that if the applicant were requesting the duplex serve as a caretaker's quarters, a different application would be needed with that request. She is unsure if a duplex would be allowed for that purpose.

**Ms. Herington** explained that converting the duplex to serve as a caretaker's quarters would be part of a new use on the property and would be incorporated into a Site Development Plan, which is required for outdoor storage or contractor's equipment yards. An on-site residence would need to be included as part of the overall use and be formalized in the Site Development Plan.

**Ms. Fuller** asked if the duplex not being on central services would be an issue at that point.

**Ms. Herington** responded that once the building is converted to a caretaker's quarters, it would no longer be considered two rentals. If the applicant went through the Site Development Plan process with the existing well and showed sufficient utility service to keep a caretaker's residence in their overall commercial development, there shouldn't be a problem. Utilities and infrastructure would be evaluated with any Site Development Plan for any commercial use on the site.

**Ms. Bagley** then addressed Mr. Whitney's earlier question regarding placetype. She explained that while the proposed rezone doesn't align with the Master Plan placetype of Rural, it does match the surrounding established neighborhood and existing land uses.

**Mr. Whitney** remarked that he finds it interesting how placetype trumped zoning on a past project and it's the other way around for this project.

The presentation then continued. There were no questions for Engineering. Ms. Nina Ruiz, with Vertex Consulting Services, then began her presentation for the applicant. There were no questions for the applicant.

## **NO PUBLIC COMMENTS OR FURTHER DISCUSSION**

**PC ACTION: MS. MERRIAM MOVED / MR. WHITNEY SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3D, FILE NUMBER CS235 FOR A MAP AMENDMENT (REZONING), 16050 OLD DENVER ROAD REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH THREE (3) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).**

**3E. SF2324**

**BAGLEY**

### **FINAL PLAT HAY CREEK VALLEY SUBDIVISION**

A request by View Homes, Inc. for approval of a Final Plat for the Hay Creek Valley Subdivision to create 20 single-family residential lots and 3 tracts. The site is 214.62 acres, zoned RR-5 (Residential Rural) 5-acre minimum lot size, and is located south of the Town of Monument, adjacent to Hay Creek Road. The property is currently improved with a single-family residence, which will remain on a lot in the western portion of the project. (Parcel Nos. 7100000267, 7100000268, 7100000269, 7100000270, 7133000001, & 7133007014) (Commissioner District No. 3)

## **STAFF & APPLICANT PRESENTATIONS**

**Ms. Merriam** asked for clarification of the location. She stated combining then subdividing the 6 existing parcels seemed awkward. She also mentioned the traction of the roads. She expressed concern regarding its nearness to USAFA property and asked if air quality would be affected.

**Mr. Whitney** added that he is concerned about this project's relationship to the nearby military installation. The subject property is right off Jacks Valley where artillery training takes place. He understands that the County doesn't have the jurisdiction to deter development close to military property, but he wanted the record to show, "this is nuts". He believes there *should* be interplay between military installations and land-use proposals, even if it's not part of the LDC criteria. He referenced the presentation given to the Planning Commission on March 21, 2024, by the Defense Mission Task Force. He stated, "this is scary". Plat notes may be effective for the first sale, but he worries about property owners in the future that may have no idea what they bought and where it's located. He stated that because the military is not allowed to complain, they may make a mild comment or remark which can be interpreted as them standing on a desk and shrieking. He then asked if the Air Force Academy (USAFA) submitted a review comment for the project.

**Ms. Bagley** replied that they did submit a comment with the past Preliminary Plan, which has since been approved by the BoCC. They requested a plat note and suggested that advisory language should be included in the HOA covenants so that future owners are aware of the proximity to a military installation and shooting range. They were also present at the EA meeting.

After a break for technical difficulties, the presentation began.

**Ms. Bagley** presented a GIS map to further explain the vicinity per Ms. Merriam's earlier request.

**Ms. Merriam** asked about potential emergency evacuation on the single existing road in the event of a grassfire from a small plane crash, for example.

**Ms. Bagley** referenced the GIS map to show the nearby roads. A 60-foot-wide private road will service the proposed lots. That road would connect to Hay Creek Road through an access easement that goes through an adjacent property. In a larger context, she zoomed out to show that Hay Creek Road serves multiple lots to the west. The LDC states dead-end roads should not serve more than 25 lots and a second access should be available, but Hay Creek Road does not meet that section of the Code. The fire department was notified of the proposal.

**Ms. Fuller** asked for clarification regarding ownership of the property per the Assessor's Office and who was listed as the applicant on the Staff Report.

**Ms. Bagley** deferred to the applicant to explain if ownership had changed because she would have entered the name listed on the application into her Staff Report.

**Mr. Jason Alwine**, with Matrix Design Group, spoke online representing the applicant. He suggested it may be a clerical error.

**Mr. Tim Buschar**, with COLA, LLC, spoke representing the applicant. He explained that Mr. Fitzgerald previously owned the property, but Mr. O'Leary is the current owner and applicant.

**Ms. Fuller** stressed the importance of having the correct applicant information.

**Ms. Bagley** ensured that the application will be checked and if the current owner's signature is needed, it will be obtained prior to the BoCC hearing. The applicant's presentation then began. There were no questions for the applicant.

## **PUBLIC COMMENTS**

**Mr. Richard Smith** spoke in opposition. He read verbatim from a printed letter which was handed to the Planning Commission during the hearing and has been uploaded as part of the record. Titled "Public Comment - Multiple Neighbors, read at the hearing - Received 4-18-2024. MB" in EDARP.



**Mr. Jeff Parr** spoke in opposition. He continued reading verbatim from the letter.

**Ms. Lorna Bennett** spoke in opposition. She continued reading verbatim from the letter.

**Mr. Phillip Drew** spoke in opposition. He discussed encroachment on military installations. He then read verbatim from the remainder of the letter. He doesn't believe analysis of the proposal has been complete regarding encroachment on the military training location or the potential fire risk to existing residents.

**Mr. Michael Hite** spoke in opposition. He stated that there were only 12 houses in his subdivision on Hay Creek Road in 1981. He was not advised of a waiver being obtained for the 25-house limit on a dead-end road. He discussed his experience during a past fire in the area. He is very concerned about all existing residents needing to evacuate from the valley at the same time.

**Ms. Kelly Parr** spoke in opposition. She referenced the GIS image on the screen and pointed out the location of the military firing range in relation to the proposed subdivision. She discussed the potential noise and danger to future residents.

## **DISCUSSION**

**Ms. Brittain Jack** remarked that while she has toured USAFA and hears the encroachment concerns from the public, which she is also concerned about, the people opposing the current subdivision live in that same area and bought land close to the military installation.

**Mr. Whitney** asked about the fire department's response to review comments.

**Ms. Bagley** read the fire district's review comment, which is part of the record on EDARP.

**Ms. Herington** reminded the Chair that the applicant should be given time for rebuttal after the public comments were made.

**Mr. Whitney** asked for clarification regarding the public's assertion in the letter that there has been no waiver granted to exceed 25 properties on a dead-end road.

**Ms. Bagley** answered that the waiver was approved with the Preliminary Plan by the BoCC.

**Mr. Whitney** asked for verification from Ms. Seago. If a waiver is approved at the Preliminary Plan stage, would that carry over to the Final Plat stage?

**Ms. Seago** confirmed that would be correct.

**Ms. Bagley** explained that 2 waivers were requested and approved. One was a modification to allow private roads instead of public roads. The second was a waiver from LDC 6.3.3.C, which would allow one access point where two are required. She stated the fire district was agreeable to the waiver.

**Mr. Carlson** asked if the waivers were for Hay Creek Road.

**Ms. Bagley** replied that the waivers only apply to the proposed subdivision being added to Hay Creek Road.

**Mr. Carlson** then stated that the entire area doesn't meet the criteria anyway.

**Ms. Bagley** continued to explain that the proposed subdivision would increase the number of lots that access Hay Creek Road.

**Mr. Carlson** clarified that the private road wouldn't need that waiver because they're adding less than 25 lots on a dead-end road.

**Ms. Bagley** agreed, but further clarified that the waiver would only apply to the proposed subdivision adding more lots, not additional subdivisions off Hay Creek in the future. Any future subdivision request would also need to pursue those waivers. The approved waiver is not a blanket waiver for all development on Hay Creek Road.

**Ms. Fuller** clarified that the land is zoned RR-5 and they are proposing to split it into 5-acre lots or greater, which is allowed-by-right. She's not concerned about that aspect. She then asked what protection current residents have from this road greatly exceeding the number of lots allowed on a dead-end road. She mentioned the safety concern in case of fire for the residents further west. From previous discussion, it seems like the waiver didn't deal with Hay Creek Road.

**Ms. Bagley** explained that the waiver does deal with Hay Creek Road with regard to the proposed subdivision adding lots onto the dead-end road. It is not a blanket waiver for all of Hay Creek Road that would allow lots to be added anywhere, it is specifically allowing the proposed subdivision.

**Ms. Fuller** understood and further asked if other larger parcels along the road would need to pursue the same waiver if they were to propose subdivisions.

**Ms. Bagley** confirmed. They would need to request a waiver, which would be considered by the Planning Commission (PC) and receive final determination by the Board of County Commissioners (BoCC). She confirmed that the Planning Department did express concerns about adding parcels onto Hay Creek Road, however, the waiver has already been approved for the proposed subdivision.

**Mr. Carlson** reiterated that while concerning, the waiver has already been approved.

**Ms. Bagley** clarified that the discussion from an EA meeting that was read into the record by the public (in the provided letter) was regarding a different property further along Hay Creek Road.

**Mr. Whitney** asked how they continue to get waivers if the road is already out of compliance?

**Ms. Bagley** stated she is unsure if waivers were requested for the previously subdivided lots.

**Mr. Whitney** clarified that he's worried each project is being evaluated on its own when the overall area is out of compliance.

**Ms. Bagley** replied that when the Preliminary Plan was reviewed, the whole area, including Hay Creek Road, was evaluated. The applicant went forward with a request for the waiver. The PC recommended approval and the BoCC approved the waiver.

**Ms. Fuller** asked if more development can be approved with additional waivers in the future. She asked what is protecting the existing residents from that happening. She asked for an explanation of the process the residents would need to go through to advocate for themselves (contacting PCD staff or their county representatives, etc.).

**Ms. Bagley** explained that the LDC outlines what requirements need to be met. Sections of chapters 6, 7, and 8 can be waived via approval by the BoCC. If people are opposed to waiving those sections of the Code, they should send an email to the project manager (planner) during the

application review period. The planner's contact info is on the "Notice of Application" letter mailed to all property owners within 500 feet. Additional mailed notices are sent and posters are placed on the property to notify neighbors of a scheduled public hearing.

**Mr. Carlson** reiterated that if people opposed the waiver that was granted, they should have contacted the Planning Department or spoken at the public hearing for the Preliminary Plan.

**Ms. Bagley** confirmed.

**Ms. Herington** added that Planning Department staff does not advocate for a project, they advocate for the public process from notification through public hearing. Staff will ask an applicant to hold a neighborhood meeting if there is known opposition. Moving forward, potential applicants in the area will be asked to hold a neighborhood meeting.

**Ms. Fuller** asked if there was opposition present for the Preliminary Plan.

**Ms. Bagley** answered that she was not the project manager for that application, but she was at the meeting and she remembers there was one person in opposition.

**Mr. Trowbridge** asked for the criteria of approval to be presented. He asked for staff or the applicant to address how the proposal meets: "The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code;". He mentioned the traffic load for the entire Hay Creek Road. He stated he finds it hard to believe the waiver they were granted is sufficient.

**Ms. Seago** recommended that the applicant answer that question. She also reminded the Chair that the applicant should be allowed to speak in rebuttal.

**Mr. Alwine** reiterated that the proposal is for a Final Plat to enact what was already approved. He can't speak to traffic concerns caused by other projects. He stated the applicant has done several things to meet the fire protection criteria, including meeting with the fire district. He stated they are meeting the fire district's criteria regarding the type, size, and location of a fire suppression cistern. They had a fire mitigation report reviewed and approved prior to the Preliminary Plan that holds the applicant to certain criteria at the time of building permits. The fire district reviewed the proposal and provided letters of no concern. A traffic report was submitted to El Paso County as part of the Preliminary Plan process and there were no concerns other than the design of the Hay Creek intersection. He mentioned that the applicant will have to pay PID impact fees. He stated that while the proposal is for 20 lots, there are already 6 in existence, so it's a net increase of 14 homes. Because they have an approved fire protection report, he believes they've done their due diligence to provide responses and meet the criteria and waiver requirements. He stated that they met with USAFA and have an avigation easement recorded. The applicant is required to disclose that USAFA and Jacks Valley are present.

**Mr. Buschar** added that the applicant has met with USAFA. The new avigation easement recorded with the Preliminary Plan is geared towards Jacks Valley to address fumes, pyrotechnics, the shooting range, etc. That information will also be in a plat note, in the CC&Rs, recorded on the title work, and in an addendum to the future purchase agreements. Regarding the conservation easement purchased with DOD funds that was mentioned, a meeting was held. They did not request a buffer, nor did they request to purchase the property. He stated helicopters, not airplanes, fly over the subject property between June and July. Thunderbird flyovers happen occasionally. He stated that some existing residents enjoy the noise and proximity to the military installation. When learning that the applicant has proposed less lots than they could have with the

existing RR-5 zoning, USAFA was pleased. He stated since the beginning of this process, they knew impacts from fire were going to be an issue and they've been working with the Fire Chief. What was requested, and what the applicant is providing, is a 33,000-gallon cistern for the valley. It was also mentioned that the fire district, USAFA, and the National Forest Service would respond in case of a fire. The recommended fire mitigation has already been completed on-site by removing mistletoe from 1.6 acres. When people/builders select home sites, they will be responsible for fire mitigation for their properties before building permits are released.

**Mr. Carlson** asked for an explanation of fire evacuation issues related to Hay Creek Road.

**Mr. Alwine** reiterated that the applicant has submitted a fire protection report and a traffic study. He does not recall direct comments with evacuation concerns coming up.

**Mr. Buschar** added that the fire department was happy a water source would be brought in. He stated many of the homes may remain vacant for parts of the year as the buyer market often has multiple homes. He also clarified that the application was submitted by View Homes and has Mr. O'Leary's signature.

**Ms. Bagley** stated she was checking if there were any outstanding comments on the fire report.

**Mr. Carlson** asked if evacuation was addressed in LDC chapter 6.

**Ms. Bagley** answered that the chapter says emergency access should be granted for evacuation.

**Ms. Fuller** stated the discussion touched on the criteria of approval, "Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision...". The PC is asking about the subdivision's access to Hay Creek Road. She asked if off-site impacts (adding net 14 lots to an already overburdened road) had been addressed by the applicant or in the application.

**Mr. Carlson** stated they were given a waiver.

**Mr. Buschar** stated the applicant is not responsible for making any improvement to Hay Creek Road other than the intersection. There are no other improvements required from the applicant as the road has the capacity for increased traffic.

**Mr. Whitney** asked for more information about the discussion with the conservation group regarding a buffer zone.

**Mr. Buschar** answered that it took place during the Preliminary Plan stage. They came down, discussed options, but never made an offer to the applicant for a buffer. He thinks that when they saw the final subdivision would only consist of 20 lots as opposed to the 40 allowed by zoning, they were less concerned. No buffer was requested. His understanding of how the process works is that a conservation easement would have been requested as a buffer zone and the applicant would have been compensated by the conservation fund for setting that land aside. The applicant is proposing smaller, 5-acre lots on the northern side of the subdivision and has larger lots on the side adjacent to USAFA. The topography would not allow houses close to the southern boundary, so that area is designated as a no-build area anyway.

**PC ACTION: MS. BRITAIN JACK MOVED / MR. SCHUETTELPELZ SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3E, FILE NUMBER SF2324 FOR A FINAL PLAT, HAY CREEK VALLEY SUBDIVISION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, THAT THIS ITEM BE FORWARDED TO**

**THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL FAILED BY A VOTE OF 3-5, RESULTING IN A RECOMMENDATION TO DENY.**

**IN FAVOR:** MS. BRITTAIN JACK, MR. CARLSON, AND MR. SCHUETTPELZ.

**IN OPPOSITION:** MS. FULLER, MS. OFFNER, MR. TROWBRIDGE, MR. WHITNEY, AND MS. MERRIAM.

**COMMENTS:**

**Ms. Merriam** thinks the aspect of safety should be revisited because Hay Creek Road does not meet current standards.

**Ms. Fuller** concurred, adding that “this is a bad situation” and it may not be the current applicant’s responsibility to fix the entire area, but this proposal would make a bad situation worse. She doesn’t think the proposal fully meets the approval criteria regarding fire and off-site impacts.

**Mr. Whitney** agreed with previous comments and further mentioned fire safety with ingress and egress. He doesn’t understand how a situation out of compliance can be allowed to continue and grow.

**Ms. Brittain Jack** explained that the applicant will provide a water cistern that the existing residents don’t currently have, so she does believe the fire impacts have been addressed.

**Mr. Schuettpelz** explained that the military property must stop somewhere. If USAFA had wanted the buffer and purchased the property, the line would just be adjacent to other houses. The applicant has mitigated future issues by advising of the property’s proximity to USAFA in multiple places. While not having secondary access is concerning, he agrees that it’s not this applicant’s responsibility to fix the whole neighborhood which has existed for some time. He reiterated that exceeding the residence limit on a dead-end road was acceptable for the residents who currently live there and spoke in opposition. He believes the applicant has done everything they can to make the situation better (with the cistern) and perhaps there could be secondary access in the future.

**Mr. Carlson** recognized the safety issue and concerns for the neighborhood. He urged the public to pay attention to notifications sent by PCD. He stated the time to oppose the project was at Preliminary Plan stage. He doesn’t recall evacuation concerns being raised during that time. He voted to recommend approval because of the waivers that were previously approved.

**\*FOLLOWING CALLED-UP ITEM 3E, MR. TROWBRIDGE WAS EXCUSED FROM THE HEARING. THERE WERE SEVEN (7) VOTING MEMBERS MOVING FORWARD.**

**3F. SP238**

**BAGLEY**

**PRELIMINARY PLAN  
OVERLOOK AT HOMESTEAD PRELIMINARY PLAN**

A request by NES for approval of a Preliminary Plan consisting of 346.55 acres to create 62 single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located one-half mile north of the intersection of Elbert Road and Sweet Road, and one-half mile south of the intersection of Elbert Road and Hopper Road. (Parcel Nos. 4100000255, 4100000256, and 4122000005) (Commissioner District No. 2)

**STAFF & APPLICANT PRESENTATIONS**

**Ms. Merriam** stated that she would like more information about drainage. She mentioned there were drainage concerns for past projects in the same area.

**Mr. Daniel Torres**, with DPW Engineering, explained that the subject property is within 4 different drainage basins, so the topography is challenging. The applicant is proposing 6 detention ponds across the site, which will be maintained by their metro district. He referred to an image on the slideshow for pond locations.

**Ms. Merriam** asked for a vicinity map that showed the proposed development with its drainage in relation to the surrounding area.

**Mr. Torres** deferred to the applicant.

**Ms. Barlow**, with N.E.S., referred to a slideshow image to explain that there is a ridgeline on the east side of the property. She explained that the drainage ponds are located where they are to capture the water before it continues to Apex Ranch.

**Ms. Merriam** clarified that the 6 ponds from the image are all for the proposed subdivision. She stated that she is asking how this drainage proposal fits in with development around it.

**Ms. Barlow** stated that there is no development to the north or east. The Reata subdivision is to the south. It is an older development and has no detention pond.

**Mr. Kofford**, with Kimley-Horn, further explained that there is no detention system in the Reata subdivision. Water flows in 4 different directions on the subject property. The proposal is maintaining historic patterns. The Apex Ranch subdivision (west) has a full-spectrum detention basin that will be downstream from 2 of the proposed ponds.

**Ms. Merriam** asked for a map. (Mr. Torres presented one.) She then asked if rains from the last few years washed out one of the roads in the area.

**Mr. Torres** replied that he is not aware.

**Ms. Marriam** asked if 6 ponds were necessary because it's on a ridge.

**Mr. Torres** answered that the number of ponds depends on the increase in flow.

**Mr. Carlson** asked for information regarding a proposed parking lot.

**Ms. Bagley** suggested a full presentation which would answer questions. (Presentation began.)

## **PUBLIC COMMENTS**

**Mr. Roger Lund** spoke in opposition. He mentioned that the proposed development will be three times larger than Apex Ranch. Many of his concerns were already addressed in the presentation. He asked if the water finding would be delayed until Final Plat. He walked the site with Mr. Desjardin and Mr. Kofford to discuss existing flooding issues in the area. He suggested that one of the drainage ponds should be relocated below the confluence near his property.

**Ms. Barlow** responded. The finding of water sufficiency is being requested during this phase; they are not deferring that finding to the Final Plat stage. They anticipate the Final Plat being administratively approved for that reason. During the Preliminary Plan stage, final locations of detention ponds are not exact. She pulled up a map of the area. The development of a detention pond will address the flooding issues that Mr. Lund currently faces. The Final Plat process will include more detailed design and construction details regarding the pond.

**Mr. Carlson** asked if relocation of the pond is possible after walking the property with Mr. Lund.

**Mr. Desjardin**, with ProTerra Properties, replied that he's not convinced. Currently, they have proposed the pond adjacent to the public right-of-way. This will make maintenance access easier. It will be in an existing field, so not as many trees will need to be removed. The terrain is steeper

where Mr. Lund is requesting it be relocated. The pond is currently proposed on one of two forks. Further evaluation will take place during the Final Plat stage.

### **NO FURTHER DISCUSSION**

**PC ACTION: MS. MERRIAM MOVED / MS. OFFNER SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3F, FILE NUMBER SP238 FOR A PRELIMINARY PLAN, OVERLOOK AT HOMESTEAD PRELIMINARY PLAN, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH EIGHT (8) CONDITIONS, THREE (3) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).**

**\*FOLLOWING CALLED-UP ITEM 3F, MS. BRITTAIN JACK WAS EXCUSED FROM THE HEARING. THERE WERE SIX (6) VOTING MEMBERS MOVING FORWARD.**

### **31. PUDSP235**

**HOWSER**

#### **PLANNED UNIT DEVELOPMENT / PRELIMINARY PLAN ROLLING HILLS RANCH NORTH**

A request by GTL, Inc. for approval of a Map Amendment (Rezoning) of 148.873 acres from a conceptual PUD (Planned Unit Development) to a site-specific PUD (Planned Unit Development) with approval of a Preliminary Plan for 441 single-family residential lots, 3 tracts, 46 acres of open space, and 24 acres of land dedicated for public right-of-way. The property is located at the eastern end of Rex Road, approximately 1.5 miles east of Meridian Road. (Parcel No. 4200000477) (Commissioner District No. 2)

#### **STAFF & APPLICANT PRESENTATIONS**

**Ms. Merriam** asked for clarification regarding the Placetype.

**Mr. Carlson** asked about the transition and buffer with surrounding development.

**Mr. Howser** explained that the subject property is located within the Large Lot Residential Placetype, as is the Estates filing to the west. The rest of Meridian Ranch is in the Suburban Residential Placetype. He referenced imagery on his slideshow. He stated that while the proposal is not consistent with Large Lot Residential, it is consistent with the surrounding area. He further mentioned that the applicant received BoCC approval for a Sketch Plan Amendment that allows up to 4 units per acre in the subject area. That approval predated the Master Plan, which was taken into consideration.

**Ms. Merriam** asked when the Sketch Plan Amendment was approved.

**Mr. Howser** answered that the approval was complete in August 2021. While the Master Plan was adopted in May 2021, the application was received under a previous Master Plan, so it was reviewed using the previous standards.

**Mr. Carlson** clarified that the applicant could propose up to 4 units per acre per the Sketch Plan.

**Mr. Howser** confirmed. He then discussed the proposed buffer area. He referenced the zoning map to show that the proposed buffer to the north is greater than previous filings. He stated that it is PCD Staff's opinion that the increased density could be compatible with the additional buffer that the applicant is proposing. He added that The Sanctuary at Meridian Ranch, south or the

subject property, was approved with 4.5 units per acre. The current proposal is consistent with previous filings southwest of the subject area.

**Ms. Barlow**, with N.E.S., completed the applicant's presentation. There were no questions.

## **NO PUBLIC COMMENTS**

## **DISCUSSION**

**Mr. Whitney** clarified that the Sketch Plan Amendment was approved using the previous Master Plan criteria for reference, which designated the area as appropriate for suburban density.

**PC ACTION: MS. FULLER MOVED / MS. OFFNER SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3I, FILE NUMBER PUDSP235 FOR A PLANNED UNIT DEVELOPMENT / PRELIMINARY PLAN, ROLLING HILLS RANCH NORTH, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SIX (6) CONDITIONS, FIVE (5) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (6-0).**

**5. REGULAR ITEMS (NONE)**

**6. NON-ACTION ITEMS (NONE)**

**MEETING ADJOURNED** at 12:03 P.M.

**Minutes Prepared By:** Miranda Benson



FINAL PLAT (RECOMMEND APPROVAL)

Ms. Brittain Jack moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. SF2324

HAY CREEK VALLEY

WHEREAS, View Homes Inc. did file an application with the El Paso County Planning and Community Development Department for approval of a Final Plat for the Hay Creek Valley Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on April 18, 2024; and

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

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

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

WHEREAS, when approving a Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code ("Code") (as amended):

1. The Subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
2. The Subdivision is in substantial conformance with the approved Preliminary Plan;
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;
4. Either a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of Subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code, or, with respect to applications for Administrative Final Plat approval, such finding was previously made by the BoCC at the time of Preliminary Plan approval;
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 the Code;
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)];
7. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual ("ECM");
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 the Code and the ECM;
9. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed Subdivision;
10. The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code;

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 of the Code;
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;
13. The Subdivision meets other applicable sections of Chapter 6 and 8 of the Code; and
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.].

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

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of View Homes Inc. for approval of a Final Plat for the Hay Creek Valley Subdivision be approved by the Board of County Commissioners with the following conditions and notations:

**CONDITIONS**

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. 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 appropriate El Paso County staff.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at Final Plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Drainage fees in the amount of \$194,051.58 shall be paid for the Beaver Creek drainage basin (FOMO4600) at the time of plat recordation.
9. All forested acres must be mitigated to reduce the risk of wildfire and that defensible space be created for each dwelling using the standards in the Colorado State Forest Service "Home Ignition Zone Guide". All wildfire mitigation shall be completed before or during dwelling construction.
10. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 3/22/2024, as provided by the County Attorney's Office.

NOTATIONS

1. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

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

Mr. Schuettpelz seconded the adoption of the foregoing Resolution.

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

Thomas Bailey	aye / no / non-voting / recused / <u>absent</u>
Sarah Brittain Jack	<u>aye</u> / no / non-voting / recused / absent
Jim Byers	aye / no / non-voting / recused / <u>absent</u>
Jay Carlson	<u>aye</u> / no / non-voting / recused / absent
Becky Fuller	aye / <u>no</u> / non-voting / recused / absent

Jeffrey Markewich	aye / no / non-voting / recused / <u>absent</u>
Brandy Merriam	aye / <u>no</u> / non-voting / recused / absent
Eric Moraes	aye / no / non-voting / recused / <u>absent</u>
Kara Offner	aye / <u>no</u> / non-voting / recused / absent
Bryce Schuettepelz	<u>aye</u> / no / non-voting / recused / absent
Wayne Smith	aye / no / non-voting / recused / <u>absent</u>
Tim Trowbridge	aye / <u>no</u> / non-voting / recused / absent
Christopher Whitney	aye / <u>no</u> / non-voting / recused / absent

motion to recommend approval failed  
The ~~Resolution was adopted~~ by a vote of 3 to 5 by the El Paso County Planning Commission, State of Colorado.

DONE THIS 18th day of April 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION


By:   
\_\_\_\_\_  
~~Thomas Bailey, Chair~~  
Jay Carlson, Vice-Chair

EXHIBIT A

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 33 AND THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6<sup>th</sup> PRINCIPAL MERIDIAN; COUNTY OF EL PASO, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 33, FROM WHICH THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 33 BEARS NORTH 89°38'17" EAST, A DISTANCE OF 2,684.46 FEET, WITH ALL BEARINGS HEREIN RELATIVE THERETO;  
THENCE NORTH 00°25'17" WEST, ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER OF SECTION 33, A DISTANCE OF 1,169.26 FEET;

THENCE THE FOLLOWING TWENTY-TWO (22) COURSES;

1. SOUTH 71°29'43" EAST, A DISTANCE OF 140.51 FEET;
2. NORTH 82°07'46" EAST, A DISTANCE OF 458.69 FEET;
3. NORTH 71°31'45" EAST, A DISTANCE OF 369.66 FEET;
4. NORTH 89°30'59" EAST, A DISTANCE OF 195.64 FEET;
5. NORTH 82°27'48" EAST, A DISTANCE OF 300.93 FEET;
6. SOUTH 81°25'26" EAST, A DISTANCE OF 208.57 FEET;
7. NORTH 66°51'51" EAST, A DISTANCE OF 197.45 FEET;
8. NORTH 70°47'03" EAST, A DISTANCE OF 178.13 FEET;
9. NORTH 66°11'16" EAST, A DISTANCE OF 170.15 FEET;
10. NORTH 71°47'12" EAST, A DISTANCE OF 403.02 FEET;
11. NORTH 84°26'00" EAST, A DISTANCE OF 169.75 FEET;
12. SOUTH 87°26'44" EAST, A DISTANCE OF 197.38 FEET;
13. NORTH 74°51'53" EAST, A DISTANCE OF 86.71 FEET;
14. NORTH 86°13'24" EAST, A DISTANCE OF 233.11 FEET;
15. NORTH 80°10'48" EAST, A DISTANCE OF 260.90 FEET;
16. NORTH 78°52'32" EAST, A DISTANCE OF 149.05 FEET;
17. NORTH 71°58'16" EAST, A DISTANCE OF 210.75 FEET;
18. NORTH 49°30'50" EAST, A DISTANCE OF 403.50 FEET;
19. NORTH 57°57'37" EAST, A DISTANCE OF 170.21 FEET;
20. NORTH 37°03'08" EAST, A DISTANCE OF 266.68 FEET;
21. NORTH 43°48'53" WEST, A DISTANCE OF 107.37 FEET;
22. NORTH 20°29'00" WEST, A DISTANCE OF 220.10 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 34;

THENCE NORTH 89°30'43" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 1,125.83 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 34;  
THENCE SOUTH 00°28'46" WEST, ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 34, A DISTANCE OF 2,654.48 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER;  
THENCE SOUTH 89°38'45" WEST, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 2,683.98 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 33;  
THENCE SOUTH 89°38'17" WEST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF SECTION 33, A DISTANCE OF 2,684.46 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 214.622 ACRES, (9,348,924 SQUARE FEET), MORE OR LESS.

EXHIBIT B

HAY CREEK VALLEY  
SITUATED IN THE SOUTHEAST QUARTER OF SECTION 33 AND THE SOUTHWEST QUARTER OF SECTION 34,  
TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN,  
COUNTY OF EL PASO, STATE OF COLORADO.

KNOWN ALL MEN BY THESE PRESENTS,

THAT the undersigned, the owners of the following described tract of land, to wit: the above described tract of land, do hereby certify that the following is a true and correct copy of the same as the same appears in the records of the County of El Paso, State of Colorado, now more particularly recorded as follows:

- LEGAL DESCRIPTION:
1. South 71.9747' East, a distance of 146.51 feet,
  2. North 82.9746' East, a distance of 438.62 feet,
  3. North 82.9746' East, a distance of 102.64 feet,
  4. North 82.9746' East, a distance of 506.91 feet,
  5. North 82.9746' East, a distance of 107.45 feet,
  6. North 82.9746' East, a distance of 107.45 feet,
  7. North 82.9746' East, a distance of 107.45 feet,
  8. North 82.9746' East, a distance of 107.45 feet,
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  17. North 82.9746' East, a distance of 107.45 feet,
  18. North 82.9746' East, a distance of 107.45 feet,
  19. North 82.9746' East, a distance of 107.45 feet,
  20. North 82.9746' East, a distance of 107.45 feet,
  21. North 82.9746' East, a distance of 107.45 feet,
  22. North 82.9746' East, a distance of 107.45 feet,
  23. A distance of 1,163.29 feet.

INDEX: NORTH 82.9746' WEST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, A DISTANCE OF 1,163.29 FEET.

INDEX: THE FOLLOWING: NORTH-760' (23) CORNERS:

1. South 71.9747' East, a distance of 146.51 feet,
2. North 82.9746' East, a distance of 438.62 feet,
3. North 82.9746' East, a distance of 102.64 feet,
4. North 82.9746' East, a distance of 506.91 feet,
5. North 82.9746' East, a distance of 107.45 feet,
6. North 82.9746' East, a distance of 107.45 feet,
7. North 82.9746' East, a distance of 107.45 feet,
8. North 82.9746' East, a distance of 107.45 feet,
9. North 82.9746' East, a distance of 107.45 feet,
10. North 82.9746' East, a distance of 107.45 feet,
11. North 82.9746' East, a distance of 107.45 feet,
12. North 82.9746' East, a distance of 107.45 feet,
13. North 82.9746' East, a distance of 107.45 feet,
14. North 82.9746' East, a distance of 107.45 feet,
15. North 82.9746' East, a distance of 107.45 feet,
16. North 82.9746' East, a distance of 107.45 feet,
17. North 82.9746' East, a distance of 107.45 feet,
18. North 82.9746' East, a distance of 107.45 feet,
19. North 82.9746' East, a distance of 107.45 feet,
20. North 82.9746' East, a distance of 107.45 feet,
21. North 82.9746' East, a distance of 107.45 feet,
22. North 82.9746' East, a distance of 107.45 feet,
23. A distance of 1,163.29 feet to a point on the north line of SAID SOUTHWEST QUARTER OF SECTION 33.

INDEX: NORTH 82.9746' WEST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, A DISTANCE OF 1,163.29 FEET TO THE POINT ON THE NORTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 33.

INDEX: SOUTH 82.9746' WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, A DISTANCE OF 2,644.46 FEET TO THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER.

INDEX: SOUTH 82.9746' WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, A DISTANCE OF 2,644.46 FEET TO THE POINT OF BEGINNING.

INDEX: SOUTH 82.9746' WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, A DISTANCE OF 2,644.46 FEET TO THE POINT OF BEGINNING.

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INDEX: SOUTH 82.9746' WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, A DISTANCE OF 2,644.46 FEET TO THE POINT OF BEGINNING.



VICINITY MAP  
SCALE 1" = 200'

SHEET INDEX

- SHEET 1 - COVER
- SHEET 2 - GENERAL NOTES
- SHEET 3 - MAP SHEET

BOARD OF COUNTY COMMISSIONERS CERTIFICATE

THE PLAT FOR HAY CREEK VALLEY WAS APPROVED FOR FILING BY THE EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

OWNER CERTIFICATE

THE UNDERSIGNED, OWNER OF THE ABOVE DESCRIBED INTERESTS, OF PARTS OF THE SAID TRACT OF LAND, HEREBY CERTIFY THAT THE ABOVE DESCRIBED INTERESTS ARE THE SAME AS THE SAME APPEAR IN THE RECORDS OF THE COUNTY OF EL PASO, STATE OF COLORADO, NOW MORE PARTICULARLY RECORDED AS FOLLOWS:

HOLDER OF DEED OF TRUST

STATE OF COLORADO  
COUNTY OF EL PASO  
ADVANCED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

CLERK AND RECORDS

STATE OF COLORADO  
COUNTY OF EL PASO  
ADVANCED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

TRACT	AREA (SQ FT)	AREA (AC. ±)	OWNER BY 7. Attachment B1
TRACT A	500,432	11.028	OWNER BY 7. Attachment B1
TRACT B	151,319	3.459	OWNER BY 7. Attachment B1
TRACT C	1,271	0.044	OWNER BY 7. Attachment B1
TRACT D	271,361	6.206	OWNER BY 7. Attachment B1
TOTAL	924,383	21.737	OWNER BY 7. Attachment B1

SURVEYOR'S CERTIFICATE

I, SURVEYOR, HAVE A TRUE AND CORRECT PROFESSIONAL LAND SURVEY IN THE STATE OF COLORADO, FOR THE PLAT FOR HAY CREEK VALLEY AND THE INTERESTS THEREIN, AS SHOWN HEREON, MADE IN ACCORDANCE WITH THE PROVISIONS OF THE STATUTES OF THE STATE OF COLORADO, AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYORS OF THE STATE OF COLORADO, AND THE SURVEY HAS BEEN MADE IN ACCORDANCE WITH THE PROVISIONS OF THE STATUTES OF THE STATE OF COLORADO, AND THE RULES AND REGULATIONS OF THE BOARD OF SURVEYORS OF THE STATE OF COLORADO.

NOTICE TO CREDITORS

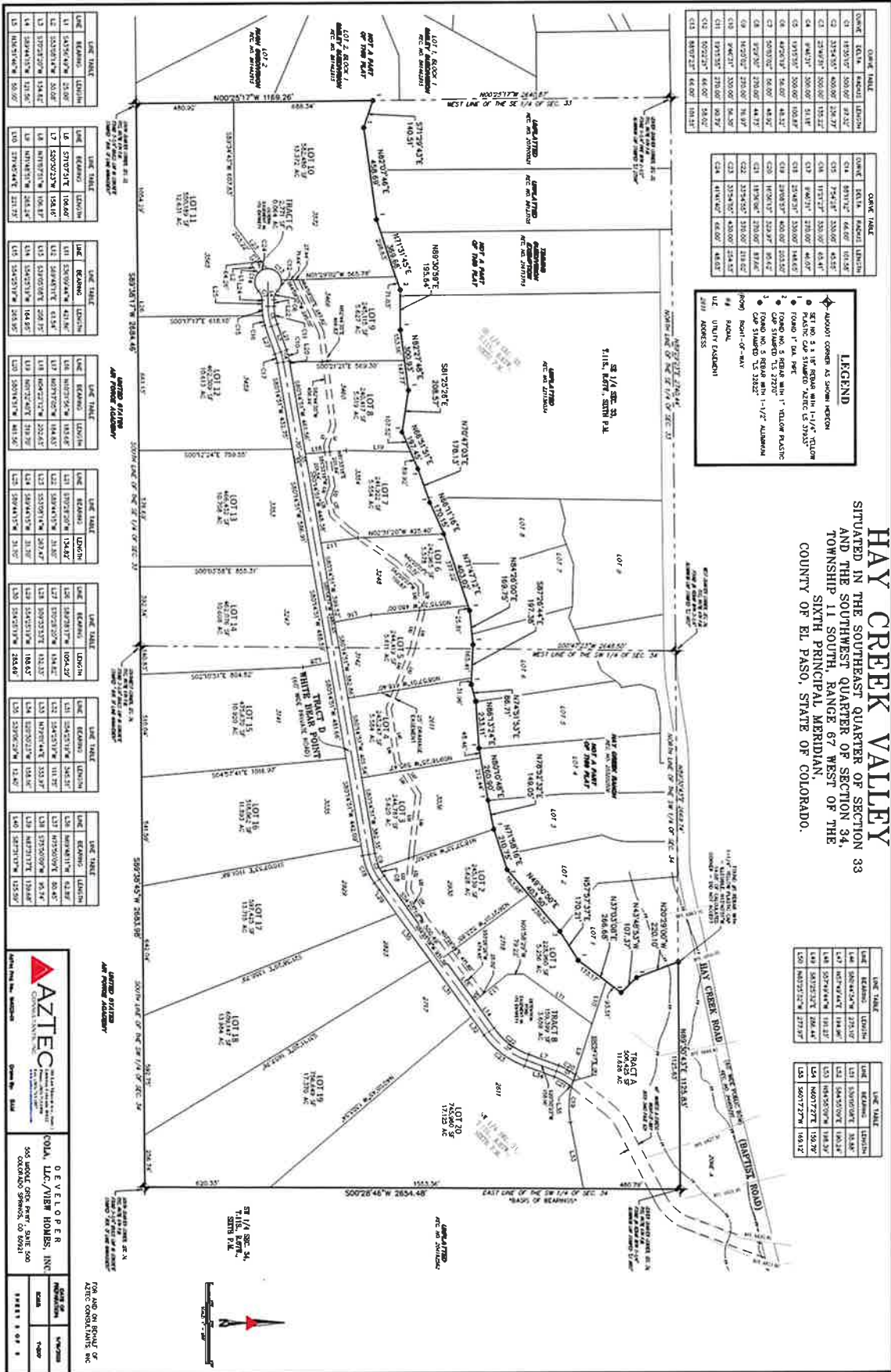
NOTICE: ACCORDING TO COLORADO LAW, 109 AND 110, CREDITORS AND LEGAL AGENTS ARE GIVEN 90 DAYS FROM THE DATE OF THE CREDITORS' MEETING TO FILE A CLAIM AGAINST THE ESTATE OF THE DECEDENT. THE CLAIM MUST BE FILED WITH THE PROBATE COURT IN THE COUNTY OF EL PASO, STATE OF COLORADO, AND MUST BE VERIFIED BY THE CLAIMANT UNDER PENALTY OF PERJURY.

**AZTEC**  
COUNTY OF EL PASO, COLORADO  
550 W. LOOP, SUITE 100  
EL PASO, TEXAS 79901  
PH: 972.782.1111  
FAX: 972.782.1112  
WWW.AZTEC-CO.COM

**EVERETT**  
COUNTY OF EL PASO, COLORADO  
550 W. LOOP, SUITE 100  
EL PASO, TEXAS 79901  
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FAX: 972.782.1112  
WWW.EVERETT-CO.COM







# EL PASO COUNTY



COMMISSIONERS:  
 CAMI BREMER (CHAIR)  
 CARRIE GEITNER (VICE-CHAIR)

**COLORADO**

HOLLY WILLIAMS  
 STAN VANDERWERF  
 LONGINOS GONZALEZ, JR.

## PLANNING & COMMUNITY DEVELOPMENT

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

**FROM:** Kylie Bagley, Planner III  
 Edward Schoenheit, Engineer I  
 Meggan Herington, AICP, Executive Director

**RE:** Project File Numbers: SF2324  
 Project Name: Hay Creek Valley  
 Parcel Nos: 710000267, 710000268, 710000269, 710000270 713300001,  
 & 7133007014

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
O M Fitzgerald 2855 Hay Creek Rd Colorado Springs, CO 80255	Matrix Design Group, Inc. Jason Alwine (719) 457-5609

**Commissioner District: 3**

<b>Planning Commission Hearing Date:</b>	<b>4/18/2024</b>
<b>Board of County Commissioners Hearing Date:</b>	<b>5/9/2024</b>

### EXECUTIVE SUMMARY

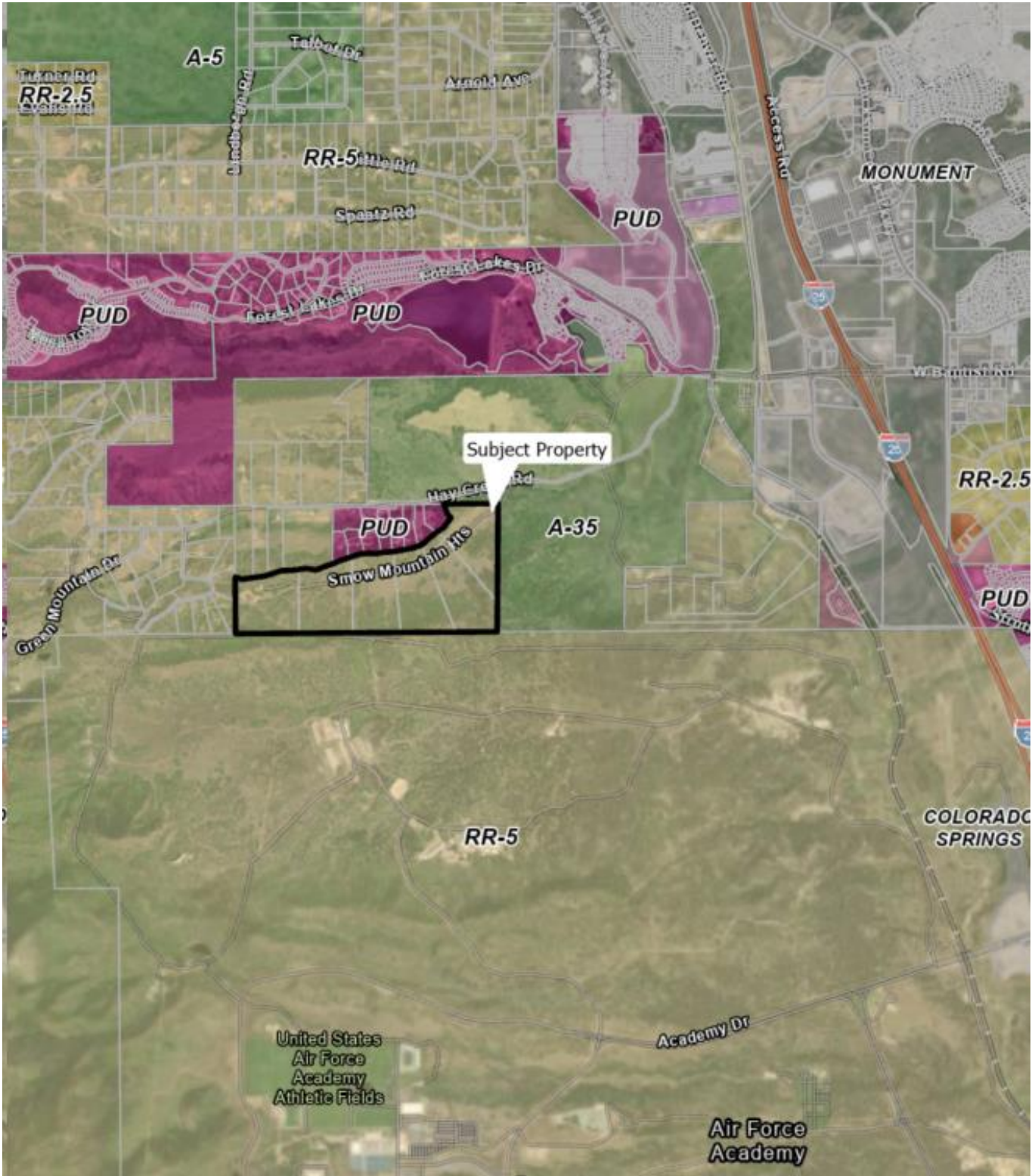
A request by View Homes, Inc. for approval of a Final Plat for the Hay Creek Valley Subdivision to create 20 single-family residential lots and 3 tracts. The site is 214.62 acres, zoned RR-5 (Residential Rural) 5-acre minimum lot size, and is located south of the Town of Monument, adjacent to Hay Creek Road. The property is currently improved with a single-family residence, which will remain on a lot in the western portion of the project.

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 OFFICE: (719) 520 – 6300



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**Zoning Map with Location**



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## A. WAIVERS/AUTHORIZATION

### Waiver(s):

The following waivers were approved by the Board of County Commissioners on October 12, 2023, with the approval of the Preliminary Plan (PCD File Number SP231).

A Waiver of Section 8.4.4.C of the LDC is requested. More specifically, the waiver will allow for private roads to be built in lieu of public roads for the subdivision. The private roads are proposed to be built to County standards with the exception of the proposed ECM modifications and are proposed to be maintained and owned by the Homeowner's Association (HOA).

A Waiver of Section 6.3.3.C of the LDC is requested. More specifically, access to a planned building area shall be provided by a minimum of 2 separate routes in accordance with the requirements of this Code and the ECM if the cul-de-sac exceeds the length allowed by the ECM. The Monument Fire District has agreed to this request.

In approving a waiver from any of the subdivision design standards and requirements, the Board of County Commissioners shall find that the waiver meets the criteria for approval outlined in Section 7.3.3 (Waivers) of the El Paso County Land Development Code (As Amended):

- The waiver does not have the effect of nullifying the intent and purpose of this Code;
- The waiver will not result in the need for additional subsequent waivers;
- The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;
- 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;
- A particular non-economical hardship to the owner would result from a strict application of this Code;
- The waiver will not in any manner vary the zoning provisions of this Code; and
- The proposed waiver is not contrary to any provision of the Master Plan.

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

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## B. APPROVAL CRITERIA

In approving a Final Plat, the BoCC shall find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (“Code”) (as amended):

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is consistent with the purposes of this Code;
- The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;
- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code (this finding may not be deferred to Final Plat if the applicant intends to seek administrative Final Plat approval);
- A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of this Code;
- All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)];
- Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of this Code and the Engineering Criteria Manual (ECM) are provided by the design;
- The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development;
- Legal and physical access is or will be 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 proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system,

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including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;

- Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;
- The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and
- Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8;
- Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;
- The subdivision meets other applicable sections of Chapter 6 and 8; and
- The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. § 34-1-302(1), et seq.]

**C. LOCATION**

North:	PUD (Planned Unit Development)	Single-family Residential
South:	United States Air Force Academy	Government Federal
East:	A-35 (Agricultural)	Agricultural
West:	RR-5 (Residential Rural)	Single-family Residential

**D. BACKGROUND**

A Preliminary Plan (PCD File Number SP231) for Hay Creek Valley was approved by the Board of County Commissioners on October 12, 2023, without a finding of water sufficiency. The proposed Final Plat is consistent with the approved Preliminary Plan and did receive a finding of water sufficiency.

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## E. LAND DEVELOPMENT CODE AND ZONING ANALYSIS

The Final Plat application meets the Final Plat submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the El Paso County Land Development Code (As Amended).

The density and dimensional standards for the RR-5 zoning district are as follows:

- Minimum lot size: 5 acres
- Minimum width at the front setback line: 200 feet
- Minimum setback requirement: front 25 feet, rear 25 feet, side 25 feet
- Maximum lot coverage: None
- Maximum height: 30 feet

In order to initiate any new residential uses on the property, the applicant will need to obtain site plan approval. Any proposed additional structures will require site plan review and will include confirmation that all site improvements (existing and proposed) will comply with the dimensional standards included in Chapter 5 as well as the Development Standards of Chapter 6 of the Code.

## F. MASTER PLAN COMPLIANCE

The proposed Final Plat is consistent with the Master Plan analysis which was provided with the Preliminary Plan application SP-23-001 and approved by the BoCC on October, 12, 2023.

### 1. Water Master Plan Analysis

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

**Goal 1.1** – *Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.*

**Policy 1.1.1** – *Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.*

**Goal 1.2** – *Integrate water and land use planning.*

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The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 2 of the Plan, which is an area anticipated to experience growth by 2040. The following information pertains to water demands and supplies in Region 2 for central water providers:

The Plan identifies the current demand for Region 2 to be 7,532 acre-feet per year (AFY) (Figure 5.1) with a current supply of 13,607 AFY (Figure 5.2). The projected demand in 2040 for Region 2 is at 11,713 AFY (Figure 5.1) with a projected supply of 20,516 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region is 2 is at 13,254 AFY (Figure 5.1) with a projected supply of 20,756 AFY (Figure 5.2) in 2060. This means that by 2060 a surplus of 7,502 AFY is anticipated for Region 2.

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

## **2. 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 Environmental Services and Colorado Parks and Wildlife were each sent a referral and have no outstanding comments.

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

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

Geologic hazards were identified during the review of the Final Plat and have been found to impact all the proposed lots. The Colorado Geological Survey has reviewed the Final Plat documents and has no outstanding comments at this time. Proposed geologic mitigation measures include the evaluation of the temporary cuts, if performed, and permanent wall conditions, including slope stability analysis. These notes are included on the Final Plat document.

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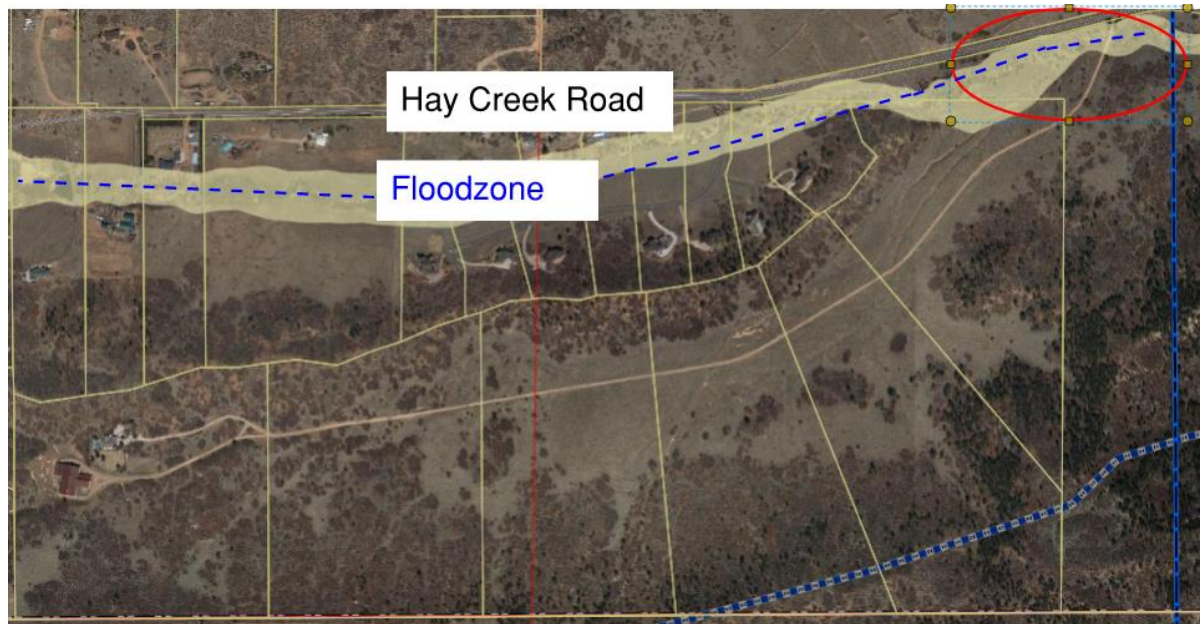
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## 2. Floodplain

The majority of the six parcels that comprise the development area are not located within a floodplain as determined by a review of the Federal Insurance Rate Map panel number 08041C0267G, effective December 7th, 2018. The parcels located outside the floodplain area are located in Zone "X" an area of minimal flood hazard determined to be outside the 500-year flood zone. The northeastern section of the development as shown in Exhibit 1 is located in a Zone A floodplain area. This parcel area will be designated as a tract and will not impact platted lots.

Exhibit 1.



## 3. Drainage and Erosion

The property is located in the Beaver Creek drainage basin and the Air Force Academy drainage basin. Beaver Creek drainage basin fees in the amount of \$194,051.58 will be due at the time of Final Plat recordation. Beaver Creek has no current bridge fees. The Air Force Academy drainage basin has no drainage or bridge fees. A Final Drainage Report has been submitted with the application. No public drainage improvements are proposed. A private detention basin pond is proposed as part of the drainage plan for the development which will be maintained by the Hay Creek Valley HOA. The Final Drainage Report concluded that no adverse stormwater drainage impacts to adjacent or downstream properties are projected to occur.

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#### **4. Transportation**

The property is located off Hay Creek Road, which is a county-maintained, paved, rural major collector road. Access to Hay Creek Road will be via White Bear Point, which will be a private, paved, local, two-lane rural road maintained by the Hay Creek Valley HOA. The private road will terminate with a dead-end cul-de-sac meeting the Engineering Criteria Manual and Fire District design requirements. White Bear Point gains direct access to Hay Creek Road through a recorded access easement agreement with an adjoining property owner. The applicant has requested three (3) Deviations from the Engineering Criteria Manual (ECM) pertaining to the private road design, which have been approved. A Traffic Impact Study was completed for the planned development. The development is expected to generate approximately 218 daily trips to the surrounding road network. White Bear Point will improve the intersection with Hay Creek Road by widening and aligning the access point. No additional off-site public road improvements along Hay Creek are proposed with the development.

County Road Impact Fees will be applicable as approved by Resolution 19-471 (as amended) and will be assessed at the time of plat recordation.

### **H. SERVICES**

#### **1. Water**

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

#### **2. Sanitation**

On-Site Waste Water Treatment System will serve as the sanitation service. Septic tanks and leech fields will be installed on each lot.

#### **3. Emergency Services**

The property is within the Monument Fire District. The district and Colorado State Forest Service were sent referrals. The Colorado State Forest Service recommends that all forested acres be mitigated to reduce the risk of wildfire and that defensible space be

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created for each dwelling using the standards in the CSFS "Home Ignition Zone Guide" and that all wildfire mitigation be completed before or during dwelling construction.

#### **4. Utilities**

Electrical service is provided by Mountain View Electric Association (MVEA). Black Hills Energy will provide Natural Gas. The agencies were sent a referral and have no outstanding comments.

#### **5. Schools**

The site is within the boundaries of Lewis-Palmer School 38. Fees in lieu of school land dedication are applicable to subdivisions.

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

No major issues remain.

### **J. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (as amended), staff recommends the following conditions and notations:

#### **CONDITIONS**

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

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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 appropriate El Paso County staff.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at Final Plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Drainage fees in the amount of \$194,051.58 shall be paid for the Beaver Creek drainage basin (FOMO4600) at the time of plat recordation.
9. All forested acres must be mitigated to reduce the risk of wildfire and that defensible space be created for each dwelling using the standards in the Colorado State Forest Service "Home Ignition Zone Guide". All wildfire mitigation shall be completed before or during dwelling construction.
10. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 3/22/2024, as provided by the County Attorney's Office.

## **NOTATIONS**

1. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with

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

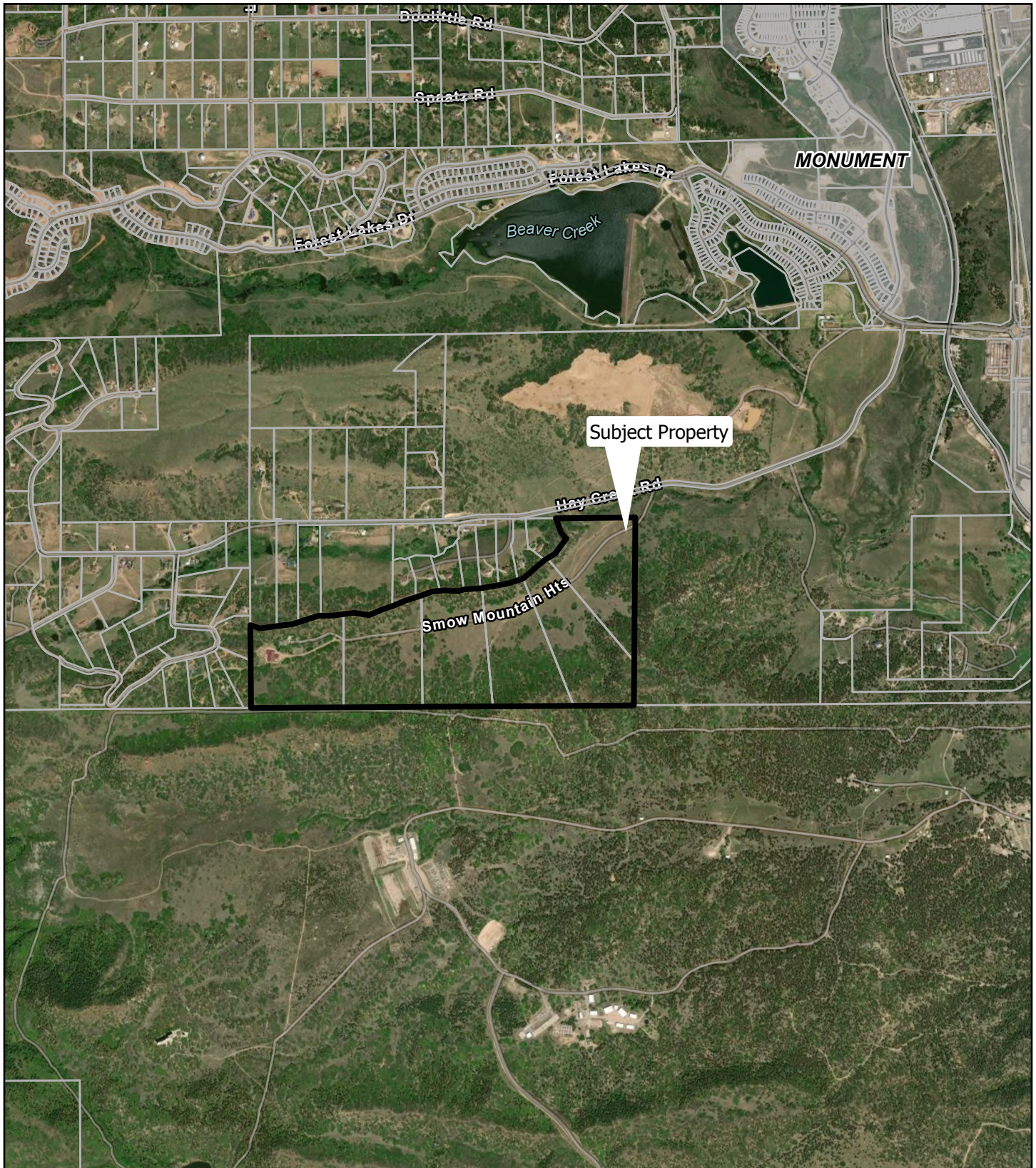
**K. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified 21 adjoining property owners on April 3, 2024, for the Planning Commission. Responses will be provided at the hearing.

**L. ATTACHMENTS**

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





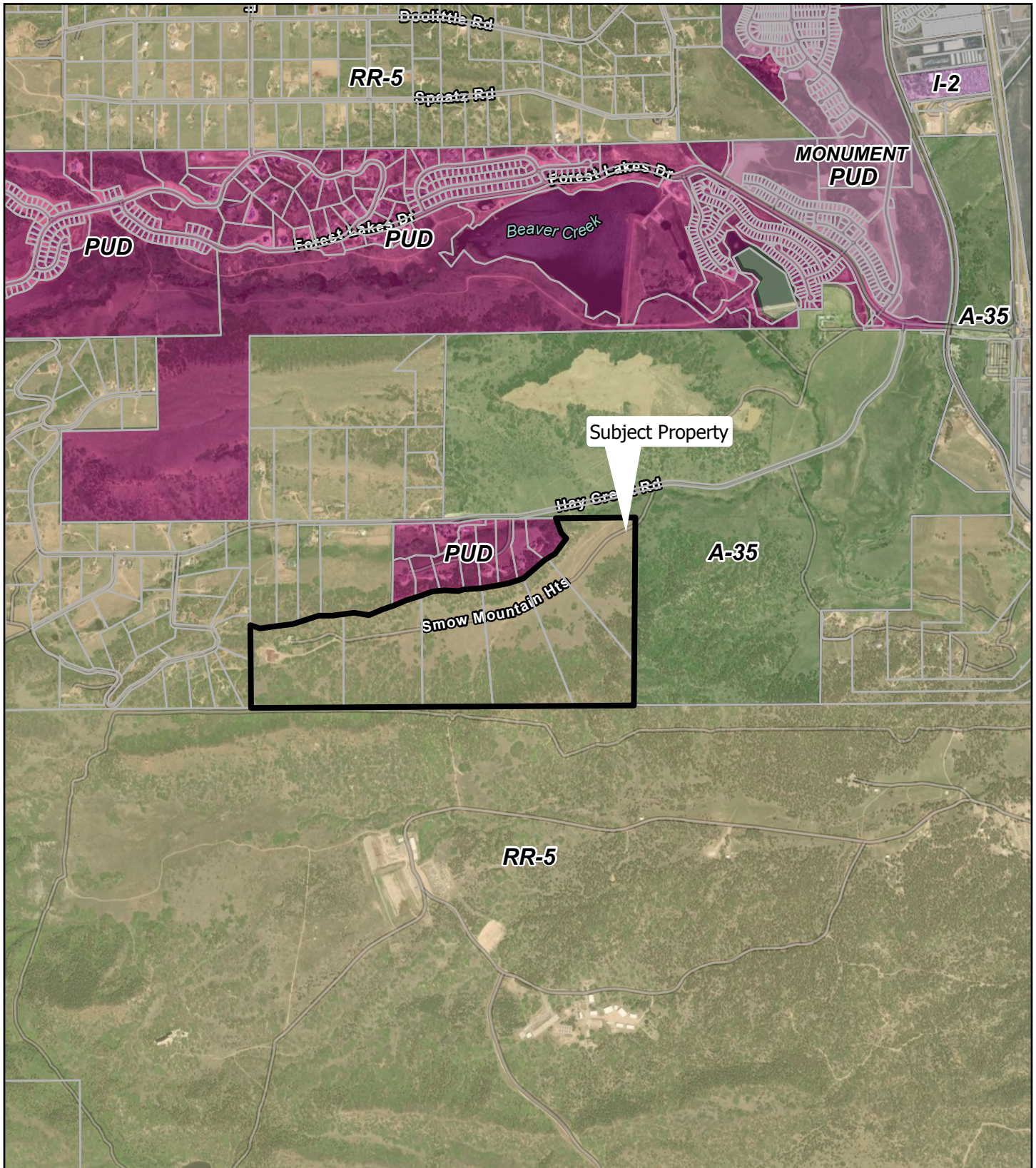
# Aerial Map



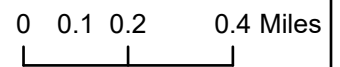
File No. SF2324

Map Series No. 1

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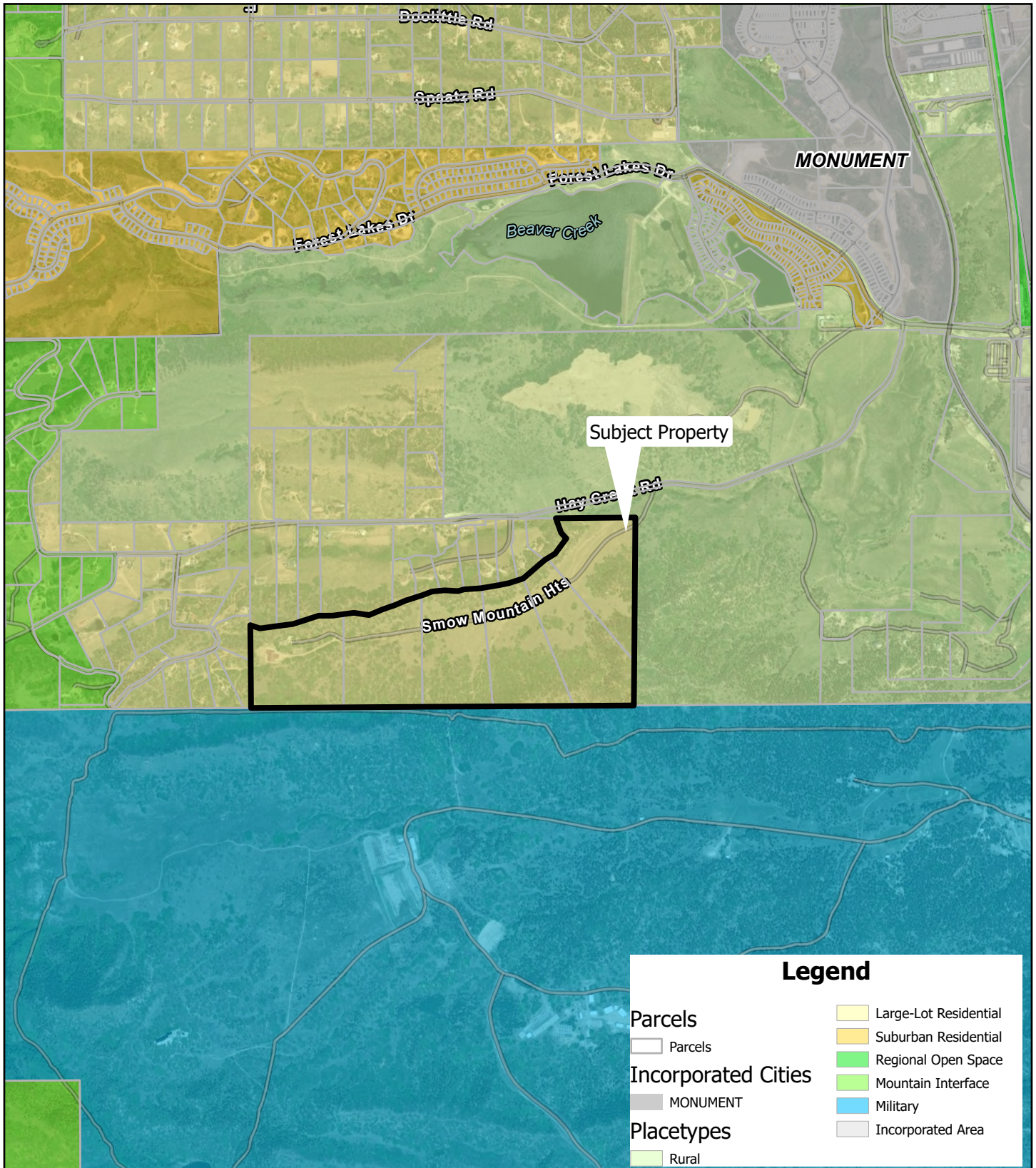


# Zoning Map



File No. SF2324

Map Series No. 2



**Legend**

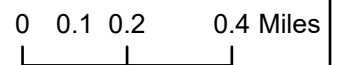
Parcels	Large-Lot Residential
Parcels	Suburban Residential
Incorporated Cities	Regional Open Space
MONUMENT	Mountain Interface
Placetypes	Military
Rural	Incorporated Area



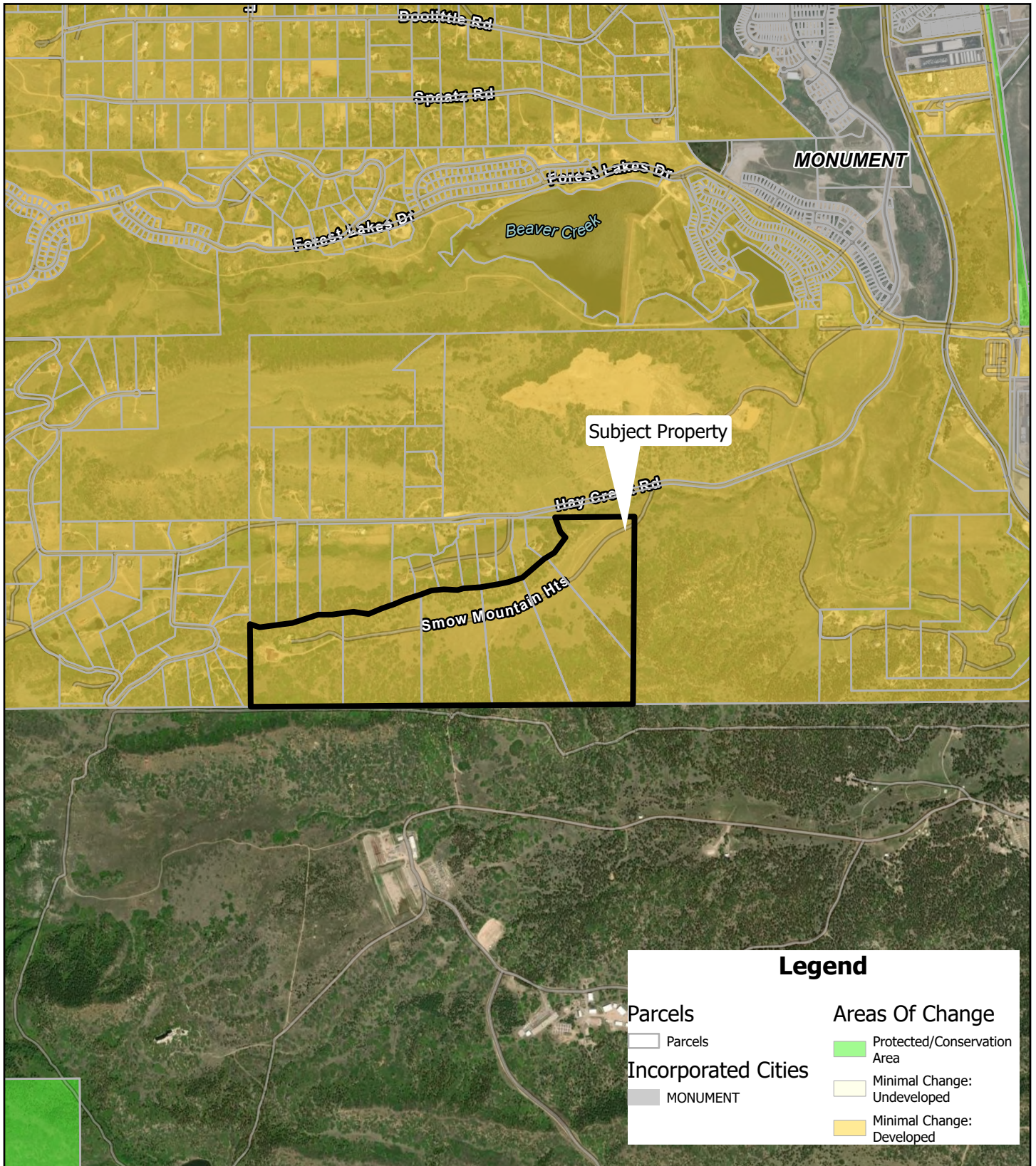
# Placetypes Map

File No. SF2324

Map Series No. 3







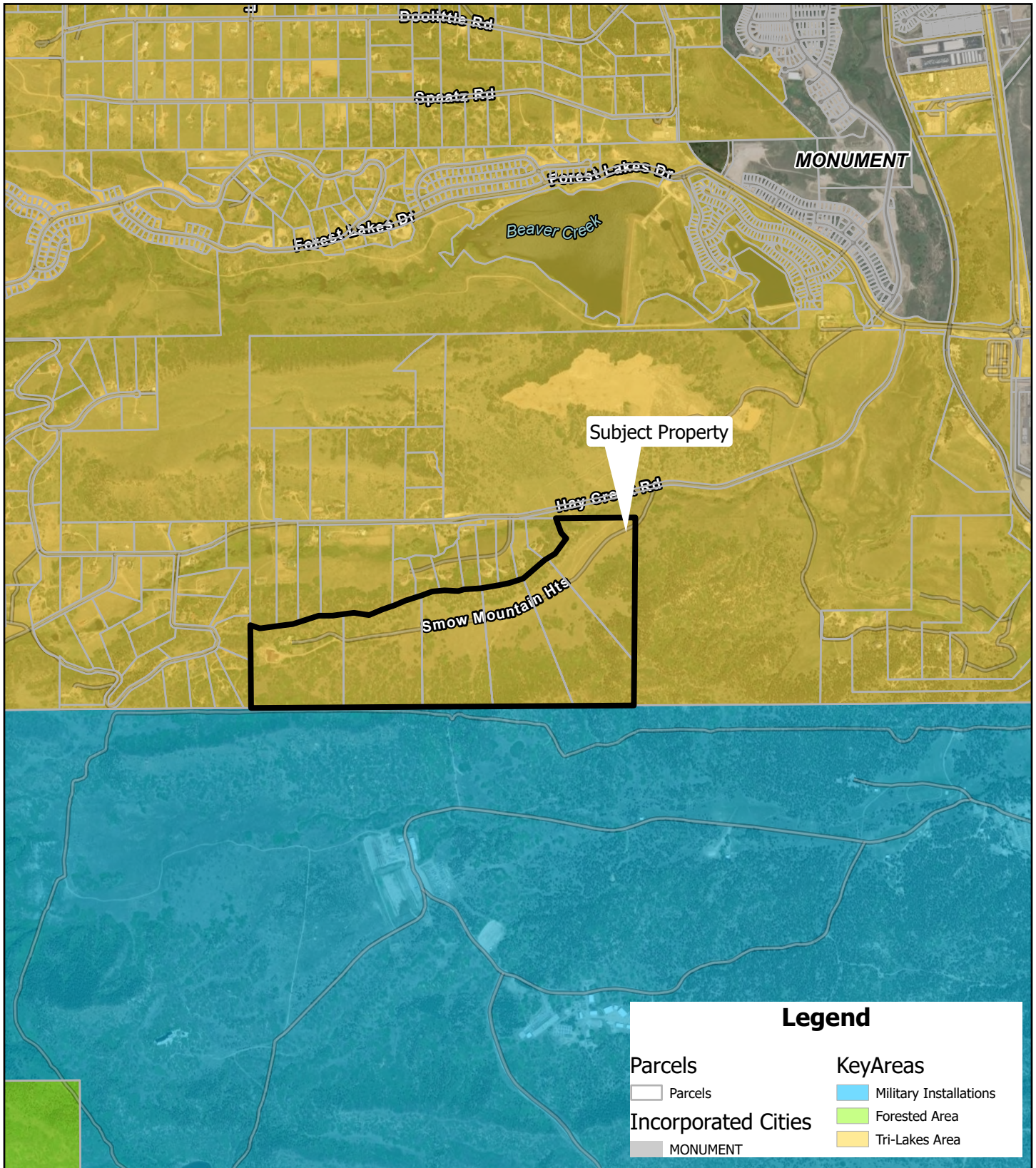
# Area of Change Map

File No. SF2324

Map Series No. 4



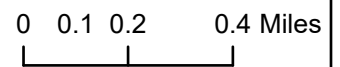
0 0.1 0.2 0.4 Miles



# Key Areas Map

File No. SF2324

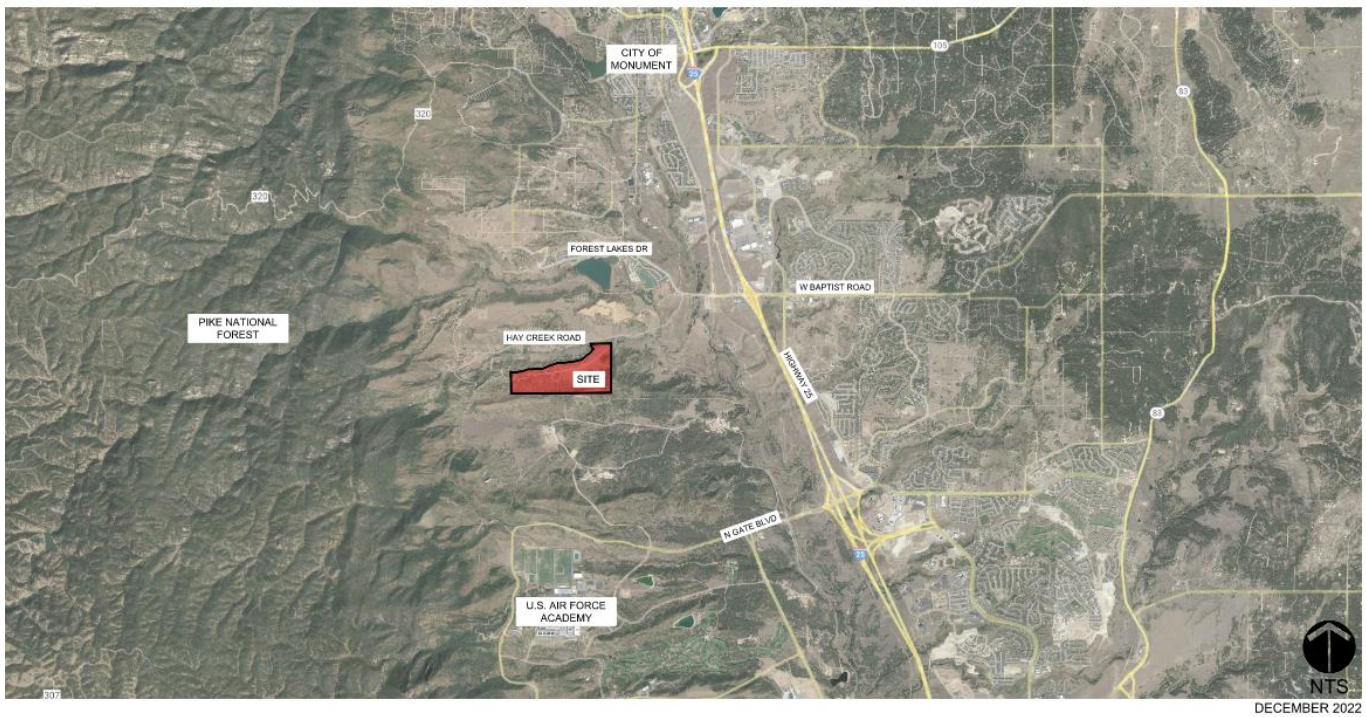
Map Series No. 5



# Hay Creek Valley Subdivision Letter of Intent Final Plat

September 15th, 2023

(REV1 – November 20<sup>th</sup>, 2023)



Prepared for:

## **View Homes Inc**

555 Middle Creek Parkway, Suite 500  
Colorado Springs, CO 80921

Prepared by:

## **Matrix Design Group**

2435 Research Parkway, Suite 300  
Colorado Springs, Co 80920

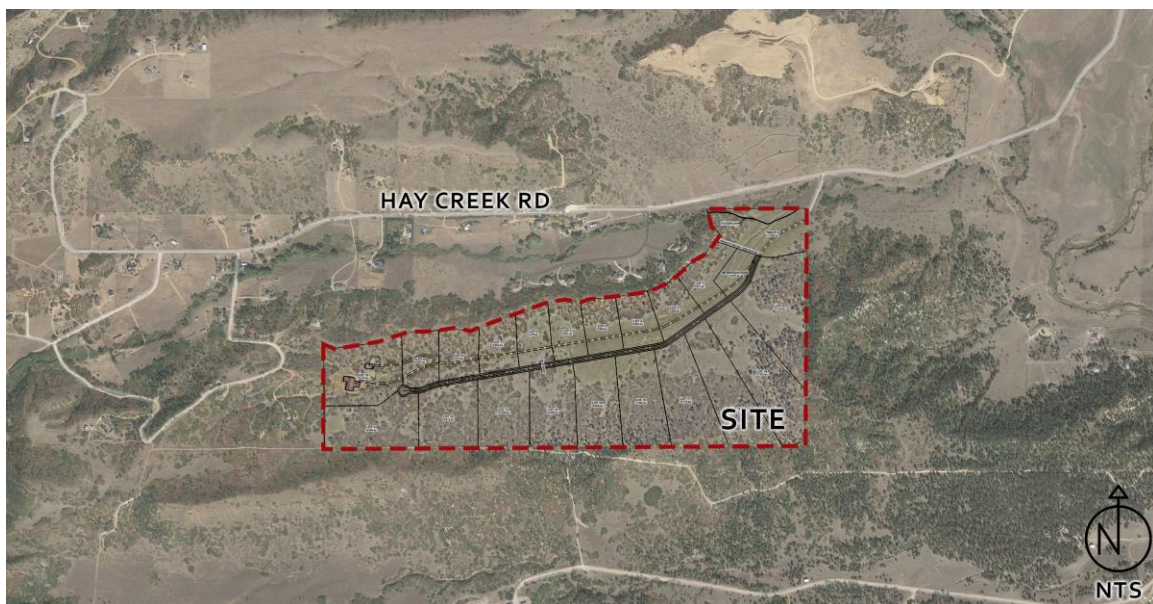
**Owner/ Applicant:** View Homes, Inc  
555 Middle Creek Parkway, Suite 500  
Colorado Springs, CO 80921  
Office: (719) 382-9433

**Planner/ Engineer:** Matrix Design Group  
2435 Research Parkway, Suite 300  
Colorado Springs, CO 80920  
Office: (719) 575-0100

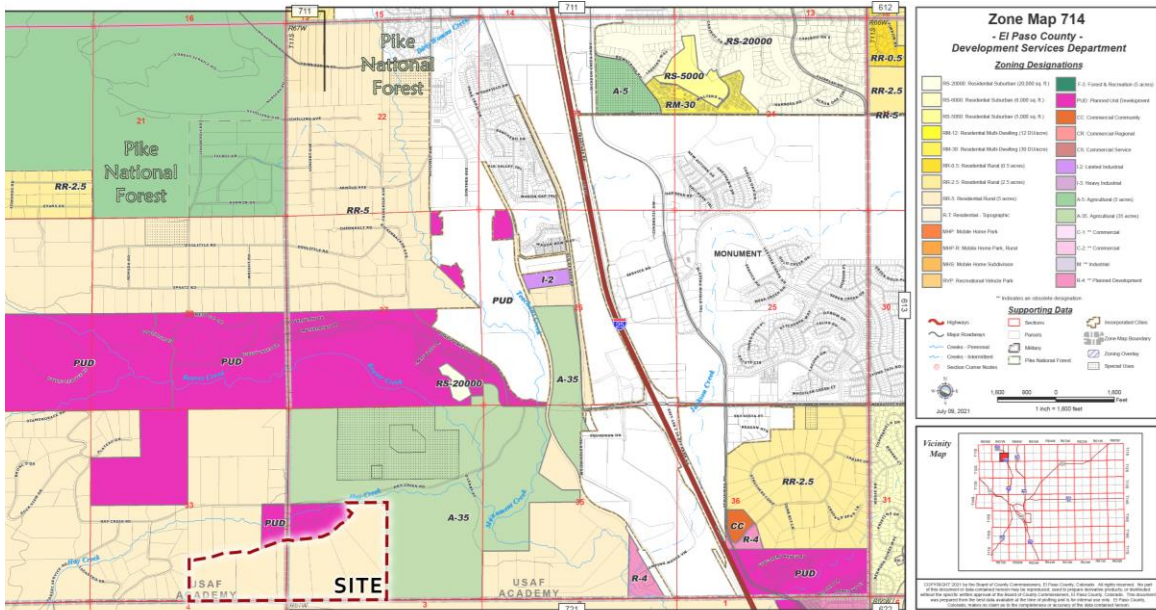
**Tax Schedule No:** 7133007014, 7133000001, 7100000270, 7100000267,  
7100000268, 7100000269

**Site Location, Size, and Zoning:**

Matrix Design Group, on behalf of View Homes, Inc, is respectfully submitting a Final Plat application for the proposed Hay Creek Valley Subdivision project. The site is 214.62 acres located south of the City of Monument in El Paso County adjacent to Hay Creek Road with 20 single-family detached residential lots and 3 tracts proposed. The site is currently zoned RR-5 which shall remain. The site has one single-family residence which shall remain in the western portion of the site. The proposed Final Plat application submittal includes 6 un-platted existing parcels revised to 20 proposed lots with one of those lots including an existing home to remain on 214.62 acres for a density of <math><0.1 \text{ DU/ Acre}</math> and is in compliance with the current RR-5 zoning requirements with the proposed parcels ranging in size from 5.5 to 17 ac.



The site is bordered to the north and west by rural single-family residential parcels, to the south by the Air Force Academy, and vacant land to the east.



**Request & Justification:**

The purpose of this application is to request approval of a Final Plat which illustrates the proposed single-family detached rural residential community and open spaces; the necessary width and classification of private roadways; and roadway centerline data. The plat describes the lot sizes, private road tract, and easements necessary for the development.

The previous Preliminary Plan application (SP231) requested 2 deviations, 2 waivers and deferring a finding for water sufficiency.

- SP231 Deviation request #1: Cul-de-sac length greater than 1,600 ft with no mid-way turn around (ECM 2.3.8.A)
- SP231 Deviation request #2: Minimum centerline radius less than 300'
- SP231 Waiver request #1: Minimum two access points [one provided] (LDC 6.3.3.2.C)
- SP231 Waiver request #2: Private road instead of a public roadway (ECM 2.2.4.A.6)
- SP231 Deferment on findings of sufficiency of water to run concurrent with the Final Plat process.

No new deviations or waivers are requested with the Final Plat application.

The proposed Final Plat illustrates 19 new and 1 existing single-family residential parcels on 214.62 acres for a density of <0.1 DU/ Acre. The lots range in size from 5.5 acres up to 17 acres. The Final Plat includes 11.642 acres of total open space and 6.359 acres of new private street right-of-way providing access to the residential units. The open space tract contains the wetland, floodplain, and threatened Preble's meadow jumping mouse

habitat which shall remain undeveloped. There is also a 3-acre tract for a stormwater detention facility to capture and treat developed drainage flows.

The single street through the parcel will be a private road and allow private driveway access for all lots. There shall be no direct lot access to any surrounding streets. The private road, White Bear Point, is designed to handle existing and proposed traffic, as well as emergency vehicles, expected within the Hay Creek Valley Subdivision. Due to the small size of the development and limited trip generation, a traffic impact analysis is required for less than 100 trips; however, a trip generation letter was completed as requested by staff to include existing daily counts for this area and is included for review.

The community is designed to provide for functioning automobile circulation utilizing a private rural residential roadway, which will follow the cross-section for a local rural roadway, outlined by El Paso County Engineering Criteria Manual. The Final Plat drawings illustrate 1 phase for the platting of individual lots and the construction of housing. Roadways, drainage, and necessary improvements will be constructed in the most optimal and efficient manner in order to facilitate development construction and sequencing.

A "Geologic Hazards Evaluation and Preliminary Geotechnical Investigation", Hay Creek Valley Development, El Paso County, Colorado" (CTL | Thompson, dated December 27, 2022) is included with the submittal package. There are no significant geological hazards; however, the potential for geologic hazards or constraints includes expansive near-surface soils and bedrock, soils susceptible to erosion, steep slopes, and flooding. Regional geologic conditions that impact the site include seismicity and radioactivity. These geological conditions can be mitigated with engineering design and construction methods commonly employed in this area. If the previously listed potential geological hazards are found to exist, an evaluation shall be performed at the time of the final geotechnical investigation for those individual lots. No build areas have been defined on the approved preliminary plan protecting existing steep slopes found onsite to eliminate any potential soil issues.

### **El Paso County Final Plat Section 7.2.1(D)-3F Approval Criteria**

- 1. The subdivision is in conformance with the goals, objectives, and policies of the Master Plan; The Hay Creek Valley Subdivision is located within the Large-Lot Residential and Military place types as defined by Your El Paso County Master Plan. The plan supports the rural character of the County by providing for a unique and desirable neighborhood within the rolling foothills of the Front Range while also supporting the continuation of similar land uses near a Military base. Large lots with large stands of existing conifer forests will provide a buffer between residential dwellings and military properties.*
- 2. The subdivision is in substantial conformance with the approved preliminary plan; The subdivision is in conformance with the approved preliminary plan - SP231.*

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 subdivision is in conformance with subdivision design standards of zoning district RR-5 per the El Paso County Land Development Code.*
4. *Either a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code, or, with respect to applications for administrative final plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval; All of the proposed lots will be served by well water (individual). A water court decree is provided with this final plat submittal.*
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; All of the proposed lots will be served by on-site private septic systems.*
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 "Geologic Hazards Evaluation and Preliminary Geotechnical Investigation", Hay Creek Valley Development, El Paso County, Colorado" (CTL | Thompson, dated December 27, 2022) is included with the submittal package. There are no significant geological hazards; however, the potential for geologic hazards or constraints includes expansive near-surface soils and bedrock, soils susceptible to erosion, steep slopes, and flooding. regional geologic conditions that impact the site include seismicity and radioactivity. These geological conditions can be mitigated with engineering design and construction methods commonly employed in this area. If the previously listed potential geological hazards are found to exist, an evaluation shall be performed at the time of the final geotechnical investigation for those individual lots. No build areas have been defined on the approved preliminary plan protecting existing steep slopes found onsite to eliminate any potential soil issues.*
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; Adequate drainage improvements; complying with State law, this Code and the ECM are proposed and illustrated on the drawings. Due to the size of the lots and use, no onsite water detention is required on individual lots; however, an overall detention pond will be constructed on Tract B to capture developed flows as required.*

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; Legal and physical access will be provided to all parcels by recorded easement and private roadways. The private road, White Bear Point, extends off Hay Creek Road which is a public ROW.*
9. *Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision; All necessary public services will be available to serve the proposed subdivision. Commitment letters for fire, electric, and gas have been provided with this submittal. All of the proposed lots will be on well water and septic tanks. The site will be served via an underground 33,000-gallon tank for Fire Protection in coordination with the fire district as no municipal water will be provided. More detailed information regarding the necessary services provided for this development has been further illustrated in this LOI.*
10. *The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; The proposed subdivision complies with the fire protection standards of Chapter 6 or items outlined in the Fire Commitment Letter dated 04-10-2023 including water supply, roads, and access. The site will be served via an underground 33,000-gallon tank as no municipal water will be provided. All the proposed lots will be on well water and septic tanks. A wildlife fire hazard mitigation plan was provided, and recommendations are followed such as thinning of gambel oak understory that presents a ladder fuel risk and regularly mowing grasses to keep them short. In addition, a fire protection district commitment letter to serve this development has been provided.*
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; Due to the limited construction and large lots, it is not anticipated that the application will have significant impacts on wildlife in the area, noise pollution or hinder the scenic viewshed. Roadways, drainage, and necessary improvements will be constructed in the most optimal and efficient manner in order to facilitate development construction and sequencing.*
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; As the property has no municipal water, all of the proposed lots will be on well water and septic tanks.*
13. *The subdivision meets other applicable sections of Chapter 6 and 8; and . The proposed subdivision meets other applicable design standards of Chapter 6 and 8 of this Code. Two deviations and two waivers, as listed above in more detail, were approved with the Preliminary Plan submittal (SP231).*



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.]* The proposed project does not contain any mineral deposits of commercial value.

**El Paso County Water Master Plan:**

As the property has no municipal water, all of the proposed lots will be on well water and septic tanks.

In addition, Hay Creek Valley meets the stated Goals and Policies:

- Goal 4.2 – Support the efficient use of water supplies
- Goal 6.1.2 – Promote water conservation

Water conservation is achieved through the use of well water for all proposed lots. The common open space emphasizes water conservation by remaining native. No landscape areas are proposed. The sufficiency of findings for water quality and quantity were deferred until time of final plat submission. As a result, the Final Plat will be required to attend Planning Commission and EPC Board of County Commissioner hearings. A water court decree is provided with this final plat submittal.

**Total Number of Residential Units, Density, and Lot Sizes:** 20 Single-Family (1 existing and 19 new) Detached Rural Residential Units for a density of <0.1 DU/ Acre. The site layout includes a mix of residential lot sizes ranging from 5.5 to 17 acres.

**Total Number of Industrial or Commercial Sites:**

There are no industrial or commercial sites proposed with this project.

**Phasing Plan and Schedule of Development:**

The drawings illustrate 1 phase for the platting of individual lots. Roadways, utilities, drainage, and necessary improvements will be constructed in the most optimal and efficient manner to facilitate development construction and sequencing.

**Areas of Required Landscaping:**

There are no areas of required landscaping per El Paso County Code 6.2.2(A)(2)(a).

**Approximate Acres and Percent of Land Set Aside for Open Space:**

While no open space is required, the PSDP proposes 11.642 acres of open space totaling 5% of the overall site acreage. The open space tract will include existing natural open space to remain to preserve habitat for the Preble's meadow jumping mouse.

**Types of Proposed Recreational Facilities:**

There are no proposed recreational facilities on this site.

**Traffic Engineering:**

A 60' tract for a future private access road is proposed along the center of the property running east to west and terminating in a cul-de-sac. Vehicular access and street layout shall be as illustrated on the preliminary plan and final plat with all roadways to be private



and built to El Paso County standards. All property within this subdivision is subject to road impact fees in accordance with the El Paso County road impact fee program (resolution no. 19-471), as amended at the time of this final plat application.

**Road Impact Fees:**

The road impact fees will be paid in full prior to recording the Final Plat.

**School District:**

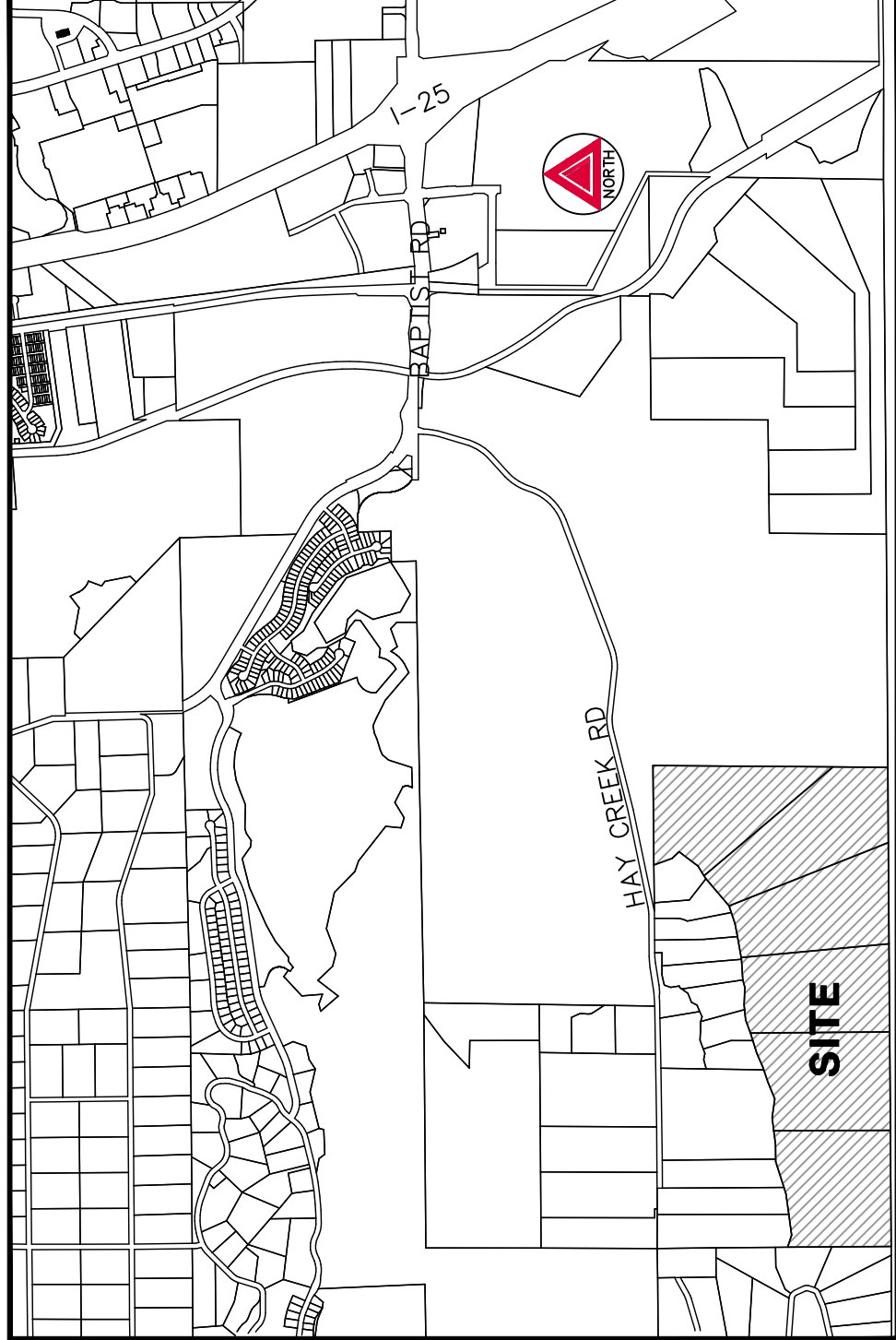
Projects (Plats) within El Paso County are required to either dedicate land or pay school district fees. Hay Creek Valley Subdivision will pay the Lewis-Palmer School District #38 fees of \$308 per lot for a total of \$4,312 for the 14 new lots. The existing lot will remain and will not be subject to school fees.

**Proposed Services:**

1. Water/ Wastewater: Individual Well and On-Site Septic Systems
2. Gas: Black Hills Energy
3. Electric: Mountain View Electric Association
4. Fire: Monument Fire District
5. School: Lewis-Palmer School District #38
6. Roads: El Paso County Road and Bridge
7. Police Protection: El Paso County Sheriff's Department

# HAY CREEK VALLEY

SITUATED IN THE SOUTHEAST QUARTER OF SECTION 33 AND THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO.



**VICINITY MAP**  
SCALE 1" = 2000'

TRACT	AREA (SQ.FT)	AREA (AC ±)	USE	OWNED BY / MAINTAINED BY
TRACT A	506,425	11.626	DRAINAGE, UTILITIES, OPEN SPACE AND HABITAT PROTECTION	HAY CREEK VALLEY HOA
TRACT B	159,399	3.659	DETENTION, UTILITIES, DRAINAGE AND OPEN SPACE	HAY CREEK VALLEY HOA
TRACT C	2,771	0.064	UTILITIES, FIRE CISTERN	HAY CREEK VALLEY HOA
TRACT D	276,961	6.358	UTILITIES, PRIVATE ROAD	HAY CREEK VALLEY HOA
TOTAL	945,556	21.707		HOA = HOMEOWNERS ASSOCIATION, INC.

## SURVEYOR'S CERTIFICATE:

I, SURVEYOR'S NAME, 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 DATE OF 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 \_\_\_\_\_, 20\_\_\_\_

JAMES E. LYNCH  
COLORADO REGISTERED PLS #37933

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 BE BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

NOTICE: PER THE STATE OF COLORADO BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS RULE 1.6.B.2 THE WORD "CERTIFY" AS USED HEREON MEANS AN EXPRESSION OF PROFESSIONAL OPINION AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EXPRESSED OR IMPLIED. THE SURVEY REPRESENTED HEREON HAS BEEN PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE AND IS BASED UPON MY KNOWLEDGE, INFORMATION AND BELIEF.

## SHEET INDEX

- SHEET 1 - COVER
- SHEET 2 - GENERAL NOTES
- SHEET 3 - MAP SHEET

## BOARD OF COUNTY COMMISSIONERS CERTIFICATE:

THIS PLAT FOR HAY CREEK VALLEY WAS APPROVED FOR FILING BY THE EL PASO COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ SUBJECT TO ANY NOTES SPECIFIED HEREON AND ANY CONDITIONS INCLUDED IN THE RESOLUTION OF APPROVAL. THE DEDICATIONS OF LAND TO THE PUBLIC (STREETS, TRACTS, EASEMENTS; LIST THOSE APPLICABLE) ARE ACCEPTED, BUT 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.

CHAIR, BOARD OF COUNTY COMMISSIONERS \_\_\_\_\_ DATE \_\_\_\_\_

## CLERK AND RECORDER:

STATE OF COLORADO  
COUNTY OF EL PASO  
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AND WAS RECORDED AT RECEPTION NUMBER \_\_\_\_\_ OF THE RECORDS OF EL PASO COUNTY

EL PASO COUNTY CLERK AND RECORDER \_\_\_\_\_

## OWNER CERTIFICATE:

THE UNDERSIGNED, BEING ALL THE OWNERS, MORTGAGEES, BENEFICIARIES OF DEEDS OF TRUST AND HOLDERS OF OTHER INTERESTS 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 NUMBER OF HAY CREEK VALLEY. ALL LAWS, COES, ORDINANCES, AND RULES OF THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO, AND THE PUBLIC IMPROVEMENTS WILL BE CONSTRUCTED TO ELABORATE, ENFORCE, AND AGREE THAT THE PROPER DRAINAGE AND EROSION CONTROL FOR 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 ENTIRE RESPONSIBILITY FOR PROVIDING THE SERVICES OR UTILITIES WHICH THE EASEMENTS ARE DEDICATED TO SHALL BE THE RESPONSIBILITY OF THE PROPERTY OWNER. THE EASEMENTS ARE FROM AND TO ADJACENT PROPERTIES FOR INSTALLATION, MAINTENANCE, AND REPLACEMENT OF UTILITY LINES AND RELATED FACILITIES.

RANDAL O'LEARY - OWNER \_\_\_\_\_ ANDREA O'LEARY - OWNER \_\_\_\_\_

STATE OF COLORADO )

COUNTY OF \_\_\_\_\_ ) SS. \_\_\_\_\_

ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

BY RANDAL O'LEARY AND ANDREA O'LEARY AS OWNERS.

MY COMMISSION EXPIRES \_\_\_\_\_

WITNESS MY HAND AND OFFICIAL SEAL \_\_\_\_\_

NOTARY PUBLIC \_\_\_\_\_

## HOLDER OF DEED OF TRUST:

VIVA LAND VENTURES, LP, A TEXAS LIMITED PARTNERSHIP

STATE OF TEXAS )

COUNTY OF EL PASO )

ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

BY \_\_\_\_\_ AS \_\_\_\_\_

MY COMMISSION EXPIRES \_\_\_\_\_

WITNESS MY HAND AND OFFICIAL SEAL \_\_\_\_\_

NOTARY PUBLIC \_\_\_\_\_

## KNOWN ALL MEN BY THESE PRESENTS:

RANDAL O'LEARY AND ANDREA O'LEARY, BEING THE OWNERS OF THE FOLLOWING DESCRIBED TRACT OF LAND, TO WIT:

## LEGAL DESCRIPTION:

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 33 AND THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6TH/ PRINCIPAL MERIDIAN; COUNTY OF EL PASO, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 33, FROM WHICH THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 33 BEARS NORTH 89°38'17" EAST, A DISTANCE OF 2,684.46 FEET, WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE NORTH 00°25'17" WEST, ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER OF SECTION 33, A DISTANCE OF 1,169.26 FEET;

THENCE THE FOLLOWING TWENTY-TWO (22) COURSES;

1. SOUTH 71°29'43" EAST, A DISTANCE OF 140.51 FEET;
2. NORTH 82°07'46" EAST, A DISTANCE OF 458.69 FEET;
3. NORTH 71°31'45" EAST, A DISTANCE OF 369.66 FEET;
4. NORTH 89°30'59" EAST, A DISTANCE OF 195.64 FEET;
5. NORTH 82°27'48" EAST, A DISTANCE OF 300.93 FEET;
6. SOUTH 81°25'26" EAST, A DISTANCE OF 208.57 FEET;
7. NORTH 66°51'51" EAST, A DISTANCE OF 197.45 FEET;
8. NORTH 70°47'03" EAST, A DISTANCE OF 178.13 FEET;
9. NORTH 66°11'16" EAST, A DISTANCE OF 170.15 FEET;
10. NORTH 71°47'12" EAST, A DISTANCE OF 403.02 FEET;
11. NORTH 84°26'00" EAST, A DISTANCE OF 169.75 FEET;
12. SOUTH 87°26'44" EAST, A DISTANCE OF 197.38 FEET;
13. NORTH 74°51'53" EAST, A DISTANCE OF 86.71 FEET;
14. NORTH 86°13'24" EAST, A DISTANCE OF 233.11 FEET;
15. NORTH 80°10'48" EAST, A DISTANCE OF 260.90 FEET;
16. NORTH 78°52'32" EAST, A DISTANCE OF 149.05 FEET;
17. NORTH 71°58'16" EAST, A DISTANCE OF 210.75 FEET;
18. NORTH 49°30'50" EAST, A DISTANCE OF 403.50 FEET;
19. NORTH 57°57'37" EAST, A DISTANCE OF 170.21 FEET;
20. NORTH 37°03'08" EAST, A DISTANCE OF 266.68 FEET;
21. NORTH 43°48'53" WEST, A DISTANCE OF 107.37 FEET;
22. NORTH 20°29'00" WEST, A DISTANCE OF 220.10 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 34;

THENCE NORTH 89°30'43" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 1,125.83 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 34;

THENCE SOUTH 00°28'46" WEST, ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 34, A DISTANCE OF 2,654.48 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER;

THENCE SOUTH 89°38'45" WEST, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 2,683.98 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 33;

THENCE SOUTH 89°38'17" WEST, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 33, A DISTANCE OF 2,684.46 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 214.622 ACRES; (9,348,924 SQUARE FEET), MORE OR LESS.

PCD FILE # SF2324

DATE OF PREPARATION	9/18/2023
SCALE	N.T.S.
SHEET 1 OF 3	

**DEVELOPER**  
COLA, LLC/VIEW HOMES, INC.  
555 MIDDLE CREEK PKWY., SUITE 500  
COLORADO SPRINGS, CO 80921

**AZTEC**  
CONSULTANTS, INC.  
300 East Mineral Ave., Suite 1  
Aurora, Colorado 80012  
Phone: (303) 711-8988  
Fax: (303) 711-8987  
www.aztecconsultants.com

Drawn By: BAM

AZtec Proj. No: 164022-01

LAST REVISED: 2/29/2024

**HAY CREEK VALLEY**  
SITUATED IN THE SOUTHEAST QUARTER OF SECTION 33 AND THE SOUTHWEST QUARTER OF SECTION 34,  
TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN,  
COUNTY OF EL PASO, STATE OF COLORADO.

**EASEMENTS:**

UNLESS OTHERWISE INDICATED, ALL SIDE, FRONT, AND REAR LOT LINES ARE HEREBY PLATTED ON EITHER SIDE WITH A 10 FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT UNLESS OTHERWISE INDICATED. ALL EXTERIOR SUBDIVISION BOUNDARIES ARE HEREBY PLATTED WITH A 20 FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT. THE SOLE RESPONSIBILITY FOR MAINTENANCE OF THESE EASEMENTS IS HEREBY VESTED WITH THE INDIVIDUAL PROPERTY OWNERS.

**AVIGATION EASEMENT NOTES:**

1. AN AVIGATION EASEMENT EFFECTING THE SUBJECT PROPERTY AND DEVELOPMENT IS SUBJECT TO THE TERMS AND CONDITIONS AS SPECIFIED IN THE INSTRUMENT RECORDED UNDER RECEPTION NO. \_\_\_\_\_ OF THE RECORDS OF EL PASO COUNTY, COLORADO.
2. NOTICE: THIS PROPERTY MAY BE IMPACTED BY NOISE AND OTHER SIMILAR, INCIDENTAL SENSORY EFFECTS OF FLIGHT CAUSED BY AIRCRAFT USED IN THE UNITED STATES AIR FORCE ACADEMY'S AIRMANSHIP PROGRAM. THIS SHALL REMAIN IN EFFECT UNTIL THE ACADEMY SHALL CEASE TO BE ACTIVELY USED. THIS NOTICE SHALL RUN WITH THE LAND.

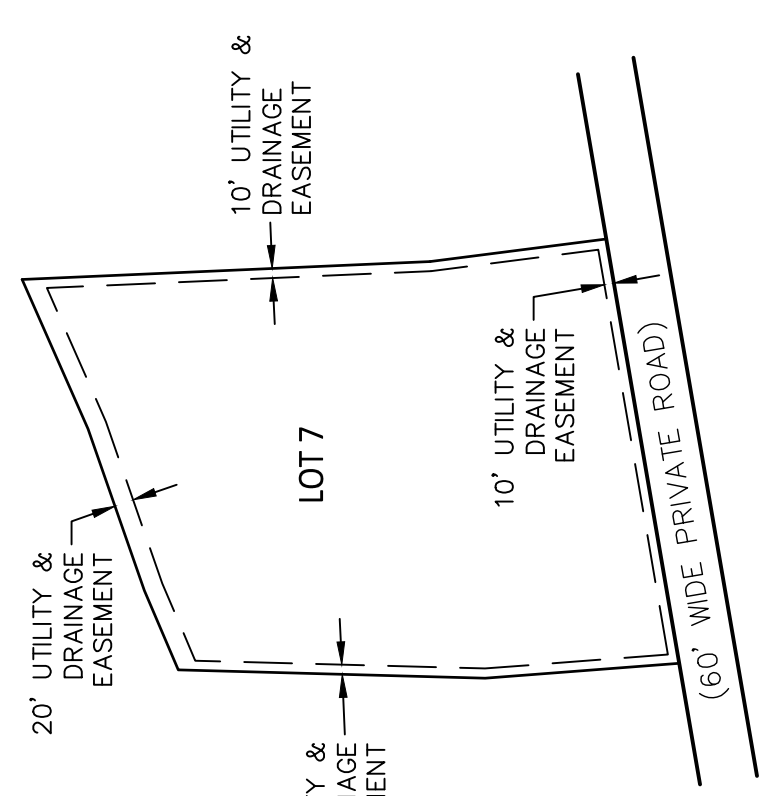
**GENERAL NOTES:**

1. THE FIELD WORK FOR THIS SURVEY WAS PERFORMED BY AN AZTEC CONSULTANTS, INC. SURVEY CREW ON JUNE 16, 2022.
2. PER C.R.S. 38-51-106, "ALL LINEAL UNITS DEPICTED ON THIS LAND SURVEY PLAT ARE U.S. SURVEY FEET, ONE METER EQUALS 39.37/12 U.S. SURVEY FEET, EXACTLY ACCORDING TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY."
3. BASIS OF BEARINGS: BEARINGS SHOWN HEREON ARE GRID BEARINGS DERIVED FROM GPS OBSERVATION BASED UPON THE COLORADO COORDINATE SYSTEM OF 1983 CENTRAL ZONE (NAD 83, 2011) REFERENCED TO THE EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 11 SOUTH, RANGE 67 WEST, SIXTH PRINCIPAL MERIDIAN BEING MONUMENTED AS SHOWN HEREON, TAKEN TO BEAR SOUTH 00°28'46" WEST, A DISTANCE OF 2,654.48 FEET.
4. A PORTION OF THIS PROPERTY IS LOCATED WITHIN ZONE A – NO BASE FLOOD ELEVATIONS DETERMINED, AS SHOWN HEREON. THE REMAINDER IS LOCATED IN OTHER AREAS – ZONE X, ZONE Y, ZONE Z, OR ZONE V. CHANGING FLOOD RISK ZONING INFORMATION IS AVAILABLE FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY AT [www.fema.gov](http://www.fema.gov). GREAT CARE WILL BE GIVEN TO THE EFFECTIVE DATE OF DECEMBER 7, 2018. NO STRUCTURES ARE PERMITTED WITHIN THE DESIGNATED FLOODPLAIN AREAS.
5. LAND TITLE GUARANTEE COMPANY ORDER NO. RND5109385 WITH AN EFFECTIVE DATE OF 01/26/2023 AT 5:00 P.M. WAS RELIED UPON FOR RECORD INFORMATION REGARDING RIGHTS-OF-WAY, EASEMENT(S) AND ENCUMBRANCE(S). THIS SURVEY DOES NOT REPRESENT A TITLE SEARCH BY AZTEC CONSULTANTS, INC. TO DETERMINE OWNERSHIP, RIGHT(S)-OF-WAY, EASEMENT(S), OR OTHER MATTERS OF PUBLIC RECORD.
6. THE FOLLOWING REPORTS HAVE BEEN SUBMITTED AND ARE ON FILE AT THE COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT: WATER RESOURCE REPORT; WASTEWATER DISPOSAL REPORT; GEOLOGY AND SOILS REPORT; FIRE PROTECTION REPORT; WILDFIRE HAZARD REPORT; NATURAL FEATURES REPORT; TRANSPORTATION IMPACT STUDY.
7. THE TOTAL NUMBER OF LOTS BEING PLATTED IS 20. THE TOTAL NUMBER OF TRACTS BEING PLATTED IS 4.
8. DEVELOPER SHALL COMPLY WITH FEDERAL AND STATE LAWS, REGULATIONS, ORDINANCES, REVIEW AND PERMIT REQUIREMENTS, AND OTHER AGENCY REQUIREMENTS, IF ANY, OF A APPLICABLE AGENCIES INCLUDING, BUT NOT LIMITED TO, THE COLORADO DEPARTMENT OF PARKS AND WILDLIFE, COLORADO DEPARTMENT OF TRANSPORTATION, U.S. ARMY CORP. OF ENGINEERS, THE U.S. FISH & WILDLIFE SERVICE AND/OR COLORADO DEPARTMENT OF WILDLIFE REGARDING THE ENDANGERED SPECIES ACT.
9. THE ADDRESSES EXHIBITED ON THIS PLAT ARE FOR INFORMATIONAL PURPOSES ONLY. THEY ARE NOT THE LEGAL DESCRIPTION AND ARE SUBJECT TO CHANGE.
10. NO LOT OR INTEREST THEREIN, SHALL BE SOLD, CONVEYED, OR TRANSFERRED WHETHER BY DEED OR BY CONTRACT, NOR SHALL BUILDING PERMITS BE ISSUED, UNTIL AND UNLESS EITHER THE REQUIRED PUBLIC AND COMMON DEVELOPMENT IMPROVEMENTS HAVE BEEN CONSTRUCTED AND COMPLETED AND PRELIMINARILY ACCEPTED IN ACCORDANCE WITH THE SUBDIVISION IMPROVEMENTS AGREEMENT BETWEEN THE APPLICANT/OWNER AND EL PASO COUNTY AS RECORDED UNDER RECEPTION NO. \_\_\_\_\_ IN THE OFFICE OF THE CLERK AND RECORDER OF EL PASO COUNTY, COLORADO OR, IN THE ALTERNATIVE, OTHER COLLATERAL IS PROVIDED TO MAKE PROVISION FOR THE COMPLETION OF SAID IMPROVEMENTS IN ACCORDANCE WITH THE EL PASO COUNTY LAND DEVELOPMENT CODE AND ENGINEERING CRITERIA MANUAL. ANY SUCH ALTERNATIVE COLLATERAL MUST BE APPROVED BY BOARD OF COUNTY COMMISSIONERS OR, PERMY AND PROCEED WITH THE SUBDIVISION IMPROVEMENTS AGREEMENT. THE COUNTY OF EL PASO, COLORADO, HEREBY ACCEPTS THE SUBDIVISION IMPROVEMENTS AGREEMENT PRIOR TO THE RELEASE BY THE COUNTY OF ANY LOTS FOR SALE, CONVEYANCE OR TRANSFER. THIS PLAT RESTRICTION MAY BE REMOVED OR RESCINDED BY THE BOARD OF COUNTY COMMISSIONERS OR, IF PERMITTED, BY THE SUBDIVISION IMPROVEMENTS AGREEMENT, BY THE PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR UPON EITHER APPROVAL OF AN ALTERNATIVE FORM OF COLLATERAL OR COMPLETION AND PRELIMINARY ACCEPTANCE BY THE EL PASO BOARD OF COUNTY COMMISSIONERS OF ALL IMPROVEMENTS REQUIRED TO BE CONSTRUCTED IN ACCORDANCE WITH SAID SUBDIVISION IMPROVEMENTS AGREEMENT. THE PARTIAL RELEASE OF LOTS FOR SALE, CONVEYANCE OR TRANSFER, SHALL BE GRANTED ACCORDANCE WITH THE SUBDIVISION IMPROVEMENTS AGREEMENT. LOTS AUTHORIZED BY THE SUBDIVISION IMPROVEMENTS AGREEMENT.

**GENERAL NOTES (CONT.):**

14. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-506, C.R.S.
15. ALL COMMON DRIVEWAY EASEMENTS TO BE DRAINAGE AND UTILITY EASEMENTS IN THEIR ENTIRETY.
16. WATER TO BE PROVIDED VIA INDIVIDUAL ON SITE WELLS OPERATED THROUGH A STATE APPROVED WATER REPLACEMENT PLAN.
17. WASTE WATER TO BE INDIVIDUAL ON SITE SEPTIC SYSTEMS.
18. THIS PROPERTY IS LOCATED WITHIN AND SERVICED BY BLACK HILLS ENERGY, THE TRI-LAKES MONUMENT FIRE PROTECTION DISTRICT, AND THE LEWIS-PALMER SCHOOL DISTRICT NO. 38.
19. THERE SHALL BE NO DRIVEWAY ACCESS ONTO HAY CREEK ROAD.
20. NO DRIVEWAY SHALL BE ESTABLISHED UNLESS AN ACCESS PERMIT HAS BEEN GRANTED BY EL PASO COUNTY.
21. NO STRUCTURES OR FENCES ARE PERMITTED WITHIN DESIGNATED "FLOODPLAIN" OR "PARK AND OPEN SPACE" AREAS.
22. ALL ROADWAY AND DRAINAGE FACILITIES SHALL BE CONSTRUCTED TO EL PASO COUNTY STANDARDS AND SHALL BE OWNED AND MAINTAINED BY THE HAY CREEK HOA.
23. INDIVIDUAL LOT PURCHASERS ARE RESPONSIBLE FOR CONSTRUCTING DRIVEWAYS, INCLUDING NECESSARY DRAINAGE CULVERTS PER EL PASO COUNTY LAND DEVELOPMENT CODE. SPECIFIC LOTS MAY REQUIRE LARGER DRIVEWAY CULVERTS BASED ON THE APPROVED FINAL DRAINAGE REPORT. DRIVEWAY CULVERT ANALYSIS AND REQUIRED SIZING WILL BE PROVIDED WITH FINAL PLAT FOR LOTS THAT REQUIRE LARGER THAN AN 18-INCH DIAMETER PIPE.
24. A NOXIOUS WEED MANAGEMENT PLAN WILL BE PROVIDED TO THE EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT PRIOR TO CONSTRUCTION. IT IS THE APPLICANT'S RESPONSIBILITY TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS INCLUDING BUT NOT LIMITED TO THE COLORADO NOXIOUS WEED ACT AND THE EL PASO COUNTY WEED MANAGEMENT PLAN.
25. DEVELOPMENT IS GATED AND EMERGENCY ACCESS WILL BE GAINED WITH A FIRE DEPARTMENT APPROVED KNOXBOX.
26. DEVELOPER IS RESPONSIBLE FOR INSTALLATION OF CISTERN FOR PURPOSES OF FIRE SUPPRESSION. CISTERN IS TO BE MAINTAINED BY THE HAY CREEK VALLEY HOA.
27. 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. HOMEBUILDERS ARE RESPONSIBLE TO ENSURE PROPER DRAINAGE AROUND STRUCTURES, INCLUDING ELEVATIONS OF FOUNDATIONS AND WINDOW WELLS IN RELATION TO SIDE-LOT DRAINAGE EASEMENTS AND SWALES. HOMEOWNERS SHALL NOT CHANGE THE GRADE OF THE LOT OR DRAINAGE SWALES WITHIN SAID EASEMENTS, AS CONSTRUCTED BY THE BUILDER, IN A MANNER THAT WOULD CAUSE ADVERSE DRAINAGE IMPACTS TO PROPERTIES. STRUCTURES, FENCES, MATERIALS OR LANDSCAPING THAT COULD IMPEDE THE FLOW OF RUNOFF SHALL NOT BE PLACED IN DRAINAGE EASEMENTS.
28. IF ANY PORTION OF A BUILDING IS PROPOSED TO ENCROACH INTO A DRAINAGE EASEMENT, AN ENGINEER'S SIGNATURE WILL BE REQUIRED FOR COUNTY REVIEW, BUT NO REPLAT OF THE DRAINAGE EASEMENT WILL BE REQUIRED.
29. EXCEPT AS OTHERWISE NOTED ON THE PRELIMINARY PLAN, INDIVIDUAL LOT PURCHASERS ARE RESPONSIBLE FOR CONSTRUCTING DRIVEWAYS INCLUDING NECESSARY DRAINAGE CULVERTS PER LAND DEVELOPMENT CODE 6.3.3.C2 AND 6.2.2.C.3. DUE TO THEIR LENGTH SOME OF THE DRIVEWAY MUST BE APPROVED BY THE FIRE DISTRICT. SOME LOTS WITHIN THIS SUBDIVISION WILL REQUIRE LARGER CULVERTS BASED ON THE APPROVED FINAL DRAINAGE REPORT AND SHALL BE SIZED AND DESIGNED BY A PROFESSIONAL ENGINEER IN THE STATE OF COLORADO. IF A DRIVEWAY IS PROPOSED TO CROSS A DRAINAGE EASEMENT, AN ENGINEERED SITE PLAN WILL BE REQUIRED FOR A COUNTY REVIEW.

30. TRACT B OF THIS PROPERTY IS SUBJECT TO A PRIVATE DETENTION BASIN/STORMWATER QUALITY BMP MAINTENANCE AGREEMENT AND EASEMENT AS RECORDED AT RECEPTION NO. \_\_\_\_\_ OF THE RECORDS OF EL PASO COUNTY, THE HAY CREEK VALLEY HOA IS RESPONSIBLE FOR MAINTENANCE OF THE SUBJECT DRAINAGE FACILITIES.



**LOT EASEMENT TYPICAL**  
SCALE 1" = 200'

**GENERAL NOTES (CONT.):**

31. THE SUBDIVIDER(S) AGREE ON BEHALF OF HIM/HERSELF AND ANY DEVELOPER OF BUILDER SUBDIVISIONS AND ASSIGNEES THAT SUBDIVIDER AND/OR SAID SUCCESSORS AND ASSIGNS BE RESPONSIBLE FOR THE CULVERTS IN ACCORDANCE WITH THE EL PASO COUNTY LAND DEVELOPMENT CODE. THE SUBDIVIDER(S) SHALL BE RESPONSIBLE FOR THE COST OF THE IMPACT FEE PROGRAM. RESUBDIVISIONS SHALL BE PERMITTED TO TAKE THEREO AT OR PRIOR TO THE TIME OF BUILDING PERMIT SUBMITTALS. THE FEE OBLIGATION, IF NOT PAID AT FINAL PLAT RECORDING, SHALL BE DOCUMENTS ON ALL SALES DOCUMENTS AND IN PLAT NOTES TO ENSURE THAT A TITLE SEARCH WOULD FIND THE FEE OBLIGATION BEFORE SALE OF THE PROPERTY.
32. INDIVIDUAL LOT PURCHASERS ARE RESPONSIBLE FOR CONSTRUCTING DRIVEWAYS, INCLUDING NECESSARY DRAINAGE CULVERTS PER LAND DEVELOPMENT CODE 6.3.3.C2 AND 6.2.2.C.3. DUE TO THEIR LENGTH SOME OF THE DRIVEWAYS MUST BE APPROVED BY THE FIRE DISTRICT.
33. ABSORPTION FIELD MUST BE LOCATED A MINIMUM OF 100 FEET FROM ANY WELL, INCLUDING THOSE ON ADJACENT PROPERTIES. ABSORPTION FIELDS MUST ALSO BE LOCATED A MINIMUM OF 50 FEET FROM ANY DRAINAGES, FLOODPLAINS, OR PONDED AREAS AND 25 FEET FROM DRY GULCHES. PLEASE ADD NOTE IN REGARD TO ON-SITE WASTEWATER SYSTEMS.
34. FIRE CISTERN EASEMENTS SHALL BE PROVIDED AND DEDICATED TO THE APPROPRIATE FIRE DEPARTMENT. ACCESS TO THE CISTERN FROM A PUBLIC ROAD, EASEMENTS SHALL BE OF SUFFICIENT SIZE TO FACILITATE MAINTENANCE.
35. THE PRIVATE ROADS AS SHOWN ON THIS PLAT WILL NOT BE MAINTAINED BY EL PASO COUNTY UNTIL AND UNLESS THE STREETS ARE CONSTRUCTED IN CONFORMANCE WITH EL PASO COUNTY STANDARDS IN EFFECT AT THE DATE OF THE REQUEST FOR DEDICATION AND MAINTENANCE.

**GEOLOGY STATEMENT:**

1. A "GEOLOGIC HAZARDS EVALUATION AND PRELIMINARY GEOTECHNICAL INVESTIGATION", HAY CREEK DEVELOPMENT, EL PASO COUNTY, COLORADO" (CTL | THOMPSON, DATED DECEMBER 27, 2022) IS INCLUDED WITH THE SUBMITTAL PACKAGE.
2. THERE ARE NO SIGNIFICANT GEOLOGICAL HAZARDS; HOWEVER, THE POTENTIAL FOR GEOLOGIC HAZARDS OR CONDITIONS IN THE EXPANSIVE NEAR SURFACE SOILS AND BEDROCK SOILS SUSCEPTIBLE TO EROSION, STEEP SLOPES AND FLOODING. REGIONAL GEOLOGIC CONDITIONS THAT IMPACT THE SITE INCLUDE SEISMOICITY AND RADIOACTIVITY. THESE GEOLOGIC CONDITIONS CAN BE MITIGATED WITH ENGINEERING DESIGN AND CONSTRUCTION METHODS COMMONLY EMPLOYED IN THIS AREA. IF THE PREVIOUSLY LISTED POTENTIAL GEOLOGICAL HAZARDS ARE FOUND TO EXIST, AN EVALUATION SHALL BE PERFORMED AT THE TIME OF FINAL GEOTECHNICAL INVESTIGATION FOR THOSE INDIVIDUAL LOTS.
3. THE FOLLOWING LOTS (1-20) HAVE BEEN FOUND TO BE IMPACTED BY GEOLOGIC HAZARDS. EROSION MEASURES AND MAP OF THE HAZARDOUS AREA CAN BE FOUND IN THE REPORT DEVELOPED BY C.T. THOMPSON AND PREVIOUS GEOTECHNICAL INVESTIGATION REPORT. DEVELOPMENT BY C.T. THOMPSON IN FILE SP231 AVAILABLE AT THE EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT:  
DOWNSLOPE CREEP;  
ROCKFALL RUNOUT ZONE;  
ROCKFALL RUNOUT ZONE;  
POTENTIALLY SEASONALLY HIGH GROUNDWATER;  
OTHER HAZARDS: EXPANSIVE SOILS & BEDROCK, SOILS SUSCEPTIBLE TO EROSION, STEEP SLOPES, AND FLOODING.
4. WHERE SIGNIFICANT CUTS AND/OR SITE GRADING ARE PLANNED ALONG THE SLOPE FOR LOTS 1 THROUGH 9, EVALUATION OF THE CUT SLOPE, NEW SITE GRADING AND RETAINING WALL/FOUNDATION WALL CONSTRUCTION SHOULD BE PERFORMED THAT INCLUDES STABILITY ANALYSIS. SLOPE EVALUATION WILL NEED TO INCLUDE THE ELEVATION OF TEMPORARY CUTS, IF PERFORMED, AND PERMANENT WALL CONDITIONS. INCLUDING SLOPE ANALYSIS MAY IMPACT THE PROPOSED RESIDENCE FOUNDATION.

**AZTEC**  
CONSULTANTS, INC.

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[www.aztecconsultants.com](http://www.aztecconsultants.com)

D E V E L O P E R  
COLA, LLC/VIEW HOMES, INC.  
555 MIDDLE CREEK PKWY., SUITE 500  
COLORADO SPRINGS, CO 80921

PCD FILE # SF2324  
DATE OF PREPARATION: 9/18/2023  
SCALE: N.T.S.  
S H E E T 2 O F 3

AZtec Proj. No.: 144022-01  
Drawn By: BAM

# HAY CREEK VALLEY

SITUATED IN THE SOUTHEAST QUARTER OF SECTION 33  
AND THE SOUTHWEST QUARTER OF SECTION 34,  
TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE  
SIXTH PRINCIPAL MERIDIAN,  
COUNTY OF EL PASO, STATE OF COLORADO.

CURVE TABLE		
CURVE	DELTA	LENGTH
C1	18°35'10"	300.00'
C2	33°54'55"	400.00'
C3	25°49'31"	300.00'
C4	9°46'31"	300.00'
C5	19°15'55"	300.00'
C6	49°26'19"	56.00'
C7	50°03'02"	56.00'
C8	9°29'30"	270.00'
C9	16°20'02"	270.00'
C10	9°46'31"	330.00'
C11	19°15'55"	270.00'
C12	50°22'21"	66.00'
C13	88°07'23"	66.00'

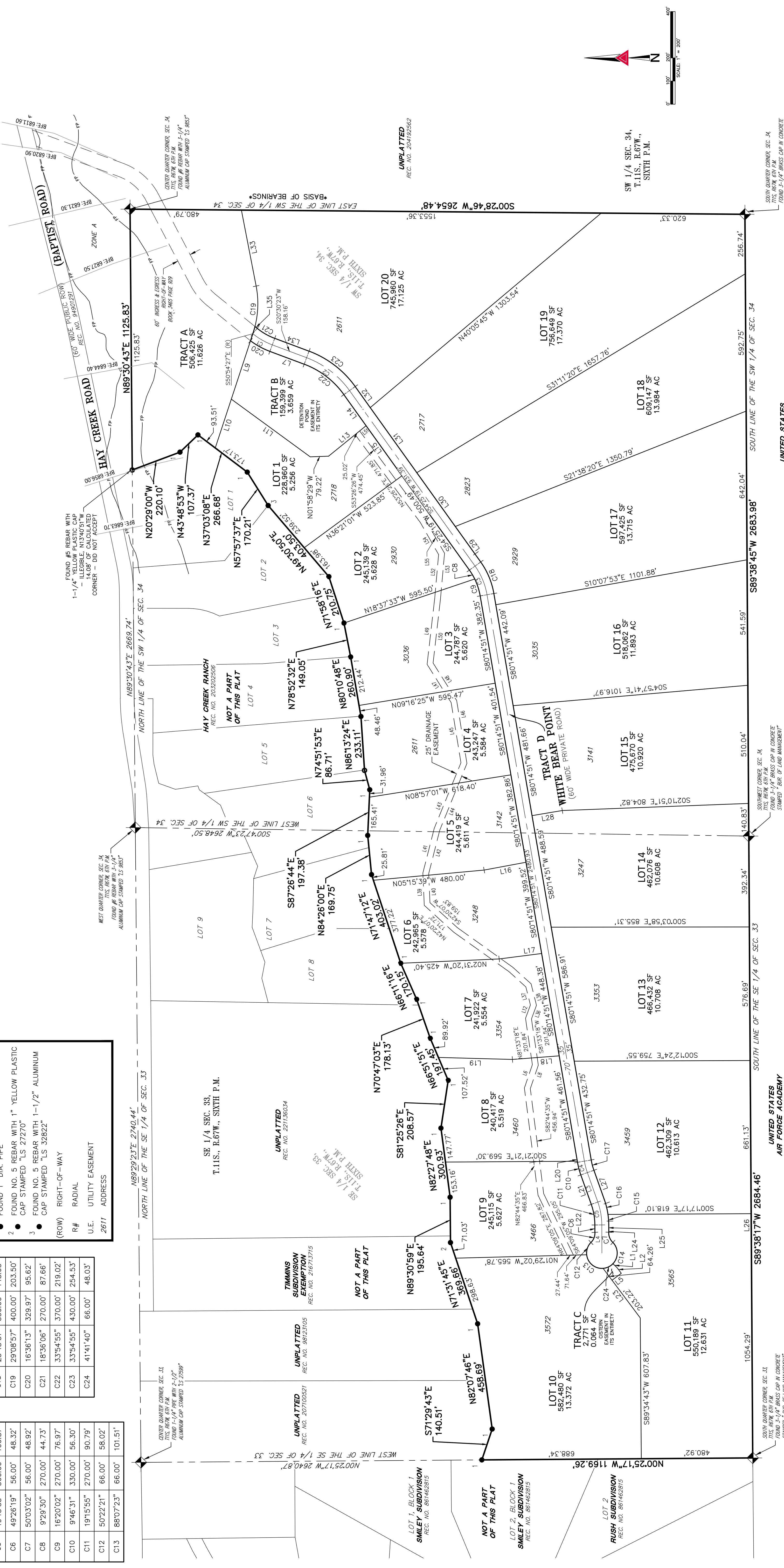
CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C14	88°11'12"	66.00'	101.58'
C15	7°54'28"	330.00'	45.55'
C16	11°21'27"	330.00'	65.41'
C17	9°46'31"	270.00'	46.07'
C18	25°48'31"	330.00'	148.65'
C19	29°08'57"	400.00'	203.50'
C20	16°36'13"	329.97'	95.62'
C21	18°36'06"	270.00'	87.66'
C22	33°54'55"	370.00'	219.02'
C23	33°54'55"	430.00'	254.53'
C24	41°41'40"	66.00'	48.03'

## LEGEND

- ◆ ALIQUOT CORNER AS SHOWN HEREON
- SET NO. 5 X 18" REBAR WITH 1-1/2" YELLOW PLASTIC CAP STAMPED "AZTEC LS 37933"
- FOUND NO. 5 REBAR WITH 1-1/2" ALUMINUM CAP STAMPED "LS 32822"
- FOUND NO. 5 REBAR WITH 1" YELLOW PLASTIC CAP STAMPED "LS 27270"
- FOUND NO. 5 REBAR WITH 1-1/2" ALUMINUM CAP STAMPED "LS 32822"
- (ROW) RIGHT-OF-WAY
- R# RADIAL
- U.E. UTILITY EASEMENT
- 2611 ADDRESS

LINE TABLE		
LINE	BEARING	LENGTH
L46	S80°44'34"W	275.10'
L47	N57°49'44"E	194.96'
L48	S57°49'44"W	191.23'
L49	S83°25'32"E	286.44'
L50	N83°25'32"W	277.97'

LINE TABLE		
LINE	BEARING	LENGTH
L51	S39°05'08"E	35.88'
L52	S84°55'09"E	190.24'
L53	N84°55'09"W	198.39'
L54	N60°17'27"E	159.79'
L55	S60°17'27"W	169.12'



LINE TABLE		
LINE	BEARING	LENGTH
L1	S43°56'49"W	25.00'
L2	S53°08'14"W	30.08'
L3	S70°28'20"W	134.82'
L4	S89°44'15"W	121.56'
L5	N36°51'46"W	50.00'

LINE TABLE		
LINE	BEARING	LENGTH
L6	S71°07'51"E	106.60'
L7	S20°30'23"W	158.16'
L8	N71°07'51"W	106.87'
L9	N71°48'51"W	165.24'
L10	S71°45'44"E	221.73'

LINE TABLE		
LINE	BEARING	LENGTH
L11	S35°09'44"W	421.86'
L12	S89°48'11"E	61.54'
L13	S39°05'08"E	208.75'
L14	S54°25'19"W	164.95'
L15	S54°25'19"W	265.95'

LINE TABLE		
LINE	BEARING	LENGTH
L16	N10°31'56"W	183.68'
L17	N07°17'05"W	184.83'
L18	N04°22'12"W	202.63'
L19	N01°32'40"E	319.70'
L20	S80°14'51"W	461.56'

LINE TABLE		
LINE	BEARING	LENGTH
L21	S70°28'20"W	134.82'
L22	S89°44'15"W	31.80'
L23	S53°08'14"W	267.47'
L24	S89°44'15"W	31.70'
L25	S89°44'15"W	31.70'

LINE TABLE		
LINE	BEARING	LENGTH
L26	S89°38'17"W	1054.29'
L27	S09°28'20"W	134.82'
L28	S70°28'20"W	134.82'
L29	S09°33'53"E	132.33'
L30	S54°25'19"W	188.63'

LINE TABLE		
LINE	BEARING	LENGTH
L31	S54°25'19"W	345.31'
L32	S54°25'19"W	111.75'
L33	N79°01'44"E	333.97'
L34	S20°30'23"W	158.16'
L35	S39°06'29"W	124.00'

LINE TABLE		
LINE	BEARING	LENGTH
L36	N69°48'11"W	62.89'
L37	N75°50'09"E	80.45'
L38	S75°50'09"W	95.74'
L39	N87°31'17"E	139.68'
L40	S87°31'17"W	125.59'

LINE TABLE		
LINE	BEARING	LENGTH
L41	S80°44'34"W	275.10'
L42	N57°49'44"E	194.96'
L43	S57°49'44"W	191.23'
L44	S83°25'32"E	286.44'
L45	N83°25'32"W	277.97'

LINE TABLE		
LINE	BEARING	LENGTH
L46	S80°44'34"W	275.10'
L47	N57°49'44"E	194.96'
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LINE	BEARING	LENGTH
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L52	S84°55'09"E	190.24'
L53	N84°55'09"W	198.39'
L54	N60°17'27"E	159.79'
L55	S60°17'27"W	169.12'

FOR AND ON BEHALF OF  
AZTEC CONSULTANTS, INC.

DATE OF PREPARATION: 9/18/2023  
SCALE: 1"=200'  
SHEET 3 OF 3

**AZTEC**  
CONSULTANTS, INC.

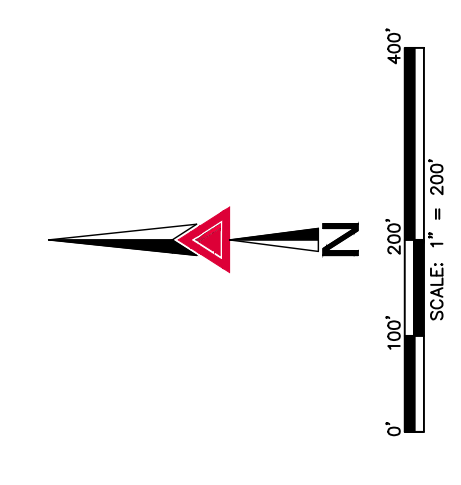
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DEVELOPER  
COLA, LLC./VIEW HOMES, INC.  
555 MIDDLE CREEK PKWY., SUITE 500  
COLORADO SPRINGS, CO 80921

Drawn By: BAM

UNITED STATES  
AIR FORCE ACADEMY

UNITED STATES  
AIR FORCE ACADEMY



County Attorney

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

March 22, 2024

SF-23-24 Hay Creek Valley

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

**WATER SUPPLY REVIEW AND RECOMMENDATIONS**

Project Description

1. Hay Creek Valley is a proposal to combine six parcels and subdivide this 214-acre tract (the “property”) into 20 single-family lots by Randall and Andrea O’Leary (“Applicant”). The property is zoned RR-5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary (“WSIS”), the subdivision is estimated to use 12.93 acre-feet/year comprising of 6.72 acre-feet per year for household use (0.34 acre-feet/year for a single-family dwelling), 5.38 acre-feet per year for irrigation of 6 acres, 0.72 acre-feet per year for stock watering of 80 animals and 0.11 acre-feet per year for fire protection. The Water Resources Report (“Report”), however, states that the fire protection cistern will be filled and maintained with offsite water rather than with groundwater from the underlying aquifers. Based on this total demand, after subtracting the amount for fire protection, Applicant must be able to provide a supply of 3,846 acre-feet of water (12.82 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 one or more individual on-lot wells withdrawing from the not-nontributary Denver aquifer as provided in the Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree in Division 2 Case No. 22CW3092 (“Decree”). There is an existing well with Permit No. 119564 serving an existing residence

**ASSISTANT COUNTY ATTORNEYS**

NATHAN J. WHITNEY  
CHIEF OF STAFF  
**BOCC Report Packet**

STEVEN A. KLAFFKY  
TERRY A. SAMPLE

LORI L. SEAGO  
DOREY L. SPOTTS

BRYAN E. SCHMID  
STEVEN W. MARTYN

MERI GERINGER

located on the property. This well must be re-permitted pursuant to the augmentation plan approved in the Decree.

The Decree allocates 8,147 acre-feet of water from the not-nontributary portion of the Denver aquifer. As El Paso County requires a 300-year supply, 8,147 acre-feet is divided by 300, leaving 27.16 acre-feet per year available to 20 lots from the Denver aquifer. Available Denver aquifer withdrawals available for this subdivision are to be used for the following: domestic, structure and equipment washing, hot tub, irrigation, commercial, stock water, recreation, wildlife, fire protection, and also storage and augmentation purposes.

The approved augmentation plan has a term of 300 years and requires that non-evaporative septic system return flows be used for augmentation during the pumping period for the 20 approved wells. Applicant must reserve 3,846 acre-feet of its water rights in the Denver aquifer and an additional 3,993 of its water rights in the Laramie-Fox Hills aquifer which shall be used for replacement of post pumping depletions. Each of the 20 wells may pump up to 0.81 acre-feet per year.

#### State Engineer's Office Opinion

4. In a letter dated February 7, 2024, the State Engineer stated that “[t]he proposed water supply is individual on-lot wells constructed in the not-nontributary Denver aquifer operating pursuant to the augmentation plan approved by the Division 2 Water Court in case no. 22CW3092. . .” There is an existing well with permit no. 119564 which will be re-permitted pursuant to the augmentation plan. Based on El Paso county’s 300-year requirement, 16.2 acre-feet/year or 0.81 acre-feet/year/well is allowed for withdrawal from all 20 wells pursuant to the Decree and augmentation plan.

Finally, the State Engineer provided their opinion, “. . . pursuant to 30-28-136(1)(h)(I), 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 so long as the Denver aquifer wells are operated in compliance with the decree granted in case no. 22CW3092.”

#### Recommended Findings

5. Quantity and Dependability. Applicant’s water demand for Hay Creek Valley is 12.82 acre-feet per year. This results in a demand of 3,846 acre-feet for the subdivision for 300 years. Under the Decree, Applicant owns the right to withdraw up to 16.2 acre-feet per year, for a total of 4,860 over 300 years, which is a surplus to the requested demand.

**Based on the water demand of 12.82 acre-feet/year for Hay Creek Valley and the Decree’s allowable amount of up to 16.2 acre-feet per year, the County Attorney’s Office recommends a finding of sufficient water quantity and dependability for the Hay Creek Valley.**

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

7. Basis. The County Attorney's Office reviewed the following documents in preparing this review: a Water Resources Report dated March 2024, the Water Supply Information Summary, the State Engineer's Office Opinion dated February 7, 2024 and Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree in Division 2 Case No. 22CW3092 entered on June 29, 2023. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below 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 the Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree in Division 2 Case No. 22CW3092 ("Decree"), including that water withdrawn from the Denver aquifer shall not exceed 16.2 acre-feet per year, or 0.81 annual acre-feet per well. Depletions during pumping shall be replaced by individual on-lot non-evaporative septic systems.

B. Applicant must 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, their successors and assigns, and the HOA regarding all applicable requirements of the Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree in Division 2 Case No. 22CW3092.

Covenants shall specifically address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 3,846 acre-feet of not-nontributary Denver aquifer water and 3,993 acre-feet of Laramie-Fox Hills aquifer water pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree of Division 2 Case No. 22CW3092 to satisfy El Paso County's 300-year water supply requirement for the 20 lots of Hay Creek Valley. The Covenants shall further identify that 192.3 acre-feet (0.641 acre-feet/year) of Denver aquifer water is allocated to each residential lot and the entire 3,993 acre-feet of Laramie-Fox Hills is allocated to the HOA. Said reservations shall not be separated from transfer of title to the property and shall be used exclusively for primary water supply.



2) Advise of responsibility for costs. The Covenants shall advise the HOA, the lot owners, and their successors and assigns of their obligations regarding the costs of operating the plans for augmentation, which include pumping of the Denver wells in a manner to replace depletions during pumping and the cost of drilling Laramie-Fox Hills 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 that lot owners use non-evaporative septic systems to ensure that return flows from such systems are made to the stream system to replace actual depletions during pumping and shall state that said return flows shall not be separately sold, traded, assigned, or used for any other purpose. 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. Lot owners must follow all applicable laws, rules, regulations, court orders, and permit conditions related to return flows."

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 made by Applicant/Declarant:

"The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree in Division 2 Case No. 22CW3092 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 the HOA, future lot owners of this subdivision, and their successors and assigns of their responsibility for any metering, data collecting, and reporting that may be required regarding water withdrawals from existing and future wells in the Denver and Laramie-Fox Hills aquifers.

6) Require well permits. The Covenants shall require that well permits be obtained or re-permitted pursuant to the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree in Division 2 Case No. 22CW3092 and C.R.S. § 37-90-137(4) and (10).

7) 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 Hay Creek Valley pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree in Division 2 Case No. 22CW3092. 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 Division 2 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 determination.”

8) 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 Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree in Division 2 Case No. 22CW3092 are also terminated by the Division 2 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 any deeds of the property Denver aquifer water in the decreed amount of 3,846 acre-feet as well as 3,993 acre-feet of Laramie-Fox Hills aquifer water. 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 Denver aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Denver aquifer underlying the respective lots to satisfy El Paso County’s 300-year water supply requirement. This amount is 192.3 acre-feet per lot (0.641 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 (Denver aquifer): “These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during pumping, for each of the lots of Hay Creek Valley. 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. Applicant shall convey to the HOA by recorded warranty deed the reserved 3,993 acre-feet of Laramie-Fox Hills aquifer water rights for use in the augmentation plan to replace post-pumping depletions. Applicant shall recite in the deed that this water shall be used exclusively for augmentation supply and shall not be sold, conveyed, traded, bartered, assigned, or encumbered in whole or in part for any other purpose.

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 Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree in Division 2 Case No. 22CW3092 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 Findings of Fact, Conclusions of Law, Ruling of Referee, and Decree of Water Court: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation from Division 2 Water Court, Case No. 22CW3092, 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. 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. Applicant 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.”

J. Prior to recording the final plat:

- 1) Upload into eDARP proof that the existing well operating under Permit No. 119564 has be re-permitted.
- 2) A new WSIS must be uploaded to eDARP to reflect the water amounts listed in the Water Resources Report dated March 2024.

cc: Kylie Bagley, Project Manager, Planner



November 16, 2023

Kylie Bagley, Project Manager  
El Paso County Planning and Community Development Department  
Transmitted via EDARP portal: [epcdevplanreview.com](http://epcdevplanreview.com)

**Re: Hay Creek Subdivision**  
**File #: SF2324**

Part of the SE ¼ of Sec. 33 and the SW ¼ of Sec. 34, Twp. 11 South, Rng. 67 West, 6<sup>th</sup> P.M.  
Water Division 2, Water District 10  
CDWR Assigned Subdivision No. 30983 - 2<sup>nd</sup> Letter

Dear Kylie Bagley:

We have received the re-submittal concerning the above referenced proposal to combine six parcels totaling 213 acres and subdivide this tract of land into 20 single-family lots and 3 tracts. The proposed water supply is individual on-lot wells constructed in the not-nontributary Denver aquifer operating pursuant to the augmentation plan approved by the Division 2 Water Court in case no. 22CW3092, including existing well with permit no. 119564 which services the existing residence on proposed Lot 10 and will be re-permitted pursuant to the augmentation plan. The comments in this letter supersede the comments from this office dated October 12, 2023.

### Water Supply Demand

According to the previously provided Water Supply Information Summary, the estimated water demand for 20 household units is 6.72 acre-feet/year.

### Source of Water Supply

The proposed water supply is individual on-lot wells constructed in the not-nontributary Denver aquifer operating pursuant to the augmentation plan approved by the Division 2 Water Court in case no. 22CW3092, including existing well with permit no. 119564 which services the existing residence on proposed Lot 10 and will be re-permitted pursuant to the augmentation plan.

The plan for augmentation decreed in case no. 22CW3092 allows for an average diversion of 0.81 acre-feet/year/well for 20 wells for a maximum of 300 years. The allowed uses are household use, structure and equipment washing, hot tub, irrigation, commercial, stock water, recreation, wildlife, fire protection, and also for storage and augmentation purposes associated with such uses. The total allowed diversion from all 20 wells is 16.2 acre-feet/year. The proposed uses and diversion amounts are allowed by the decree.

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 section 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 22CW3092 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.



The *El Paso County Land Development Code*, Section 8.4.7.(B)(7)(b) states:

“(7) Finding of Sufficient Quantity

(b) Required Water Supply. The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of 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 300 years, the allowed average annual amount of withdrawal would be reduced to one third of that amount, or 16.2 acre-feet/year as allowed by the 22CW3092 augmentation plan, which is **greater** than the annual demand for this subdivision. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

Applications for on lot well permits, submitted by an entity other than the current water right holder (Randall and Andrea O’Leary), must include evidence that the applicant has acquired the right to the portion of water being requested on the application. Our previous letter stated that the Applicant must provide evidence that they own the 22CW3092 water rights. The Applicant, View Homes Inc., provided evidence that the entity is controlled by Randall O’Leary, therefore it appears the Applicant has control over the water rights granted in case no. 22CW3092.

**Additional Comments**

The application materials indicate that a stormwater detention structure will be constructed as a part of this project. The Applicant should be aware that unless the structure can meet the requirements of a “storm water detention and infiltration facility” as defined in section 37-92-602(8), C.R.S., the structure may be subject to administration by this office. The Applicant should review DWR’s *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado*, attached, to ensure that the notification, construction and operation of the proposed structure meets statutory and administrative requirements. The Applicant is encouraged to use *Colorado Stormwater Detention and Infiltration Facility Notification Portal* to meet the notification requirements, located at <https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>.

**State Engineer’s Office Opinion**

Based upon the above and pursuant to section 30-28-136(1)(h)(l), 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 aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100-year aquifer life. The county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 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.

Please contact [Wenli.Dickinson@state.co.us](mailto:Wenli.Dickinson@state.co.us) or (303) 866-3581 x8206 with any questions.

Sincerely,



Ioana Comaniciu, P.E.  
Water Resource Engineer

Attachment: *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado*

Ec: Water well permit no. 119564 file



## **Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado**

February 11, 2016

The Division of Water Resources (DWR) has previously administered storm water detention facilities based on DWR's "Administrative Approach for Storm Water Management" dated May 21, 2011. Since the passage of Colorado Senate Bill 15-212, that administrative approach has been superseded. This document describes SB 15-212, codified in section 37-92-602(8), Colorado Revised Statutes (C.R.S.), and how the law directs administrative requirements for storm water management. The document is for informational purposes only; please refer to section 37-92-602(8) for comprehensive language of the law.

Pursuant to section 37-92-602(8), storm water detention facilities and post-wildland fire facilities shall be exempt from administration under Colorado's water rights system only if they meet specific criteria. The provisions of SB15-212 apply to surface water throughout the state. SB15-212 *only* clarifies when facilities may be subject to administration by the State Engineer; all facilities may be subject to the jurisdiction of other government agencies and must continue to obtain any permits required by those agencies.

### **Storm Water Detention Facilities**

Pursuant to section 37-92-602(8), a storm water detention and infiltration facility ("Detention Facility") is a facility that:

- Is owned or operated by a government entity or is subject to oversight by a government entity, including those facilities that are privately owned but are required by a government entity for flood control or pollution reduction.
- Operates passively and does not subject storm water to any active treatment process.
- Has the ability to continuously release or infiltrate at least 97 percent of all of the water from a rainfall event that is equal to or less than a five-year storm within 72 hours of the end the rainfall event.
- Has the ability to continuously release or infiltrate at least 99 percent of all of the water from a rainfall event that is greater than a five-year storm within 120 hours of the end the rainfall event.
- Is operated solely for storm water management.





In addition, to qualify for the allowances provided in SB-212, the facility:

- Must not be located in the Fountain Creek watershed, unless the facility is required by or operated pursuant to a Colorado Discharge Permit System Municipal Separate Storm Sewer System Permit issued by the Department of Public Health and Environment pursuant to Article 8 of Title 25, C.R.S.
- Must not use water detained in the facility for any other purpose nor release it for subsequent diversion by the person who owns, operates, or has oversight over the facility. The facility cannot be operated as the basis for a water right, credit, or other water use right.
- Must not expose ground water.
- May include a structure or series of structures of any size.

If the Detention Facility was constructed *on or before* August 5, 2015 and meets all the requirements listed above, it does not cause material injury to vested water rights and will not be subject to administration by the State Engineer.

If the Detention Facility is constructed after August 5, 2015, meets the requirements listed above, and the operation of the detention facility does not cause a reduction to the natural hydrograph as it existed prior to the upstream development, it has a rebuttable presumption of non-injury pursuant to paragraph 37-92-602(8)(c)(II). A holder of a vested water right may bring an action in a court of competent jurisdiction to determine whether the operation of the detention facility is in accordance with paragraph 37-92-602(8)(c)(II)(A) and (B) has caused material injury. If the court determines that the vested water rights holder has been injured, the detention facility will be subject to administration.

In addition, for Detention Facilities constructed after August 5, 2015, the entity that owns, operates, or has oversight for the Detention Facility must, prior to the operation of the facility, provide notice of the proposed facility to the Substitute Water Supply Plan (SWSP) Notification List for the water division in which the facility is located. Notice must include: the location of proposed facility, the approximate surface area at design volume of the facility, and data that demonstrates that the facility has been designed to comply with section 37-92-602(8)(b) paragraphs (B) and (C). The State Engineer has not been given the statutory responsibility to review notices, however, DWR staff may choose to review notices in the course of their normal water administration duties. Not reviewing notices does not preclude the Division Engineer from



taking enforcement action in the event that the above criteria are not met in design and/or operation.

To satisfy the notification requirement, operators are encouraged to use the Colorado Stormwater Detention and Infiltration Facility Notification Portal developed by Urban Drainage and Flood Control District (“UDFCD”), located at:

<https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>.

Types of detention Facilities contemplated under this statute include underground detention vaults, permanent flood detention basins,<sup>1</sup> extended detention basins,<sup>2</sup> and full spectrum detention basins.<sup>3</sup> Storm Water Best Management Practices<sup>4</sup> (BMPs) not contemplated above, including all Construction BMPs and non-retention BMPs, do not require notice pursuant to SB-212 and are allowed at the discretion of the Division Engineer. Green roofs are allowable as long as they intercept only precipitation that falls within the perimeter of the vegetated area. Green roofs should not intercept or consume concentrated flow, and should not store water below the root zone. BMPs that rely on retention, such as retention ponds and constructed wetlands, will be subject to administration by the State Engineer.

**Any detention facility that does not meet all of the statutory criteria described above, in design or operation, is subject to administration by the State Engineer.**

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<sup>1</sup> Flood detention basin: An engineered detention basin designed to capture and slowly release peak flow volumes to mitigate flooding (Urban Drainage and Flood Control, 2010).

<sup>2</sup> Extended detention basin: An engineered detention basin with an outlet structure designed to slowly release urban runoff over an extended time period (Urban Drainage and Flood Control, 2010).

<sup>3</sup> Full spectrum detention basin: An extended detention basin designed to mimic pre-development peak flows by capturing the Excess Urban Runoff Volume and release it over a 72 hour period (Urban Drainage and Flood Control, 2010).

<sup>4</sup> Best management practice: A technique, process, activity, or structure used to reduce pollutant discharges in stormwater (Urban Drainage and Flood Control, 2010).



### Post-Wildland Fire Facilities

Pursuant to section 37-92-602(8), a post-wildland fire facility is a facility that:

- Includes a structure or series of structures that are not permanent.
- Is located on, in or adjacent to a nonperennial stream<sup>5</sup>.
- Is designed and operated to detain the least amount of water necessary, for the shortest duration of time necessary, to achieve the public safety and welfare objectives for which it is designed.
- Is designed and operated solely to mitigate the impacts of wildland fire events that have previously occurred.

In addition, to qualify for the allowances provided in SB-212, the facility:

- Must be removed or rendered inoperable after the emergency conditions created by the fire no longer exist, such that the location is returned to its natural conditions with no detention of surface water or exposure of ground water.
- Must not use water detained in the facility for any other purpose nor release it for subsequent diversion by the person who owns, operates, or has oversight over the facility. The facility will not be operated as the basis for a water right, credit, or other water use right.

If the post-wildland fire facility meets the requirements listed above, it does not cause material injury to vested water rights. While DWR recognizes that post-wildland fire facilities are essential to the protection of public safety and welfare, property, and the environment, DWR may, from time to time, request that the person who owns, operates, or has oversight of the post-wildland fire facility supply information to DWR to demonstrate they meet the criteria set forth above.

**If a post-wildland fire facility does not meet all the criteria set forth above, it will be subject to administration by the State Engineer.**

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<sup>5</sup> DWR may use the National Hydrography Dataset or other reasonable measure to determine the classification of a stream



### **Resources and References**

Colorado Stormwater Detention and Infiltration Facility Notification Portal:  
<https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>

Colorado Senate Bill15-212:  
[http://www.leg.state.co.us/CLICS/CLICS2015A/csl.nsf/fsbillcont3/13B28CF09699E67087257DE8006690D8?Open&file=212\\_enr.pdf](http://www.leg.state.co.us/CLICS/CLICS2015A/csl.nsf/fsbillcont3/13B28CF09699E67087257DE8006690D8?Open&file=212_enr.pdf)

United States Geological Survey National Hydrography Dataset: <http://nhd.usgs.gov/>

Urban Drainage and Flood Control District 37-92-602(8) explanation memo and FAQ's:  
<http://udfcd.org/crs-37-93-6028-explanation-memo-and-faqs/>

Urban Drainage and Flood Control District. (2010). *Urban Storm Drainage Criteria Manual: Volume 3, Best Management Practices*, updated November 2015. Located at:  
<http://udfcd.org/volume-three>



# Hay Creek Valley

## Public Statement

According to the El Paso County Land Development Code Section 1.6.1, it is expressly stated that quote, “The language of this code shall be read LITERALLY.”

Furthermore, per Section 1.14.3, it also expressly states that quote, “The word “SHALL” is always MANDATORY.”

Per Section 8.4.4 (D), Dead-End Road Standards, quote “The MAXIMUM number of lots fronting and TAKING ACCESS from a dead-end road is 25.”

Additionally, “Where more than 25 lots would front and take access to a dead-end road, a second means of access SHALL be provided.”

The ONLY available option per this Section is to provide a divided 4-lane road that quote, “...shall be considered a second means of access UNTIL the second access road is constructed.”

That said, Hay Creek Road is a dead-end road WITHOUT a second means of access. There are currently 80 homes that TAKE ACCESS from Hay Creek Road as their ONLY available means of egress.

In a recent Early Assistance Meeting under Project Name Green Mountain PUD, which is another upcoming development plan in this same area, the dead-end road issue was discussed at length. I will provide a synopsis of just a few of the critical statements that occurred during the concluding 16 minutes of discussion. These comments are INEXTRICABLY LINKED to the Hay Creek Valley development:

County Lead Planner: “There’s a lot of challenges and complications to this project.”

VERTEX Consultant: (Whom you are likely aware was recently the El Paso County Planning Department Director) “We see those as opportunities, NOT challenges and complications.”

County Planning Manager: Suggests, quote “working with other developers for putting in a second access.”

VERTEX Consultant: “The only possibility to connect to the north has now been preserved as a conservation easement, so NO possibility to connect...It’s a forgotten part of the county and NOBODY, including the COUNTY did anything to provide that second access.”

County Engineering Manager: “Just to fully put it out there...If this is a CRITICAL PATH, should this just stop this development at this point?...We are already WAY over the 25 lot criteria.”

VERTEX Consultant: “I certainly don’t see it that way. I know there are other developments occurring along essentially the SAME VERY LONG **CUL-DE-SAC** which is Hay Creek. I don’t think they’re being asked to provide a secondary access.”

County Engineering Manager: “Is this then a full on DEAD ON ARRIVAL application if you guys can’t come up with a 2<sup>nd</sup> access and this is a CRITICAL path?”

VERTEX Consultant: “I THINK IT’S JUST A WAIVER REQUEST, just like the rest of the subdivisions. If this development is going to be held to that standard...then the other development should be viewed the same way.”

County Planning Manager: “The Hay Creek area is one that really bothers us, especially with the recent fire in the area. We DON’T WANT TO REPEAT THE MISTAKES OF THE PAST, especially looking at it as a Safety concern. It’s an OBVIOUS ISSUE WITHOUT A SOLUTION.”

APPLICANT: “If you just look at it from a COMMON SENSE perspective...Forest Lakes has probably TWENTY TIMES more lots.”

From an outsider’s perspective, you have a group of very dedicated and conscientious members of your planning department competently applying established criteria to a problem, but according to this applicant are apparently not very well versed in applying common sense.

For the record, Forest Lakes DOES NOT have anything close to 1600 lots as estimated by the applicant and does have a very substantial 2<sup>nd</sup> access. And for the record, the 80 existing houses that currently FRONT or TAKE ACCESS from Hay Creek Road constitutes 320% above what is MANDATED in the LDC. The proposed Hay Creek Development will make this 400%, and the Green Mountain PUD will make this 480% over the limit, with no end in sight as there are other properties that are either currently or will become available in the future. Compounding the criticality of this situation is that the entire valley presents a very high Fire Risk. I would like to highlight with pictures taken from my balcony of a fire from 2009.

More specific to the Hay Creek Valley Subdivision, they have received two Waivers:

1. LDC Section 8.4.4.C, Waiver for private road in lieu of public road.
2. LDC Section 6.3.3.C, Waiver for Two Access Routes for a cul-de-sac that exceeds the maximum length allowed by the ECM.

**\*\* They DO NOT have a WAIVER for LDC Section 8.4.4.D Dead-End Road Standards\*\***

All said, it is our intention to inform this body that the vast majority of the Hay Creek residents, other than the applicants, have resolved to stand our ground on any further development in the valley predicated upon the fact that we have already greatly exceeded the MANDATED maximum number of lots taking access to a Dead End Road...and for the county not having provisioned for a MANDATED second means of access. We will rely on our own common sense and pursue all means necessary to prevent this action before you today, as the granting of yet another waiver to overlook the Dead-End Road standards constitutes an action detrimental to OUR public safety and welfare and DOES have the effect of nullifying the intent and purpose of the LDC.

Now for the good news. There is a viable and responsible and hopefully amenable alternative and solution. As you are aware, the Air Force Academy and other military installations essentially bankroll the brunt of our local economic engine. It has been reported that the Academy alone is responsible for nearly \$1 billion in annual economic contributions.

During this bodies 21 March, 2024 Planning Commission hearing, you entertained a nearly 45 minute guest speaker presentation from a Mr. Keith Klaehn of the Defense Mission Task Force, an organization County Commissioner VanderWerf also claims association. Mr. Klaehn was invited by your own Planning and Community Development Executive Director, Ms. Meggan Herington. The focus of Mr. Klaehn's presentation was to highlight the implications, ramifications, and possible remedies to a critical nationwide problem, that being development encroachment on military installations. During this presentation, this very board even engaged in discussions about the very real possibility of ammunition rounds impacting in the westerly sections of Hay Creek valley residence areas.

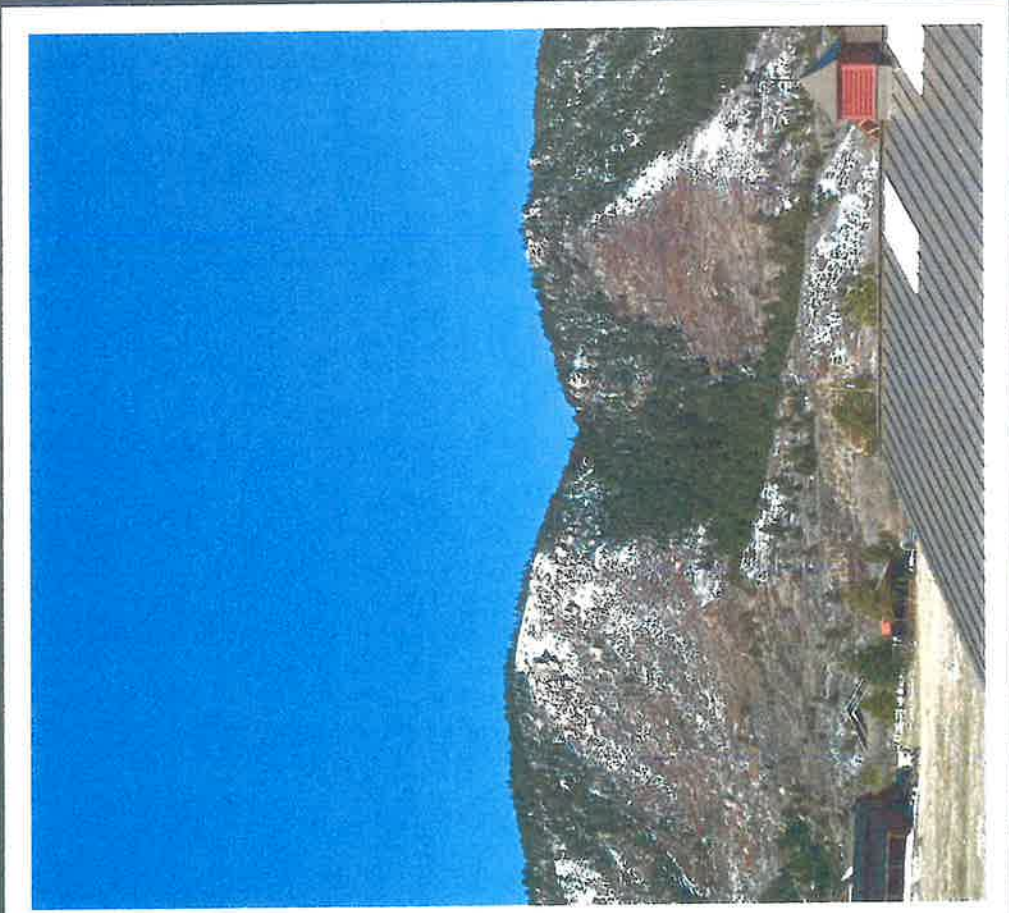
During the same Green Mountain PUD Early Assistance Meeting previously mentioned, a Ms Amy Kelley, the USAFA Community Initiatives Director, also conveyed the Academy's concerns with encroachment on the Jack's Valley Firing Range and Training Complex. She also emphasized that Jack's Valley is the only fully functional training facility in the region and serves over 30,000 cadets, airmen, soldiers and marines as well local security forces, state law enforcement and federal law enforcement agencies. Ms. Kelley further emphasized the recurring threat and noise generated by the firing range, extremely low flying helicopters, pyrotechnics and jet fly-bys as well as highlighted the trend towards increased nighttime qualification training, something extremely critical to our national defense as this is the environment in which we now prefer to fight.

As a former Air Force fighter aviator for 20 years, I am intimately familiar with the never-ending increased restrictions enforced upon military training that were triggered by uncontrolled encroachment whereby the residents then constantly file noise complaints. We see this very thing happening from other developments that have been built around the Academy, as has been highlighted by Gazette articles. The military never wins! I am confident that the proposed remedy of including a simple notification-of-noise in the property closing documents is naïve at best.



Both Ms Kelley and Mr Klaehn highlighted the Colorado Springs Regional Joint Land Use Study which includes mechanisms that focus on partnerships which could assist with creating open space buffers around military installations. This was recently implemented to help preserve the Academy's Bullseye Auxiliary Airfield. To achieve this, the USAFA is partnering with available programs and resources including the Trust for Public Land, The Nature Conservancy, State and Local governments and the US DOD Readiness and Environmental Protection Integration Program, or REPI for short. The REPI program utilizes DOD appropriated funds to help facilitate military installation buffer zones.

We believe that now is the appropriate time to implement this same responsible course of action, that being to utilize existing programs and resources to establish Hay Creek valley as a minimally inhabited buffer to the Air Force Academy in pursuit of ensuring the continued viability of the critically important Jack's Valley Complex. In so doing, this will also obviate the need and cost to establish a very problematic at best second means of access to the valley.



**From:** Jackie Campbell <jackiecampbelldvm@gmail.com>  
**Sent:** Thursday, April 18, 2024 8:09 AM  
**To:** PCD Hearings  
**Subject:** Re: FILE NUMBER: SF2324

**CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.**

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My apologies I did not include necessary information.

Jackie & Kevin Campbell  
4350 Green Mountain Drive  
Colorado Springs, CO 80921  
719-465-4024

My Office contact below.

On Apr 18, 2024, at 8:05 AM, Jackie Campbell <jackiecampbelldvm@gmail.com> wrote:

Good morning,

I would like to echo my support of the sentiments presented today regarding the implications of irresponsible development to the existing home owners of Hay Creek Valley. While development and growth is anticipated and expected the implications of *high volume, rapid growth* need to be considered and addressed critically for all those involved.

Regards,

Jackie Campbell, DVM, DACVD  
Animal Allergy & Dermatology of Colorado  
5520 N. Nevada Ave Suite 100  
Colorado Springs, CO 80918  
Ph: (719) 358-2636  
Fax: (719) 387-4347  
[www.animalallergycolorado.com](http://www.animalallergycolorado.com)

RESOLUTION NO. 24-

BOARD OF COUNTY COMMISSIONERS

COUNTY OF EL PASO, STATE OF COLORADO

APPROVAL OF FINAL PLAT  
HAY CREEK VALLEY (SF2324)

WHEREAS, View Homes Inc, did file an application with the El Paso County Planning and Community Development Department for the approval of a final plat for the Hay Creek Valley Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on April 18, 2024, upon which date the Planning Commission did by formal resolution recommend denial of the final plat application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on May 9, 2024; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, 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 hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;

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

WHEREAS, when approving a Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code (as amended):

1. The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
2. The subdivision is in substantial conformance with the approved preliminary plan;
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;
4. Either a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code, or, with respect to applications for administrative final plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval;
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 the Code;
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)];
7. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the ECM;
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 the Code and the ECM;
9. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;

10. The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code;
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 of the Code;
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;
13. The subdivision meets other applicable sections of Chapter 6 and 8 of the Code; and
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.].

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

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the final plat application for the Hay Creek Valley Subdivision;

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 appropriate El Paso County staff.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at Final Plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Drainage fees in the amount of \$194,051.58 shall be paid for the Beaver Creek drainage basin (FOMO4600) at the time of plat recordation.
9. All forested acres must be mitigated to reduce the risk of wildfire and that defensible space be created for each dwelling using the standards in the Colorado State Forest Service "Home Ignition Zone Guide". All wildfire mitigation shall be completed before or during dwelling construction.
10. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 3/22/2024, as provided by the County Attorney's Office.

#### NOTATIONS

1. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

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

DONE THIS 9<sup>th</sup> day of May 2024 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
County Clerk & Recorder



EXHIBIT A

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 33 AND THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6<sup>th</sup> PRINCIPAL MERIDIAN; COUNTY OF EL PASO, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 33, FROM WHICH THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 33 BEARS NORTH 89°38'17" EAST, A DISTANCE OF 2,684.46 FEET, WITH ALL BEARINGS HEREIN RELATIVE THERETO;  
THENCE NORTH 00°25'17" WEST, ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER OF SECTION 33, A DISTANCE OF 1,169.26 FEET;

THENCE THE FOLLOWING TWENTY-TWO (22) COURSES;

1. SOUTH 71°29'43" EAST, A DISTANCE OF 140.51 FEET;
2. NORTH 82°07'46" EAST, A DISTANCE OF 458.69 FEET;
3. NORTH 71°31'45" EAST, A DISTANCE OF 369.66 FEET;
4. NORTH 89°30'59" EAST, A DISTANCE OF 195.64 FEET;
5. NORTH 82°27'48" EAST, A DISTANCE OF 300.93 FEET;
6. SOUTH 81°25'26" EAST, A DISTANCE OF 208.57 FEET;
7. NORTH 66°51'51" EAST, A DISTANCE OF 197.45 FEET;
8. NORTH 70°47'03" EAST, A DISTANCE OF 178.13 FEET;
9. NORTH 66°11'16" EAST, A DISTANCE OF 170.15 FEET;
10. NORTH 71°47'12" EAST, A DISTANCE OF 403.02 FEET;
11. NORTH 84°26'00" EAST, A DISTANCE OF 169.75 FEET;
12. SOUTH 87°26'44" EAST, A DISTANCE OF 197.38 FEET;
13. NORTH 74°51'53" EAST, A DISTANCE OF 86.71 FEET;
14. NORTH 86°13'24" EAST, A DISTANCE OF 233.11 FEET;
15. NORTH 80°10'48" EAST, A DISTANCE OF 260.90 FEET;
16. NORTH 78°52'32" EAST, A DISTANCE OF 149.05 FEET;
17. NORTH 71°58'16" EAST, A DISTANCE OF 210.75 FEET;
18. NORTH 49°30'50" EAST, A DISTANCE OF 403.50 FEET;
19. NORTH 57°57'37" EAST, A DISTANCE OF 170.21 FEET;
20. NORTH 37°03'08" EAST, A DISTANCE OF 266.68 FEET;
21. NORTH 43°48'53" WEST, A DISTANCE OF 107.37 FEET;
22. NORTH 20°29'00" WEST, A DISTANCE OF 220.10 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 34;

THENCE NORTH 89°30'43" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 1,125.83 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 34;  
THENCE SOUTH 00°28'46" WEST, ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 34, A DISTANCE OF 2,654.48 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER;  
THENCE SOUTH 89°38'45" WEST, ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 2,683.98 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF SECTION 33;  
THENCE SOUTH 89°38'17" WEST, ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER OF SECTION 33, A DISTANCE OF 2,684.46 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 214.622 ACRES, (9,348,924 SQUARE FEET), MORE OR LESS.

RESOLUTION NO. 24-

BOARD OF COUNTY COMMISSIONERS

COUNTY OF EL PASO, STATE OF COLORADO

DENIAL OF FINAL PLAT  
HAY CREEK VALLEY (SF2324)

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

WHEREAS, a public hearing was held by the El Paso County Planning Commission on April 18, 2024, upon which date the Planning Commission did by formal resolution recommend denial of the final plat application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on May 9, 2024; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, 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 not provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. The hearings before the Planning Commission and the Board of County Commissioners were not 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 not received into evidence.
5. The subdivision is not in general conformance with the goals, objectives, and policies of the Master Plan.
6. The subdivision is not in substantial conformance with the approved preliminary plan.

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

- 17. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et. seq.].
- 18. The proposed subdivision of land does not conform to the El Paso County Zoning Resolutions.
- 19. For the above-stated and other reasons, the proposed subdivision is not 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 denies the final plat application for the Hay Creek Valley Subdivision;

AND BE IT FURTHER RESOLVED that the record and recommendations of the El Paso County Planning Commission be adopted, except as otherwise modified herein.

DONE THIS 9<sup>th</sup> day of May, 2024, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
County Clerk & Recorder

EXHIBIT A

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