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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: 9/28/2023  
RE: 16850 Stepler Road - Rezone

### Project Description

A request by Charlie Stewart for approval of a Map Amendment (Rezoning) of 36.38 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural).

### Notation

Please see the Planning Commission Minutes from September 7, 2023, 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. Smith seconded to recommend approval of item P233 utilizing the resolution attached to the staff report with five (5) conditions and two (2) notations. The motion was **approved (6-1)**. The item was heard as a regular item at the Planning Commission hearing. There was no public opposition.

### Discussion

Ms. Merriam mentioned that the County is losing land for livestock which is the eastern culture of the County. Mr. Schuettpelez additionally commented that he supported the application after it was pointed out that PUD and RR-2.5 zoning is adjacent with less than 5-acre parcels surrounding the property.

### Attachments

1. Planning Commission Minutes from 9/7/2023.
2. Signed Planning Commission Resolution.
3. Planning Commission Staff Report.
4. Draft BOCC Resolution.

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## **EL PASO COUNTY PLANNING COMMISSION**

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

Planning Commission (PC) Meeting  
Thursday, September 7, 2023  
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, BRANDY MERRIAM, ERIC MORAES, BRYCE SCHUETTPELZ, WAYNE SMITH, AND CHRISTOPHER WHITNEY.

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

**PC MEMBERS PRESENT AND NOT VOTING:** JIM BYERS.

**PC MEMBERS ABSENT:** THOMAS BAILEY, BECKY FULLER, JEFFREY MARKEWICH, KARA OFFNER, AND TIM TROWBRIDGE.

**COUNTY STAFF PRESENT:** MEGGAN HERINGTON, JUSTIN KILGORE, JOSHUA PALMER, GILBERT LAFORCE, KYLIE BAGLEY, CARLOS HERNANDEZ MARTINEZ, DANIEL TORRES, ED SCHOENHEIT, ASHLYN MATHY, MIRANDA BENSON, AND LORI SEAGO.

**OTHERS PRESENT AND SPEAKING:** JENN EISENHART, WAYNE ROBINSON, GAIL ROBINSON, PATTY ERNST, MARGARET WEISHUHN, CHRIS JEUB, MATT DUNSTON, BARB KUNKEL, PAM RESNER, HEATHER TIFFANY, MIKE PROVENCAL, ALTON GANSKY, VICKI DAVIS, CORY TOWN, BRYAN CANAAN, JAKE VAN PELT, RIKKI VAN PELT, MELANIE SWEET, JOE BARAN, JANET SCHULTE, AND STEVE CLARK.

#### **1. REPORT ITEMS**

**A. Planning Department.** The next PC Hearing is Thursday, September 21, 2023, at 9:00 A.M.

#### **2. CALL FOR PUBLIC COMMENT FOR ITEMS NOT ON THE HEARING AGENDA.**

**Ms. Jenn Eisenhart** spoke about her difficult experience with a developer from a past project regarding utility improvements and following the approved design guidelines. She mentioned LDC Chapter 8 requirements. It was asked that she give her contact info to Mr. Kilgore so that he and Ms. Seago can investigate the situation and get back to her.

**3. CONSENT ITEMS**

**A. Adoption of Minutes of meeting held August 17, 2023.**

**PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (7-0).**

**B. VR236**

**MATHY**

**VACATION AND REPLAT  
POWERS CENTRE FILING NO. 3A**

A request by Oliver Watts Consulting for approval to Vacate and Replat one (1) lot into three (3) lots. The 5.55-acre property is zoned CR (Commercial Regional) and is located east and south of the intersection of Powers Boulevard and Palmer Park Boulevard. (Parcel No. 5406304050) (Commissioner District No. 2).

**NO PUBLIC COMMENT OR DISCUSSION.**

**PC ACTION: MORAES MOVED / BRITAIN JACK SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM NUMBER 3B, FILE NUMBER VR236 FOR A VACATION AND REPLAT, POWERS CENTRE FILING NO. 3A, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SIX (6) CONDITIONS, ONE (1) NOTATION, AND A RECOMMENDED FINDING OF CONDITIONAL 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 APPROVED (7-0).**

**C. P233**

**MATHY**

**MAP AMENDMENT (REZONE)  
16850 STEPLER ROAD - REZONE**

A request by Charlie Stewart for approval of a Map Amendment (Rezoning) of 36.38 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The property is located at 16850 Stepler Road, approximately one-half mile from the intersection of Settlers Ranch Road and Stepler Road. (Parcel No. 6100000485) (Commissioner District No. 1).

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

**D. MS226**

**MATHY**

**MINOR SUBDIVISION  
MCDANIELS ROAD MINOR SUBDIVISION**

A request by Greg Zindorf for approval of a 40-acre Minor Subdivision illustrating four (4) single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 22755 McDaniels Road, at the corner of McDaniels Road and Log Road (Parcel No. 3400000295) (Commissioner District No. 4).

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

E. P232

BAGLEY

**MAP AMENDMENT (REZONE)  
2020 N. ELLICOTT - CORDERO FIL. 2 REZONE**

A request by Angel Cordero for approval of a Map Amendment (Rezoning) of 16.59 acres from A-35 (Agricultural) to A-5 (Agricultural). The property is located at 2020 North Ellicott Highway and is 1.5 miles north of the intersection of Ellicott Highway and Highway 24. (Parcel No. 3400000482) (Commissioner District No. 4).

**PC ACTION: BRITAIN JACK MOVED / MERRIAM SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM NUMBER 3E, FILE NUMBER P232 FOR A MAP AMENDMENT (REZONE), 2020 N. ELLICOTT - CORDERO FIL. 2 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 WAS APPROVED (7-0).**

F. VA232

BAGLEY

**VARIANCE OF USE  
7135 TEMPLETON GAP - LANDSCAPING BUSINESS**

A request by Ben Fisk for approval of a Variance of Use on 5.00 acres to allow a contractors equipment yard in the RR-5 (Residential Rural) zoning district. The property is located at 7135 Templeton Gap Road and is 0.33 miles south of the intersection of East Woodmen Road and Templeton Gap Road. (Parcel No. 5307000005) (Commissioner District No. 2).

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

**4. CALLED-UP CONSENT ITEMS:**

3C. P233

MATHY

**MAP AMENDMENT (REZONE)  
16850 STEPLER ROAD - REZONE**

A request by Charlie Stewart for approval of a Map Amendment (Rezoning) of 36.38 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The property is located at 16850 Stepler Road, approximately one-half mile from the intersection of Settlers Ranch Road and Stepler Road. (Parcel No. 6100000485) (Commissioner District No. 1).

**STAFF & APPLICANT PRESENTATIONS**

**Mr. Carlson** asked for the definition of Agricultural Stand and asked if produce could be both sold and stored.

**Ms. Mathy** answered that it could be any agricultural structure and doesn't specify the storage. She stated there should be a buffer between the stand and neighbors. Presentation continued.

**Mr. Whitney** asked if the area was surrounded by RR-5.

**Ms. Mathy** answered that it is surrounded by RR-5 and PUD.

**Mr. Whitney** asked how the lots are smaller than 5 acres if the zoning is RR-5.

**Ms. Mathy** answered that they may have been platted that way, which can happen for many reasons.

**Mr. Carlson** asked to be shown which parcels are less than 5 acres.

**Ms. Mathy** pointed several out on the slideshow image. Presentation continued.

**Mr. Whitney** clarified that even though they are only requesting to rezone currently, they could have the ability to subdivide later. Ms. Mathy confirmed. Presentation Continued.

**Mr. Kilgore** answered the earlier question regarding surrounding lot sizes. The adjacent properties are 3.82, 2.5, and 2.5 acres. Presentation Continued.

**Ms. Herington** provided clarification that the surrounding area is not entirely RR-5. She referred to an image in the presentation. The pink represents a PUD of 2.5-acre zoning.

**Mr. Whitney** referred to the staff report's analysis.

**Ms. Mathy** explained that different resources (GIS, Assessor, etc.) were showing different results, but the PUD is accurate.

**Mr. Carlson** asked about the zoning of the lot directly north of the subject property.

**Ms. Merriam** asked for the GIS overlay of the surrounding area.

**Ms. Mathy** showed the GIS of the zoning. The parcel immediately north is PUD.

**Ms. Merriam** asked if livestock is on the properties south and east of the subject property.

**Ms. Mathy** answered that the zoning is RR-5.

**Ms. Herington** added that livestock would be allowed on those properties, but PCD can't answer whether or not they're raising livestock.

**Mr. Whitney** stated he's familiar with the area and there is livestock. Presentation continued.

**Mr. Moraes** pointed out that the rezone map provided by the applicant shows RR-5 as the surrounding zoning.

**Mr. Noah Brehmer**, with Kimley Horn & Assoc., reiterated that there is a disconnect between the Assessor's Office and the current PUD zoning per GIS. The PUD is correct.

**NO PUBLIC COMMENTS. NO FURTHER DISCUSSION.**

**PC ACTION: BRITAIN JACK MOVED / SMITH SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM NUMBER 3C, FILE NUMBER P233 FOR A MAP AMENDMENT (REZONE), 16850 STEPLER ROAD -**

**REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH FIVE (5) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (6-1).**

**IN FAVOR:** BRITTAIN JACK, CARLSON, MORAES, SCHUETTPELZ, SMITH, AND WHITNEY.

**IN OPPOSITION:** MERRIAM.

**COMMENTS:** MS. MERRIAM is concerned about losing land in the eastern part of the County. It's part of the culture. MR. SCHUETTPELZ clarified that he felt comfortable recommending approval because the area is truly surrounded by RR-2.5 and PUD of that same size. This is a good transition.

**3D. MS226**

**MATHY**

**MINOR SUBDIVISION  
MCDANIELS ROAD MINOR SUBDIVISION**

A request by Greg Zindorf for approval of a 40-acre Minor Subdivision illustrating four (4) single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 22755 McDaniels Road, at the corner of McDaniels Road and Log Road (Parcel No. 3400000295) (Commissioner District No. 4).

**STAFF & APPLICANT PRESENTATIONS**

**Ms. Merriam** asked if each property would need their own well and septic systems. (Carlos confirmed) She then asked if septic systems would affect the floodplain.

**Ms. Seago** explained that the State Engineer's Office issues the well permits and determines location. The County Public Health Department issues septic system permits and determines location.

**Mr. Carlson** asked if driveways could cross the floodplain.

**Mr. Hernandez Martinez** answered that he doesn't think they can. Grading within a floodplain is deferred to the PPRBD Floodplain Administrator and is typically not allowed.

**Ms. Herington** added that the floodplain is in a "no-build" area identified on the plat which would mean that no roads or driveways are allowed within that area.

**Mr. Carlson** clarified then that if homes were built on the south side of the floodplain, they would not be able to access Log Road to the north.

**Mr. Hernandez Martinez** agreed and stated they would need access from McDaniels Road.

**Mr. LaForce** stated he needed to make a correction. He stated "no-build" refers to structures. Roads and/or driveways could be allowed but would need additional permitting from the PPRBD Floodplain Administrator. It's not generally recommended because someone could be stranded in their home if they're not able to cross their driveway during a flood. There is no ECM criterion that says they can't do it.

**Ms. Herington** reiterated that from the Planning perspective, when single-family home site plans are reviewed by PCD, they *are* evaluated with the floodplain and "no-build" designation in mind.

She stated PCD would have a say in the site of the homes and whether they cross the floodplain. It is PCD's intent that the homes should not need to cross the floodplain to access the road.

**Mr. Carlson** stated that he is concerned that someone in the future could propose subdividing the lots further (for example, cutting each lot in half). He asked if the newly created lots could be granted access to any other road besides McDaniels Road to the north.

**Ms. Herington** stated that if someone was proposing a subdivision in the future, they would need to go through this same process and that topic would be explored at that time.

**Mr. Whitney** asked if the property was currently zoned RR-5. (Ms. Mathy confirmed.) He further asked if the area is surrounded by A-35 zoning. (Ms. Mathy confirmed.)

**Mr. Carlson** clarified that the rezoning was already approved.

**Ms. Mathy** confirmed and further stated that the proposed lots exceed the RR-5 5-acre minimum.

**Mr. Carlson** asked what the word "illustrated" means within the context used for this project. Is that implying there would be a later change to the number of lots.

**Ms. Mathy** used the word "shown". She further stated that the 4 lots currently proposed are also what is shown on the applicant's Final Plat. They are each under 10 acres.

**Ms. Herington** mentioned that the lot sizes are under 10 acres each, so they would not easily be able to further subdivide as Mr. Carlson was asking. Presentation continued.

**Mr. Smith** asked how much area is available on which to build a home under the assumption that home sites will be restricted to the north of the floodplain on the western lot.

**Mr. Guman**, with William Guman & Assoc., stated he did not have the exact amount of square footage available, but there should be plenty of space to accommodate a home of a similar size to the existing home on the far eastern lot. There's no way to know where a future owner will propose to build a home, but it cannot be within the floodplain.

**Ms. Herington** asked Ms. Mathy to clarify the next steps in the process before homes are built.

**Ms. Mathy** explained that after this Minor Subdivision, individuals may pull building permits and bring site plans to the PCD admin staff for review. Nothing further is presented to PC/BOCC.

**Mr. Guman** added that the PPRBD Floodplain Administrator will also review the plans. Presentation continued.

**Mr. Byers** asked if the existing driveway will be relocated or if there is a proposed access easement. If the land is subdivided, that driveway would go through a neighboring lot.

**Mr. Guman** stated a new driveway will be built.

## **PUBLIC COMMENTS**

**Mr. Wayne Robinson** stated that McDaniels Road was recently out of service for 3 weeks due to a 16' deep, 28' long washout. He stated that all the water that comes from the north runs through the eastern proposed lots.

**Ms. Gail Robinson** stated that the proposed lots would access McDaniels road along her pasture. She stated that when they purchased their property, it was surrounded by 40-acre lots. She discussed the past zoning changes in the area. There are subdivided parcels but there are also large-acreage parcels. McDaniels Road washed out in June of 2023. She stated that people would need to build driveways on bridges if they put their homes south of the floodplain. She thinks the Master Plan calls for the area to be preserved.

**Mr. Moraes** clarified that the Planning Commission failed to make a motion regarding the McDaniels rezone in November of 2022, resulting in no recommendation being sent to the BOCC.

**Ms. Patty Ernst** stated she raises cattle and horses in the area. She spoke about zoning. There are RR-5 5-acre lots on Hwy 94 in the Mayberry subdivision. She opposed those rezones. When there was flooding on the subject parcel, the flooding also went across Log Road. She disagrees with the size of the parcels due to the floodplain. She discussed the overall acreage being different that the buildable acreage. She doesn't think the land should be subdivided into 4 lots.

## **DISCUSSION**

**Mr. Moraes** asked if there is any type of warning the County issues to a potential buyer that a property contains a floodplain.

**Ms. Seago** answered that it's depicted on the plat which is recorded as public record. A potential property owner doing their due diligence should easily find that information.

**Ms. Brittain Jack** commented that Ms. Robinson has her own 40 acres that she can do with as she wishes. This application is about someone else's private property.

**PC ACTION: BRITTAIN JACK MOVED / SCHUETTPELZ SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM NUMBER 3D, FILE NUMBER MS226 FOR A MINOR SUBDIVISION, MCDANIELS ROAD MINOR SUBDIVISION, 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 APPROVED (6-1).**

**IN FAVOR:** BRITTAIN JACK, CARLSON, MERRIAM, MORAES, SCHUETTPELZ, AND WHITNEY.

**IN OPPOSITION:** SMITH.

**COMMENTS:** Mr. Smith thinks floodplain concerns need to be further investigated. Mr. Whitney commented that zoning concerns are not part of the consideration regarding the subdivision request.



**VARIANCE OF USE  
7135 TEMPLETON GAP - LANDSCAPING BUSINESS**

A request by Ben Fisk for approval of a Variance of Use on 5.00 acres to allow a contractors equipment yard in the RR-5 (Residential Rural) zoning district. The property is located at 7135 Templeton Gap Road and is 0.33 miles south of the intersection of East Woodmen Road and Templeton Gap Road. (Parcel No. 5307000005) (Commissioner District No. 2).

**STAFF & APPLICANT PRESENTATIONS**

**Mr. Carlson** asked about the location of the driveway.

**Mr. Hernandez Martinez** referenced a map in the presentation to show the driveway on Templeton Gap Road. Presentation continued.

**Mr. Carlson** asked about the City zoning on the property to the south.

**Ms. Bagley** stated she would research the City's zoning while the applicant presents. (The applicant addressed the answer during their presentation. The southern area is zoned PUD AO, and the western area is zoned C6.) Presentation continued.

**Mr. Carlson** asked about the current layout of the lot. Does it match the proposed site plan?

**Mr. Fisk**, the applicant, answered that most of the lot matches the site plan and meets all setbacks.

**Mr. Schuettepelz** asked why rezoning was not an option.

**Mr. Fisk** stated City services (e.g., water) are not yet available. As the southern parcel is developed, it may become an option.

**Mr. Schuettepelz** asked how lacking City services prevented rezoning. Can he operate with his well and septic systems?

**Mr. Fisk** mentioned the cost of bringing the water line to his property.

**Mr. Schuettepelz** clarified that he's not talking about annexation, he is asking why rezoning to commercial within the County isn't an option.

**Ms. Bagley** explained that if the applicant wanted to rezone to commercial, he would need to apply for a commercial well. That could also allow for greater commercial development to move into the area near the existing residential. By pursuing a Variance of Use, that surrounding residential area is protected.

**NO PUBLIC COMMENTS****NO FURTHER DISCUSSION**

**PC ACTION: MERRIAM MOVED / MORAES SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM NUMBER 3F, FILE NUMBER VA232 FOR A VARIANCE OF USE, 7135 TEMPLETON GAP - LANDSCAPING BUSINESS, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND THREE (3) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (7-0).**

## 5. REGULAR ITEMS

### A. MS233

**BAGLEY**

#### **MINOR SUBDIVISION GUNNERS RIDGE**

A request by Drew Makings for approval of a 38.83-acre Minor Subdivision illustrating four (4) single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 12172 Goodson Road and is directly northwest of the intersection of Goodson Road and Ayer Road. (Parcel No. 5214000014) (Commissioner District No. 2).

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

**Mr. Moraes** asked for clarification regarding the requested waiver from the LDC.

**Ms. Bagley** clarified that the letter of intent indicates no waiver, but the applicant does need to request a waiver. This was caught during the review process. The applicant was not asked to resubmit a new letter of intent. She apologized that the waiver was not part of the PC report packet and ensured the BOCC would be presented with the waiver request. Presentation continued.

**Mr. Moraes** asked if lining the three smaller lots on the eastern side had been considered. Would that have forgone requesting the waiver?

**Mr. Drew Makings**, the applicant, stated that it may have forgone the waiver, but would not have allowed for buildable lots due to the powerline easements along the eastern side of the parcel.

#### **NO PUBLIC COMMENTS**

#### **DISCUSSION**

**Mr. Moraes** asked to review the criteria of approval for a waiver from the LDC (Section 7.3.3). As he looks through the criteria, he isn't sure the request meets criteria number 5.

**Mr. Makings** stated that one of the requirements was to have a shared driveway. If the subdivided lots were moved to the east, it would not be possible to meet that requirement.

**PC ACTION: SCHUETTEL MOVED / SMITH SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM NUMBER 5A, FILE NUMBER MS233 FOR A MINOR SUBDIVISION, GUNNERS RIDGE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH EIGHT (8) CONDITIONS, TWO (2) NOTATIONS, ONE (1) WAIVER, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER**

**QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (6-1).**

**IN FAVOR:** BRITAIN JACK, CARLSON, MERRIAM, SCHUETTPELZ, SMITH, AND WHITNEY.

**IN OPPOSITION:** MORAES.

**COMMENTS:** Mr. Moraes stated he did not think the criteria of approval for the waiver were met, so he could not vote in favor of the application.

## **5. REGULAR ITEMS**

**B. AL2217**

**HOWSER**

### **SPECIAL USE COLORADO KIDS RANCH PUMPKIN PATCH**

A request by Colorado Pumpkin Patch, LLC for approval of a Special Use on 40.52 acres to allow agritainment activities with additional conditions in the RR-5 (Residential Rural) zoning district. The property is located at 18065 Saddlewood Road. Agritainment is a permitted use by right in the RR-5 zoning district; however, agritainment which does not comply with the provisions of the Land Development Code shall require Special Use approval. (Parcel No. 611600001) (Commissioner District No. 1).

#### **STAFF PRESENTATION**

**Mr. Carlson** asked if the applicant could still operate the pumpkin patch with a 50-car limit if this proposal is not approved.

**Mr. Kilgore** confirmed. They may need to adjust the site plan, but it would remain approved.

**Mr. Carlson** stated the tulip festival was retroactively denied.

**Mr. Kilgore** confirmed and clarified that a future tulip festival could be approved with a 50-car limit. The presentation continued.

**Mr. Carlson** asked if the property had access to Hwy 105.

**Mr. Kilgore** stated it does not. Traffic gains access through the subdivision. Presentation continued.

**Mr. Moraes** asked if access to Hwy 105 would have been allowed if they were proposing a subdivision.

**Mr. Torres** answered that it would not likely meet the requirements of the ECM, but a deviation request would need to be submitted to analyze the specific details. There is a subdivision just north of this location that has temporary access to Hwy 105. That plat identifies that Hwy 105 access shall be closed once access is provided from another road to the northeast.

**Mr. Moraes** stated the western red line on the presentation image looks like it is covering something.

**Mr. Torres** stated it's an existing driveway that does not connect to Hwy 105. Presentation continued.

**Mr. Carlson** clarified during presentation of the conditions/notations that PCD could retract approval of the Special Use if the applicant is found to be in violation.

**Mr. Kilgore** stated that would be at the discretion of the BOCC. PCD could not directly rescind approval, it would need to go through a process.

**Mr. Moraes** asked how long that process takes. Is it a longer timeframe than these events occur?

**Mr. Kilgore** answered that he doesn't have an exact amount of time because it involves the Code Enforcement procedure. Once a complaint is received, the officer goes out to observe, issues a notice of violation, and they give the property owner time to remedy the situation. If it's not resolved, the Executive Director issues a letter, which escalates to the BOCC. It takes time.

**Mr. Moraes** commented that the agritainment events are short-term.

**Mr. Kilgore** agreed and noted the background slides of the presentation did show that multiple Code Enforcement cases were closed because the event had discontinued during that process. Presentation continued.

**Mr. Whitney** clarified that the applicant could host their events with 50 cars today. (Mr. Kilgore confirmed.) Mr. Whitney further clarified that the current request is to host their events with up to 325 cars. (Mr. Kilgore confirmed.) Mr. Whitney asked what effect the 120-day requirements outlined in the proposed conditions of approval would have on hosting this year's pumpkin patch event.

**Mr. Kilgore** answered that his understanding is that the applicant is requesting approval of this proposal prior to hosting this year's pumpkin patch event so they can operate under this Special Use approval of 325 cars and work on the necessary improvements (Site Development Plan and screening improvements) in a tiered system afterwards to get where they need to be for the following season.

**Mr. Whitney** clarified that approval of this proposal with the existing conditions/notations would take effect for the 2024 season. This year's pumpkin patch event would proceed with 325 cars and no improvements. By next year, they will need to meet the outlined conditions.

**Mr. Kilgore** confirmed and made note of condition 4; roadway improvements prior to 9/1/2024.

## **APPLICANT PRESENTATION**

**Mr. Moraes** asked how the number of 325 was decided as the maximum number of cars.

**Ms. Ruiz**, with Vertex Consulting, answered that they evaluated the highest number of cars they experienced recently (275) and added a buffer.

**Mr. Carlson** pointed out that it was mentioned several times during the presentation that events are only currently taking place for 6 weeks and 2 weekends during the year. He asked if the applicant could host events at the proposed capacity throughout the entire year if this proposal is approved.

**Ms. Ruiz** stated that could be correct; theoretically, they could be in operation all year.

**Mr. Carlson** asked if there is anything keeping people from parking on the public roads and walking into the event if the event meets the capacity of 325 cars.

**Ms. Ruiz** answered that terms within the LDC for Special Use specify that all parking must be on-site. Off-site parking could result in revocation of the approval.

**Mr. Kilgore** stated that they would expect people to park on-site.

**Mr. Carlson** proposed a scenario where people may be turned away from the parking lot due to the set limit. If that family then parked on the public road and walked into the event, what would happen? That could happen because there's nothing to keep people from parking on the road.

**Mr. Kilgore** stated he would defer to Code Enforcement to answer that question.

**Mr. Moraes** asked if the traffic generation table during the applicant's presentation was using the assumption of 325 vehicles. (Ms. Ruiz confirmed.) He then asked how May 15<sup>th</sup> relates to the annual tulip festival.

**Ms. Ruiz** answered that it may fluctuate depending on when the bloom occurs, but May 15<sup>th</sup> is typically the first weekend of the tulip festival.

## **PUBLIC COMMENTS IN SUPPORT**

**Ms. Margaret Weishuhn** is concerned that the cars may be limited to 50. There are workers at every amenity. After employee parking, that wouldn't leave many spaces for visitors. Limiting parking would shut down the pumpkin patch. There are pros and cons to the location but it should be in the country. People know about the pumpkin patch and travel to it every year. The Chapmans run Awana and help neighbors. She stated the pumpkin patch is good for families.

**Mr. Chris Jeub** stated that traffic and congestion were commonly mentioned in the letters of opposition, but he didn't observe any problems on his frequent travels to Denver while taking Hwy 105. He thinks trust should be put in the traffic studies. He mentioned the Master Plan and stated it encourages agricultural business like the pumpkin patch. He stated the sacrifice the Chapmans are presenting to maintain this type of business is encouraging to him. He urged the PC to "make this work" through the bumps in the road and to approve the 325 parking spots for the limited time it would be used to keep the pumpkin patch as part of the County.

**Mr. Matt Dunston** stated the pumpkin patch is a key feature of the area. He stated that parties with musicians at Limbach Park in Monument have more than 50 cars gathered. When thinking of the region, he thinks about Monument Academy, churches, golf courses, and the YMCA. He thinks the pumpkin patch is in the perfect location. He spoke about the background of the property. The pumpkin patch honors agrarian roots. He referenced Ms. Ruiz' comments regarding the BOCC adopting the 50-car limit. He stated the past BOCC acknowledged that some could exceed that 50-car limit when it makes sense and meets the criteria. He stated PC and BOCC typically review land-use items that deviate from what has historically been there, but he thinks this proposal (to allow up to 325 cars) keeps what has historically been there. He added that it may not be for the PC to

discuss, but \$750,000 (the applicant's estimated cost of improvements) is a lot of money. He thinks the County should help with that cost.

**Ms. Barb Kunkel** stated she supports investing in kids, teenagers, and the future. She stated the pumpkin patch is important to the kids in the community. She likes the hands-on learning and environment. She has a tradition that all families from her martial arts school go to the pumpkin patch together. Their group alone would exceed 50 cars. The Chapmans are looking for a solution that sustains the business and the farm with a win-win to the community and their family. The pumpkin patch has become a local tradition for many people of all ages.

**Ms. Pam Resner** is disappointed that a solution was not agreed upon before getting to this point. She works at the pumpkin patch. She mentioned that the Master Plan addresses tourism, which the pumpkin patch increases. People come from surrounding towns and cities. The business trains future workers who then go out in the community and share their experience. Kids learn service and community interaction. She stated it's a healthy, safe place to gather for teens. She stated the Master Plan identifies employment in the area should be promoted. She stated youth programs, schools, and businesses gather at the pumpkin patch to strengthen connections, which promotes the health, safety, and wellness of the community.

**Ms. Heather Tiffany** shared that her daughters both work at the pumpkin patch and love being there. She referenced a moment earlier in public hearing where a woman was opposed to the subdivision of 40 acres near her; Ms. Brittain Jack stated that the owner of the 40 acres can use it how they want. She stated the Chapmans are choosing to use their land in this way and they should be able to use it how they'd like.

## **PUBLIC COMMENTS IN OPPOSITION**

**Mr. Mike Provencal** stated that this neighborhood is an equestrian residential neighborhood. He doesn't understand how a business license was issued within a residential neighborhood. He has observed their business growing and a changed limit in their parking. He stated that he sees this as a company wanting to make more money at the neighborhood's expense. He stated that while he was walking his dog on Canterbury Dr last pumpkin patch season, he encountered a friend and her daughter riding horses. The traffic disregarded the speed limit and ignored the pedestrians and horseback riders so that they had to go into the shoulder to avoid being hit. He doesn't think a business like this belongs in their neighborhood.

**Mr. Alton Gansky** stated the Canterbury Dr is a narrow winding road with many hills. There are inadequate shoulders and steep drop-offs. When there is two-way car traffic, it becomes very dangerous for anyone walking dogs or riding horses. He stated there is a need for dust control and mitigation. Dust can linger in the air for up to 10 days. He researched articles on carcinogens caused by traffic. Traffic needs to slow down. He stated there are 4 entrances to the neighborhood that lead to Canterbury Dr which was not meant for heavy two-way traffic. He thinks someone is going to get hurt. Spraying water on the road to mitigate dust is going to cause the wells to run dry. All 4 roads within the subdivision would need to be paved, or the pumpkin patch would need to be given access to Hwy 105. He can't go outside when they are having events.

**Ms. Vicki Davis** stated she no longer feels safe walking down her own street. The children can no longer ride their bikes and neighbors with horses can no longer ride on the roads. She stated the pumpkin patch is an amazing thing, but they're not taking the neighborhood and families into consideration. They have never followed the existing 50-car limit and have not been held accountable. She doesn't believe they will follow a 325-car limit or keep events limited to 6 weeks and 2 weekends as they declare.

**Mr. Cory Town** lives at the intersection of Canterbury and Saddlewood. He supports the activities promoted by the pumpkin patch but he stated that the effect it's having on his property during the events is terrible. He does not oppose the agritainment permit as it exists with a 50-car limit because that is what he believes to be reasonable when they only have access through the residential community. He understood traffic would increase when this began 5 years ago, but the limit has been exceeded many times. He is concerned for the safety of children and people walking or riding horseback in the community. He mentioned the excessive amount of dust caused by traffic on dirt roads that are not meant for the high volume of use. He also mentioned the fire risk; there is only one entrance/exit on a small dirt driveway with no access to Hwy 105. There are no fire hydrants in the Canterbury subdivision. He observed people littering trash, and once saw someone flick a cigarette butt from their car window as he was blocked from exiting his driveway. He stated cars already park along Saddlewood (as was discussed earlier in the hearing). He stated that he has continuously had to pick up trash on his property along Saddlewood.

**Mr. Bryan Canaan** (Gave presentation, slideshow attached.) Topics included argued compatibility with the Master Plan: large-lot residential should preserve the rural aesthetic, businesses should not be located on a rural residential dirt road, and there should be compatibility with the character of the existing developed area. Semi-trucks deliver pumpkins to the property because they're not grown on-site. Topics also included the quantity and scale of commercial-style events (year-round), the high number of people visiting the property, not meeting the State's definition of "agritourism", and attractions not being agricultural in nature as defined by State legislation.

**Mr. Jake Van Pelt** (Gave presentation, photos attached.) Topics included: Traffic putting their kids in danger, the dust causing hazardous breathing conditions, and the events overburdening the community infrastructure and environment.

**Ms. Rikki Van Pelt** (Gave presentation, photos attached.) Topics included how she believes the application does not meet 2 Special Use criteria of approval; number 2, The Special Use will be in harmony with the character of the neighborhood and will generally be compatible with the existing and allowable land uses in the surrounding area; and number 6, The Special Use will not otherwise be detrimental to the public health, safety, and welfare of the present or future residents of El Paso County. The community is a quiet equestrian neighborhood. The dust caused by the high volume of traffic on the dirt road is affecting her health. Events held on the property have not been following the existing regulations. The scale of traffic is causing unsafe conditions.

**Ms. Melanie Sweet** (Gave presentation, photos attached.) Topics included: The existing roads being used for the high volume of traffic, the safety of pedestrians, and the safety of her family. The traffic and street parking blocked access to her own property. She supports agriculture, but

the reality of what is taking place on the subject property is dangerous. Livestock were once allowed to open graze. The current use is not preserving the land.

**Mr. Joe Baran** stated he was almost hit by cars twice on Canterbury Drive last fall during weekday pumpkin patch events. After that happened, he counted 51 cars traveling south and 29 cars traveling north on Canterbury within 15 minutes. He stated it's unsafe within his neighborhood.

**Ms. Janet Schulte** stated she was disappointed by the applicants' failure to address the safety measures that they will take moving forward. She reiterated that the applicant has not complied with the initial agritainment permit. She doesn't have confidence that the proposed 5-year public improvement mitigation plan will be followed. The traffic issue makes it unsafe for residents. There is no screening proposed along the east side of the property.

**Mr. Steve Clark** (on the phone) mentioned that most letters received in support are not residents that have to live with the excessive traffic in their covenant-controlled subdivision. He stated this type of proposal would not be allowed within other covenant-controlled subdivisions like Broadmoor. He reiterated the discussion regarding unsafe traffic. He stated the proposed fencing for mitigation would destroy the open, rural aesthetic. Without Hwy 105 access, he is opposed to the application.

## **DISCUSSION**

**Mr. Craig Dossey**, with Vertex Consulting, addressed the public comments. He stated that the neighborhood being described as a residential equestrian neighborhood is "categorically wrong" because the LDC does not limit the use to residential or equestrian. He stated it is not a residential equestrian neighborhood. He addressed the agritainment use within the neighborhood and mentioned that the State made sure to define agritainment as a land-use type. He stated the Chapmans are not exceedingly profitable. They cannot control the behavior of traffic, but they are proposing safe improvements. He disagrees with County staff's traffic improvement assessment because he thinks the intersection is already functioning at an acceptable level of service. Dust caused by cars would be addressed when the road improvements are completed, and he stated the dust being caused by the activities is less than it would be if they were farming the land. Addressing the concerns that high levels of traffic for events will be year-round; it could be. He stated that anyone who runs a business and is expected to put in the financial investment that the County is requiring would need to host events year-round to see a return. He stated he's not sure horses should be allowed on the neighborhood roads. They're public-maintained roads. Mr. Chapman tried to get access off Hwy 105 but the County denied the deviation. He disagreed that the Master Plan calls for businesses to gain access off a major roadway because it specifically says, "located on", not "accesses onto". The business is adjacent to Hwy 105. Access points onto arterial roads are limited. He stated agritainment is more in-line with the character of the area than single-family development because agriculture predates residential. Regarding the allegations of disregard for the rules, he stated that Mr. Kilgore's timeline showed a history of compliance and that litigation for non-compliance was never initiated. He stated County staff gave the Chapmans bad information and once Mr. Chapman realized his business needed to grow and that he was not in compliance, he realized he needed to make improvements. He stated that residents set out speed and counting strips and found that speeding was not an issue. Screening was not proposed on the east side of the property because a fence would not block anything due to topography. The homes on the east



side are higher in elevation and it would take a taller structure than a standard fence to be effective, which would increase the cost to Mr. Chapman. He mentioned that the neighbor across the driveway from the Chapmans sent in a letter of support. He then reiterated comments made by those in support of the agritainment use. He stated the modified conditions that they proposed in their presentation make a compromise that the applicant can meet. He stated the Chapmans would never be able to afford the road improvements if they were limited to 50 cars.

**Ms. Merriam** asked if a partnership with law enforcement to address traffic was explored.

**Mr. Dossey** stated Mr. Chapman didn't anticipate his business growing like it did. There's no way to anticipate the number of cars each day. He thinks Mr. Chapman would be open to hiring law enforcement, but that depends on cost.

**Mr. Whitney** asked for Mr. Dossey's rebuttal to the assessment that the events are no longer agricultural in nature, no longer agritainment, but are more of an amusement park.

**Mr. Dossey** answered that he doesn't think there's a great definition of agritainment. He stated that when agritainment was drafted in the LDC, they looked to the State for a definition but that wasn't a lot of help. He stated that not every accessory land-use is going to be captured explicitly in the definitions, but that doesn't mean it's not compatible with the principal use. A pumpkin patch by itself may be boring. Some of the attractions are necessary to maintain the business, however there's a fine line between what is necessary for the business and it turning into something else. That's why the site plan is reviewed.

**Mr. Whitney** stated that was his understanding from the comments of opposition; while it began with the right idea, it has morphed into something different.

**Mr. Dossey** replied that it happens with Variance of Use and Special Use applications; a slide into something different. However, the site plan and the letter of intent are enforceable documents. If it's not within those documents, it's not allowed on the property.

**Mr. Moraes** asked if there's an admission fee for the events on the property.

**Mr. Dossey** verified with the applicant that there is an admission fee.

**Mr. Moraes** then stated that the use seems to be sliding into the "Amusement Center, Outdoor" definition from the LDC. There are several similarities. He thinks there can be a case that it falls under outdoor amusement center when it goes from a fall festival and a tulip festival to year-round events to make money.

**Mr. Dossey** stated that applicants depend on PCD staff to determine what the use is.

**Mr. Moraes** commented that a citizen could go to PCD staff and say it's not agritainment anymore. If PCD staff agrees, it could become a Code Enforcement issue.

**Mr. Smith** asked if the pursuit of access to Hwy 105 had been exhausted. He asked if there was a way to appeal the denial of access.

**Mr. Dossey** answered that when he was the Planning Director in the past, it was his belief that any decision he made should be able to be appealed to the BOCC. He then stated that when they asked if they could appeal the engineering department's denial, they were told no. He stated there is no avenue for them to appeal.

**Ms. Herington** added that the County Engineer is in attendance and can give more information of the reasoning behind the denial for access off Hwy 105. Things have changed since Mr. Dossey was the Director. The County Engineer and Engineering are both now under Public Works.

**Mr. Dossey** stated he wanted to correct Ms. Herington and the County Engineer was in a different department when he was Director and he could not override the County Engineer.

**Mr. Carlson** reminded the audience that the PC decision is a recommendation to the BOCC and not a final decision.

**Mr. Moraes** asked what PCD staff thought of the applicant's proposed conditions of phasing.

**Mr. Carlson** asked if there were now 10 conditions of approval.

**Mr. Kilgore** clarified that the applicant's representation has proposed 10 conditions. PCD staff's 4 recommended conditions are the compromise between the applicant's request and what is required by Code. He stated the application is still going back and forth with review comments and Ms. Ruiz just submitted a revised Letter of Intent (that is before the board). He stated the application has not been addressed to PCD staff's satisfaction.

**Mr. Moraes** noted that the limit of 325 cars is not listed in the 4 conditions on the resolution.

**Mr. Kilgore** stated that could be added. Normally there is a condition of approval that refers to the letter of intent, but that hasn't been finalized at this point.

**Mr. Moraes** agreed that it normally refers to the letter of intent, but the conditions presented refer to the site plan, which he does not see limiting the cars to 325. He referred to the rebuttal comment that the applicant can't control the behavior of the drivers and comparisons to traffic in other areas of Colorado Springs, but a major difference in this area is the lack of sidewalks. Canterbury Dr and Saddlewood Rd are local roads, not arterials or collectors. When he looks at the ECM definition for local roads, it says, "accesses shall not be allowed to compromise the safety, health or welfare of roadway users." The roadway users are vehicles, pedestrians, and, in this area, horseback riders. The applicant spoke on levels of service, which is all about traffic and turning movements, but nothing about safety. The criteria of approval for Special Use talks about hazards. He reiterated that the Special Use request is about increased cars over 50, not agritainment. The applicant's rebuttal was mostly about the agritainment, not the increase in cars. He stated that he reads the criteria of approval by replacing the term "special use" with "more than 50 vehicles". For example, will *more than 50 vehicles* create traffic hazards in the surrounding area? He wonders if the increase in the number of cars can be allowed incrementally. For example, allow up to 100 cars to see how it is going, or the increase in allowed vehicles will only be permitted until a certain date and then will be reevaluated. He suggested increments for if more events are added and the requested 325 cars is no longer 6 weeks of the year but 30 weeks of the year. As it is presented now, it's going from 50 allowed cars to 325 allowed cars on the property, which he thinks is too far regarding safety on a local roadway.

**Mr. Whitney** clarified that Mr. Moraes would read the fourth criteria of approval as, "The allowance of 325 cars will not create unmitigated traffic congestion or traffic hazards in the surrounding area..."

**Mr. Moraes** answered that he would use the phrase, "anything more than 50" because that's what is already allowed.

**Ms. Merriam** asked again if law enforcement should be guiding people during events. Is law enforcement the proper use for public safety?

**Mr. Moraes** responded that the idea is doable but hasn't been part of the plans submitted by the applicant. Providing law enforcement as a mitigating solution has not been included or offered in the application. The concern is not Hwy 105, but after the traffic is in the neighborhood.

**Ms. Merriam** asked if PCD staff considered law enforcement.

**Mr. Kilgore** answered that PCD cannot compel the applicant to hire off-duty law enforcement. He wasn't part of PCD when this project began, but he usually suggests to applicants that it would be in their best interest to involve law enforcement when hosting major events.

**Mr. Carlson** asked Ms. Seago what the PC should consider as the request because he sees different language in paperwork in front of him, including differing conditions and notations.

**Ms. Seago** answered that she understands the focus of the discussion has been a limit of 325 cars, though that is not part of the conditions. PC can add that to the conditions. The PC is considering agritainment under added parameters.

**Mr. Carlson** clarified that the added parameters are the conditions and notations.

**Ms. Seago** confirmed. The conditions and notations are up to the PC.

**Mr. Carlson** sought clarification on what is being requested.

**Ms. Herington** added that it's difficult because there is no approved site development plan. The number 325 came from the traffic study, which triggered the roadway improvements needing to be installed. The County is not recommending a limit of 325 cars, just saying that the number 325 was used in the traffic study to determine roadway improvements. The site development plan will show how many parking spots on-site are being requested, which drives the limit of vehicles. She suggested that if the PC wants to add a condition of approval to include a limit to the number of vehicles, PCD staff would need to have a site plan to look at to determine that possibility.

**Mr. Kilgore** agreed and added that Ms. Seago or the PC can come up with added recommended conditions for the BOCC.

**Mr. Schuettpelz** added that in addition to the potential limit on the number of vehicles, the PC is also considering the conditions regarding the timeline of the required improvements. PCD made recommendations and the applicant has come back with a suggested 5-year span. He compared the situation to when other developers come in with proposals; they're not given negotiated timelines to make improvements.

**Mr. Moraes** stated he didn't think the request was ready for "prime time". He referred to the PCD recommended conditions of approval. The applicant didn't seem to have objections to number 1, but there is no site plan presented. How can they vote on the recommendation if they don't have a site plan in front of them?

**Ms. Herington** answered that a site plan as referenced in condition number 1 is included with the packet and shows the general location of fencing, etc. Condition number 2 specifies that a site *development* plan is required within 120 days. The site development plan gives more specific details.

**Mr. Moraes** understood.

**Mr. Carlson** clarified that if they approve of what they have presented before them, it would be after this year's pumpkin patch before improvements are made.

**Mr. Kilgore** advised that the BOCC will consider this application on 9/14/2023 at 1:30 p.m.

**Mr. Dossey** clarified that the site development plan doesn't get reviewed by the PC or BOCC. The site plan is tied to the Special Use and is reviewed by the BOCC, and the site development plan is reviewed administratively. Regarding the discussion of hiring officers or off-duty law enforcement as traffic mitigation, he stated the County told them it was not a viable option and physical improvements to the roads were still required. He stated they've tried to mitigate the traffic impact but can only work within what the engineers and regulations tell them to do.

**Ms. Brittain Jack** mentioned a previous project that had multiple agencies collaborating.

**Mr. Dossey** mentioned that part of the solution for that project was to lease parking space from another nearby business. He stated that he discussed with the applicant, and Mr. Chapman is agreeable to setting the parking limit at 325 and delineating the spaces so the County can verify.

**Mr. Whitney** stated he would feel better about having a defined number included in the conditions instead of leaving it open to anything over 50 vehicles.

**Mr. Josh Palmer**, the County Engineer, spoke with Ms. Merriam to clarify what she meant when suggesting uniformed traffic control.

**Ms. Merriam** clarified that law enforcement has its own definition of public safety, and since public safety is listed in the LDC criteria, she is unsure if the County has a definition of public safety and if PCD needs to coordinate with law enforcement.

**Mr. Palmer** gave details about the discussion that took place between his department and the applicant. He stated they had discussed the possibility of using a temporary work zone as an alternative to the requirement for turn lanes or other improvements to Hwy 105. When Mr. Dossey mentioned that the idea was shot down, it wasn't done to dissuade uniformed traffic control as a mitigation factor to the neighborhood. They only denied using work zone conditions as an alternative to the requirement to install turn lanes on Hwy 105. His primary concern regarding any improvement in the area is its impact on Hwy 105 because it is an arterial roadway. He listed types of concerns that are evaluated. He mentioned that something not considered

within the discussion on level of service was the traffic already using the two-lane road. He stated there are no turn lanes or shoulders, so as traffic is leaving or turning into the neighborhood, it backs up and causes delays. He explained that depending on how far the back-up goes, it could cause site-distance issues and cause accidents. Part of the discussion with the applicant included work zone conditions (flaggers, traffic control, etc.) but it was not appropriate. He stated that uniformed traffic control may still be an option that could be pursued further, but it's more applicable to the safety concerns (speeding, parking, unsafe driving, etc.).

**Ms. Merriam** asked if Mr. Palmer is indicating there are other options that have not been evaluated.

**Mr. Palmer** stated he does not recall if uniform traffic control was specifically discussed but it could be an option. He does not see it as a viable option to get around the requirement for intersection improvements on Hwy 105. He added that the County is open to additional traffic control measures within the neighborhood (signage, reinforcement, etc.). One of those options could be uniformed traffic control but he's unsure of their availability.

**Ms. Brittain Jack** mentioned another area on Hwy 105 that has no traffic control and asked about its mitigation.

**Ms. Seago** questioned the relevance of the issue.

**Ms. Brittain Jack** clarified that she's asking about access off Hwy 105.

**Mr. Palmer** answered that it would be mitigated by installing turn lanes.

**Ms. Brittain Jack** further clarified that there are other instances along Hwy 105 where access has been granted and she wonders if the rules apply the same to everyone.

**Ms. Seago** responded that because her example involves a school, it was not required to go through the same site development plan process with the County. She added that if they had been required to go through the same process, Ms. Brittain Jack may not be experiencing the traffic situation she described.

**Mr. Palmer** agreed and added there is a project in the works on Hwy 105 to mitigate traffic issues.

**Mr. Carlson** reiterated that the applicant has agreed to an added condition limiting the vehicle count to 325. If applicable, he reminded anyone making a motion to include that detail if they choose.

***(A motion was made with no modification to the County's recommended conditions or notations)***

**Mr. Moraes** agreed that the pumpkin patch is great for the community and the County, but he is considering the application as it has been presented. He believed the incremental conditions suggested by the applicant were reasonable. He would have liked to see an incremental gain in the number of vehicles allowed to see how it works, especially with the history of violations. Though they are discussing the intersections, they are not focusing on the safety within the Canterbury neighborhood. He is not in support of the motion.

**Mr. Whitney** clarified that Ms. Brittain Jack did not include an added condition of approval to limit the number of parked vehicles at 325. (She did not.)

**Mr. Carlson** explained that the way the motion was made, they would be recommending approval of the Special Use to allow more than 50 cars. They would not be recommending a limit on the number of vehicles or anything else.

**PC ACTION: BRITTAIN JACK MOVED / MERRIAM SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM NUMBER 5B, FILE NUMBER AL2217 FOR SPECIAL USE, COLORADO KIDS RANCH PUMPKIN PATCH, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH FOUR (4) CONDITIONS AND THREE (3) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION FAILED (2-5), RESULTING IN A RECOMMENDATION FOR DENIAL.**

**IN FAVOR:** BRITTAIN JACK AND MERRIAM.

**IN OPPOSITION:** CARLSON, MORAES, SCHUETTELPELZ, SMITH, AND WHITNEY.

**Ms. Merriam** stated she believes that both sides have another way to address the issue but there's an answer in there. She stated that she voted in support of the motion because she thinks there needs to be more options available than were discussed.

**Mr. Schuettpelz** stated that in addition to earlier comments, he disagreed with the timeframe proposed to make the necessary improvements. The applicant stated they wouldn't be able to complete the improvements in the recommended time, but he believes 5 years is too long. He doesn't think the discussion of turning traffic adequately addresses the nature of the problem. Regarding the criteria of approval, he stated the added traffic *does cause* an undue burden.

**Mr. Carlson** agreed that the pumpkin patch is fantastic for the community, but it is causing a negative impact on the neighborhood. He doesn't think the BOCC or State intended that a venue should be routed through a residential neighborhood when they promoted agritainment. Other pumpkin patches that he can think of are more remote and when people are exiting, they have easier access to major roads. He hopes they can find a solution but thinks that directing the proposed number of people through a neighborhood will be tough to get done.

**C. NON-ACTION ITEMS - NONE.**

**MEETING ADJOURNED** at 3:09 P.M.

**Minutes Prepared By:** Miranda Benson

MAP AMENDMENT - REZONE (RECOMMEND APPROVAL)

Brittain Jack moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. P-23-003  
16850 STEPLER ROAD - REZONE

WHEREAS, Charlie Stewart did file an application with the El Paso County Planning and Community Development Department for an amendment of the El Paso County Zoning Map to rezone property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference, from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by this Commission on September 7, 2023; and

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

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

6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations; and
7. For the above-stated and other reasons, the proposed 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 map amendment, the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5.B (Map Amendment, Rezoning) of the El Paso County Land Development Code (2023):

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111, § 30-28-113, and § 30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Charlie Stewart for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district be approved by the Board of County Commissioners with the following conditions and notations:

#### CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and 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 threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.
3. The developer shall participate in a fair and equitable manner in the construction improvements for future paving to both Settlers Ranch Road, and Stepler Road that is



proportional to the development's traffic impact shall be provided as determined at the Final Plat stage. As an alternative to the actual construction of improvements, subject to approval by the Board of County Commissioners, the estimated cost for such proportional improvements may be escrowed for the use of the County or other entity to construct the specified improvement to Settlers Ranch Road and Stepler Road.

4. A Driveway Access Permit will be required for the existing home and private driveway to Stepler Road.
5. A transportation memorandum will be required with the subdivision application to finalize details with the proposed design.

#### NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

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.

Smith 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 / <u>absent</u>
Jim Byers	aye / no / <u>non-voting</u> / recused / absent
Jay Carlson	<u>aye</u> / no / non-voting / recused / absent
Becky Fuller	aye / no / non-voting / recused / <u>absent</u>
Jeffrey Markewich	aye / no / non-voting / recused / <u>absent</u>
Brandy Merriam	aye / <u>no</u> / non-voting / recused / absent
Eric Moraes	<u>aye</u> / no / non-voting / recused / absent
Kara Offner	aye / no / non-voting / recused / <u>absent</u>
Bryce Schuettpelz	<u>aye</u> / no / non-voting / recused / absent
Wayne Smith	<u>aye</u> / no / non-voting / recused / absent
Tim Trowbridge	aye / no / non-voting / recused / <u>absent</u>
Christopher Whitney	<u>aye</u> / no / non-voting / recused / absent

The Resolution was adopted by a vote of 6 to 1 by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 7<sup>th</sup> day of September 2023 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By:   
Jay Carlson, Vice-Chair

DATED: September 7, 2023

EXHIBIT A

Parcel A:

The Northeast quarter of the Southeast quarter of Section 23, Township 11 South, Range 66 West of the 6th P.M., County of El Paso, State of Colorado, except that portion thereof conveyed by warranty deed recorded January 13, 2005 under reception No. 205007143.

Parcel B:

A non-exclusive right of way easement from Stepler road to the Northeast quarter of the Southeast quarter in said Section 23, said easement being 40 feet in width, 20 feet on either side of the North boundary of the Southwest quarter of the Southwest quarter of Section 24, Township 11 South, Range 66 West of the 6th P.M., County of El Paso, State of Colorado.

Area = 36.189-acres more or less.

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

**HOLLY WILLIAMS**  
**STAN VANDERWERF**  
**LONGINOS GONZALEZ, JR.**

**PLANNING & COMMUNITY DEVELOPMENT**

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

**FROM: Ashlyn Mathy, Planner I**  
**Edward Schoenheit, Engineer I**  
**Meggan Herington, AICP, Executive Director**

**RE: Project File Number: P-23-003**  
**Project Name: 16850 Steppler Road Rezone**  
**Parcel Number: 6100000485**

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
Charlie Stewart 16850 Steppler Rd Colorado Springs, CO 80908	Kimley Horn & Associates Noah Brehmer noah.brehmer@kimley-horn.com (719) 284-7297

**Commissioner District: 1**

<b>Planning Commission Hearing Date:</b>	<b>9/7/2023</b>
<b>Board of County Commissioners Hearing Date:</b>	<b>9/28/2023</b>

**EXECUTIVE SUMMARY**

A request by Charlie Stewart for approval of a Map Amendment (Rezoning) of 36.38 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The property is located at 16850 Steppler Road, approximately one-half mile from the intersection of Settlers Ranch Road and Steppler Road.

**A. WAIVERS/DEVIATIONS/AUTHORIZATION**

**Waiver(s)/Deviation(s):** None associated with this project.

**Authorization to Sign:** There are no documents associated with this application that require signing.

**B. APPROVAL CRITERIA**

In approving a Map Amendment (Rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (As Amended):

- The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
- The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

**C. LOCATION**

North:	RR-5 (Residential Rural)	Single Family Residential
South:	RR-5 (Residential Rural)	Agricultural Grazing Land
East:	RR-5 (Residential Rural)	Agricultural Grazing Land
West:	RR-5 (Residential Rural)	Single Family Residential

**D. BACKGROUND**

The subject property comes from master parcel number 6100000249. In 2005, the subject property with parcel number 6100000485, was created. Due to the size of the parcel being over 35 acres, it is considered a legal lot. The applicant had an Early Assistance meeting on March 15, 2023, for a rezone at the subject property.

**E. ANALYSIS**

**1. Land Development Code Analysis**

The property is currently 36.38 acres and meets the approval criteria. The proposal is supported by the Master Plan due to meeting the minimum lot size for the Large-



Lot residential placetype, being 2.5 acres. This meets the surrounding character of the area because while RR-5 is one of the zoning districts, some lots are less than 5 acres in size and were platted that way. Some examples of this can be found under plat number 14487, "Settlers Ranch Sub Fil No 2c". Lastly, the current uses at the property are allowed within the RR-2.5 zoning district.

## 2. Zoning Compliance

The applicant is requesting to rezone 36.38 acres to the RR-2.5 (Residential Rural) zoning district. The RR-2.5 (Residential Rural) zoning district is intended to accommodate low-density, rural, single family residential development. The density and dimensional standards for the RR-2.5 (Residential Rural) zoning district are as follows:

- Width (front line setback): 200 ft
- Front setback\*: 25 ft
- Side setback\*: 15 ft
- Rear setback\*: 25 ft
- Maximum Lot Coverage: None
- Maximum Height: 30 ft

\* *Agricultural stands shall be setback a minimum of 35 feet from all property lines.*

## F. MASTER PLAN COMPLIANCE

### 1. Your El Paso County Master Plan

#### a. Placetype Character: Large-Lot Residential

*The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more, and are generally large and dispersed throughout the area so as to preserve a rural aesthetic. The Large-Lot Residential placetype generally supports accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote than Rural areas. Large-Lot Residential neighborhoods typically rely on well and septic, but some developments may be served by central water and waste-water utilities. If central water and wastewater can be provided, then lots sized less than 2.5 acres could be allowed if; 1.) the overall density is at least 2.5 acres/lot, 2.) the design for development incorporates conservation of open space, and 3.) it is compatible with the character of existing developed areas.*

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*Conservation design (or clustered development) should routinely be considered for new development within the Large-Lot Residential placetype to provide for a similar level of development density as existing large-lot areas while maximizing the preservation of contiguous areas of open space and the protection of environmental features. While the Large-Lot Residential placetype is defined by a clear set of characteristics, the different large-lot areas that exist throughout the County can exhibit their own unique characters based on geography and landscape.*

**Recommended Land Uses:**

*Primary*

- *Single-family Detached Residential (Typically 2.5-acre lots or larger)*

*Supporting*

- *Parks/Open Space*
- *Commercial Retail (Limited)*
- *Commercial Service (Limited)*
- *Agriculture*

**Analysis:**

The proposed rezone conforms with the primary use of the Master Plan by meeting the lot size minimum. Post rezone, the subject property will be larger than the minimum lot size for this placetype. The property is compliant with the supporting uses listed in the Master Plan for this placetype area; the agriculture uses currently on the subject property are barns and corrals.

**b. Area of Change Designation:** Minimal Change: Developed

*These areas have undergone development and have an established character. Developed areas of minimal change are largely built out but may include isolated pockets of vacant or underutilized land. These key sites are likely to see more intense infill development with a mix of uses and scale of redevelopment that will significantly impact the character of an area. For example, a large amount of vacant land in a suburban division adjacent to a more urban neighborhood may be developed and change to match the urban character and intensity so as to accommodate a greater population. The inverse is also possible where an undeveloped portion of a denser neighborhood could redevelop to a less intense suburban scale. Regardless of the development that may occur, if these areas evolve to a new development pattern of differing intensity, their overall character can be maintained.*



**Analysis:**

The rezone proposal falls within the scope of this area of change because this rezone can allow for more development. While the current lot is over 35 acres, it has potential to be subdivided into smaller parcels and can redevelop, which this area of change supports. Additionally, this area of change recognizes large lots neighboring denser suburban housing which we can see within this area and near the subject property.

**c. Key Area Influences: Tri-Lakes Area**

*Tri-Lakes is the northern gateway into the County along Interstate 25 and Highway 83. It is situated between Pike National Forest, the United States Air Force Academy, and Black Forest. With significant suburban development and some mixed-use development, this Key Area supports the commercial needs of many of the residents in northern El Paso County. Tri-Lakes also serves as a place of residence for many who commute to work in the Denver Metropolitan Area. It is also an activity and entertainment center with the three lakes (Monument Lake, Wood-moor Lake, and Palmer Lake) that comprise its namesake and direct access to the national forest. Tri-Lakes is the most well-established community in the northern part of the County with a mixture of housing options, easy access to necessary commercial goods and services, and a variety of entertainment opportunities. Future development in this area should align with the existing character and strengthen the residential, commercial, employment, and entertainment opportunities in the adjacent communities of Monument, Palmer Lake, and Woodmoor.*

**Analysis:**

The rezone will match the scope of this key area, due to a mixture of housing options being one of the qualities. The proposed rezone can offer smaller lots, or it can allow for larger lots as well. Future development is welcome however it should strengthen the community, this rezone can offer more housing opportunities for the community.

**d. Other Implications (Priority Development, Housing, etc.)**

*None.*

**2. Water Master Plan Analysis**

The El Paso County Water Master Plan (2018) has three main purposes; better understand present conditions of water supply and demand; identify efficiencies

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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 4.1** – *Develop an understanding of the differences in water supply sources, and any water quality issues within the County.*

**Goal 4.5** – *Plan for water resources in a thoughtful way that recognizes the nonrenewable nature of water resources in the area, accommodates existing and historical uses, and allows for sustainable, planned growth.*

**Goal 5.4** – *Promote the long-term use of renewable water.*

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.

A finding of water sufficiency is not required with a map amendment; however, it is required with any future subdivision request.

### **3. 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 Parks and Community Services and EPC Conservation District were each sent a referral and have the following comments:

*No park land or trail easement dedications will be required for this rezone application. Regional and urban park fees will be calculated upon reviews of forthcoming preliminary*

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*plans and final plats. These comments are being provided administratively, as rezoning applications do not require Park Advisory Board consideration. – EPC parks and Community Services*

*Where the ground is disturbed, it should be mulched or re-vegetated within 45 days of disturbance. Information about the EPCCD eight-seed native “Shotgun” grass seed mix is included below. This drought-tolerant, low-grow mix has been curated especially for use in the Pikes Peak Front Range area; every seed in the mix is native to Colorado. Please make sure any native grasses already in place are truly native to the area. – EPC Conservation District*

The Master Plan for Mineral Extraction (1996) identifies alluvial fan deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, severed mineral rights exist. The mineral rights owner has been notified of the application and hearing date.

Please see the Parks Section below for information regarding conformance with The El Paso County Parks Master Plan (2022).

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

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

No hazards have been identified.

2. **Floodplain:** The parcel is not located in a floodplain per the FEMA Flood Insurance Rate Map No. 08041C0305G. The property is within FEMA “Zone X” which is an area determined to be outside 500-year floodplain with minimal flood hazard.

3. **Drainage and Erosion:** The property is located within two separate drainage basins namely, East Cherry Creek and West Cherry Creek. These drainage basins do not have associated drainage basin fees. No adverse drainage or erosion impacts are expected to neighboring properties or public rights of way as part of the rezone. A drainage report will be required as part of a future subdivision process.

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4. **Transportation:** The property is located approximately one quarter mile north of Hodgen Road and is accessed by Timber Meadow Drive and Settlers Ranch Road which are both County maintained local paved roads. The existing single home obtains eastern access through a private driveway and recorded access easement agreement to Stepler Ranch Road. A Traffic Impact Memorandum was submitted as part of the rezone application. The anticipated 14 lot subdivision was analyzed to show an increase of 166 daily trips which can be accommodated by the local road system with planned future road connections and improvements. Settlers Ranch Road currently ends 600 feet west of Abert Ranch Drive. Future subdivision resulting in 25 or more lots on Settlers Ranch Road will require extending the road to Abert Ranch Drive. The developer shall participate in a fair and equitable manner in the design and future paving of Stepler Road, between Silver Nell Drive and Walker Road, and Settlers Ranch Road, between Abert Ranch Drive and Stepler Road.

The development is subject to the El Paso County Road Impact Fee program (Resolution 19-471), as amended.

## **H. SERVICES**

### **1. Water**

Water is provided by well.

### **2. Sanitation**

Wastewater is provided by an onsite wastewater treatment system.

### **3. Emergency Services**

The property is within the Tri-Lakes Monument Fire Protection District.

### **4. Utilities**

Mountain View Electric Association, Inc.

Black Hills Energy-Aquila

### **5. Metropolitan Districts**

None.

### **5. Parks/Trails**

Land dedication and fees in lieu of park land dedication are not required for a Map Amendment (Rezoning) application.

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**6. Schools**

Land dedication and fees in lieu of school land dedication are not required for a map amendment (rezoning) application.

**I. APPLICABLE RESOLUTIONS**

See attached resolution.

**J. STATUS OF MAJOR ISSUES**

None.

**K. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Planning Commission and the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (As Amended), staff recommends the following conditions and notations:

**CONDITIONS**

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and 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 threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.
3. The developer shall participate in a fair and equitable manner in the construction improvements for future paving to both Settlers Ranch Road, and Steppler Road that is proportional to the development's traffic impact shall be provided as determined at the Final Plat stage. As an alternative to the actual construction of improvements, subject to approval by the Board of County Commissioners, the estimated cost for such proportional improvements may be escrowed for the use of the County or other entity to construct the specified improvement to Settlers Ranch Road and Steppler Road.

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4. A Driveway Access Permit will be required for the existing home and private driveway to Stepler Road.
5. A transportation memorandum will be required with the subdivision application to finalize details with the proposed design.

#### **NOTATIONS**

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

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

The Planning and Community Development Department notified fourteen (14) adjoining property owners on August 18, 2023 for the Planning Commission and Board of County Commissioners meetings. Responses will be provided at the hearing.

#### **M. ATTACHMENTS**

Maps Exhibit  
Vicinity Map  
Letter of Intent  
Rezone Map  
Public Comment  
Draft Resolution

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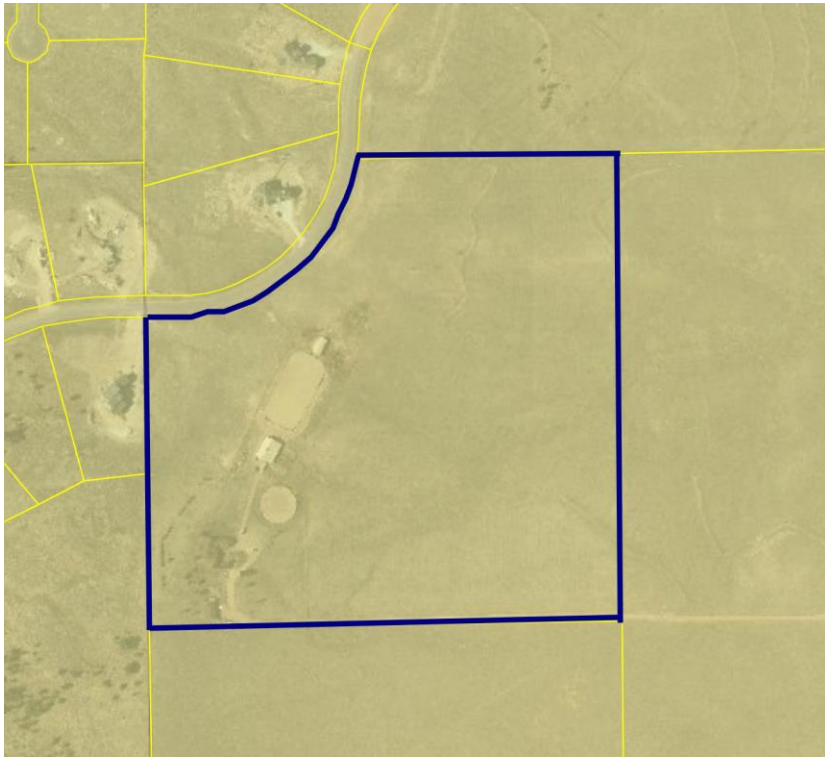


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# MAPS EXHIBIT

## P-23-003

Placetype:



- Rural
- Large-Lot Residential**
- Suburban Residential
- Urban Residential
- Rural Center
- Regional Center
- Employment Center
- Regional Open Space
- Mountain Interface
- Military
- Utility
- Incorporated Area

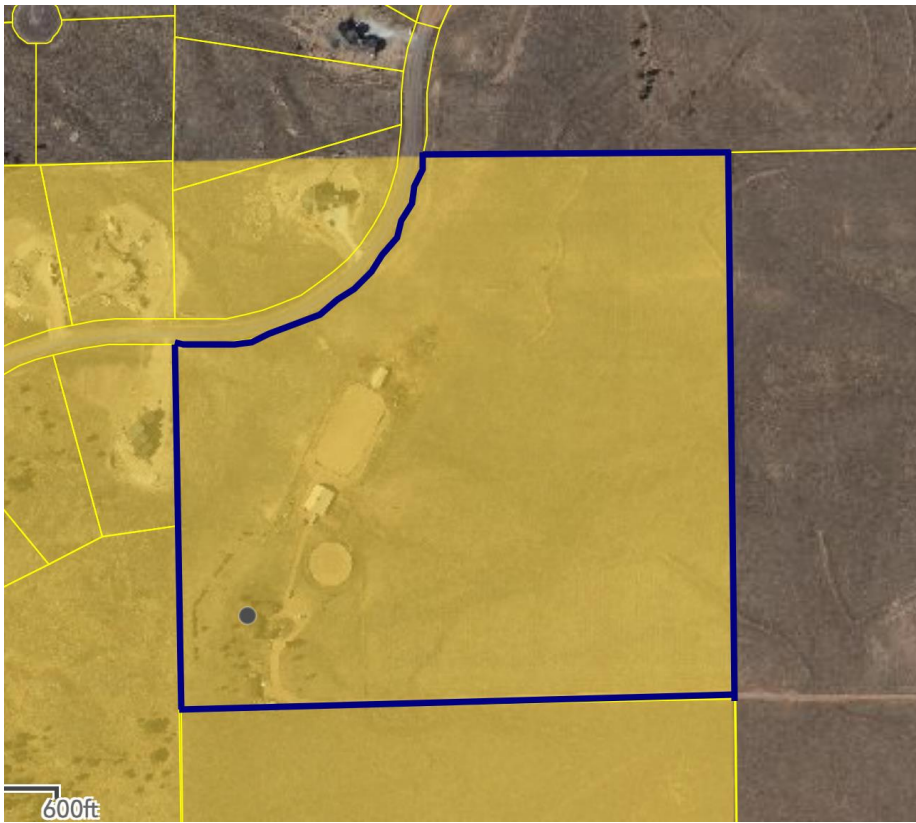
Area of Change:



- Protected/Conservation Area
- Minimal Change: Undeveloped
- Minimal Change: Developed**
- New Development
- Transition

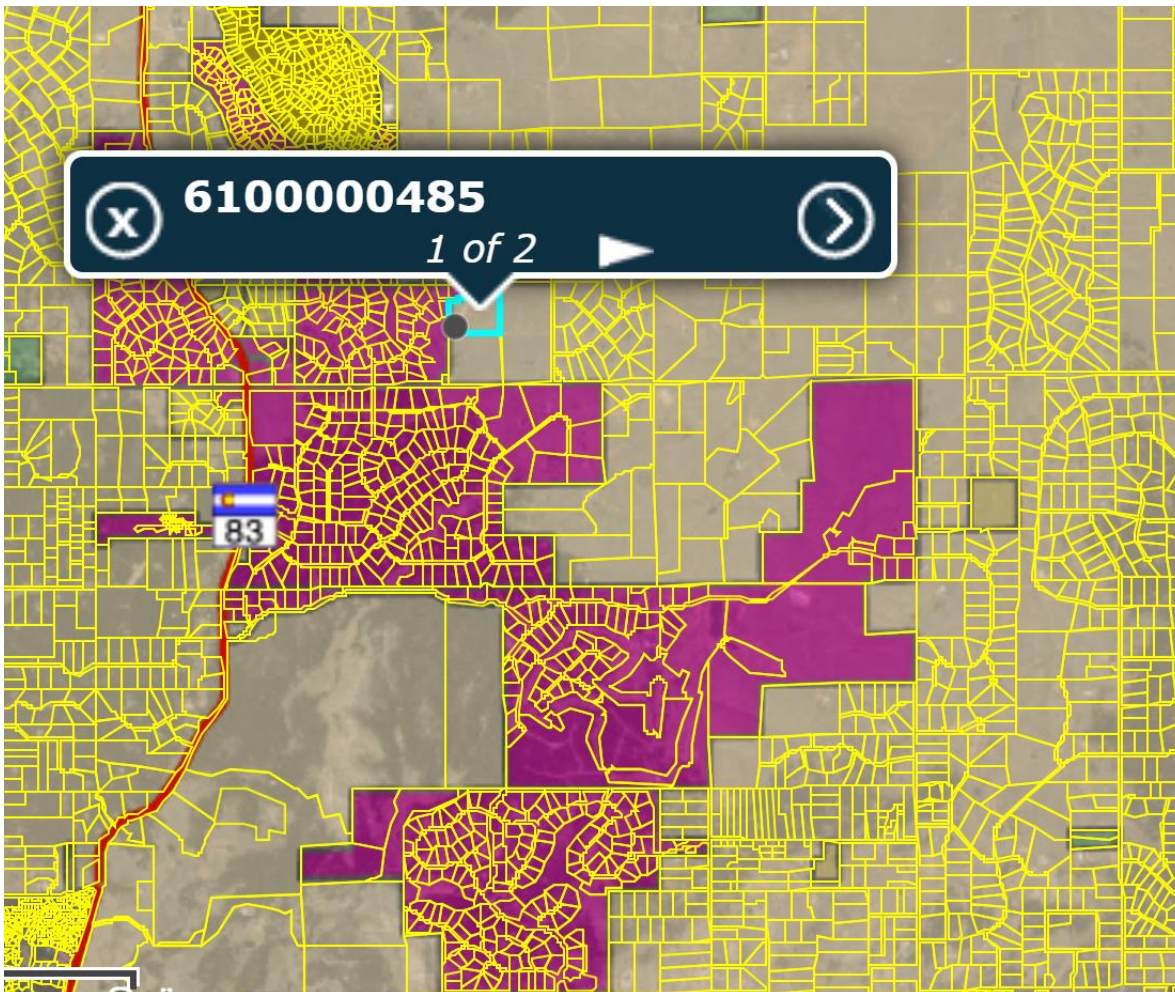


Key Area:



- Military Installations
- Potential Areas for Annexation
- Enclaves or Near Enclaves
- Small Towns & Rural Communities
- Fountain Creek Watershed Flood Control & Greenway District
- Forested Area
- Pikes Peak Influence Area
- Tri-Lakes Area**
- Colorado Springs Airport/Peterson Field
- Uncommon Natural Resources

Aerial:



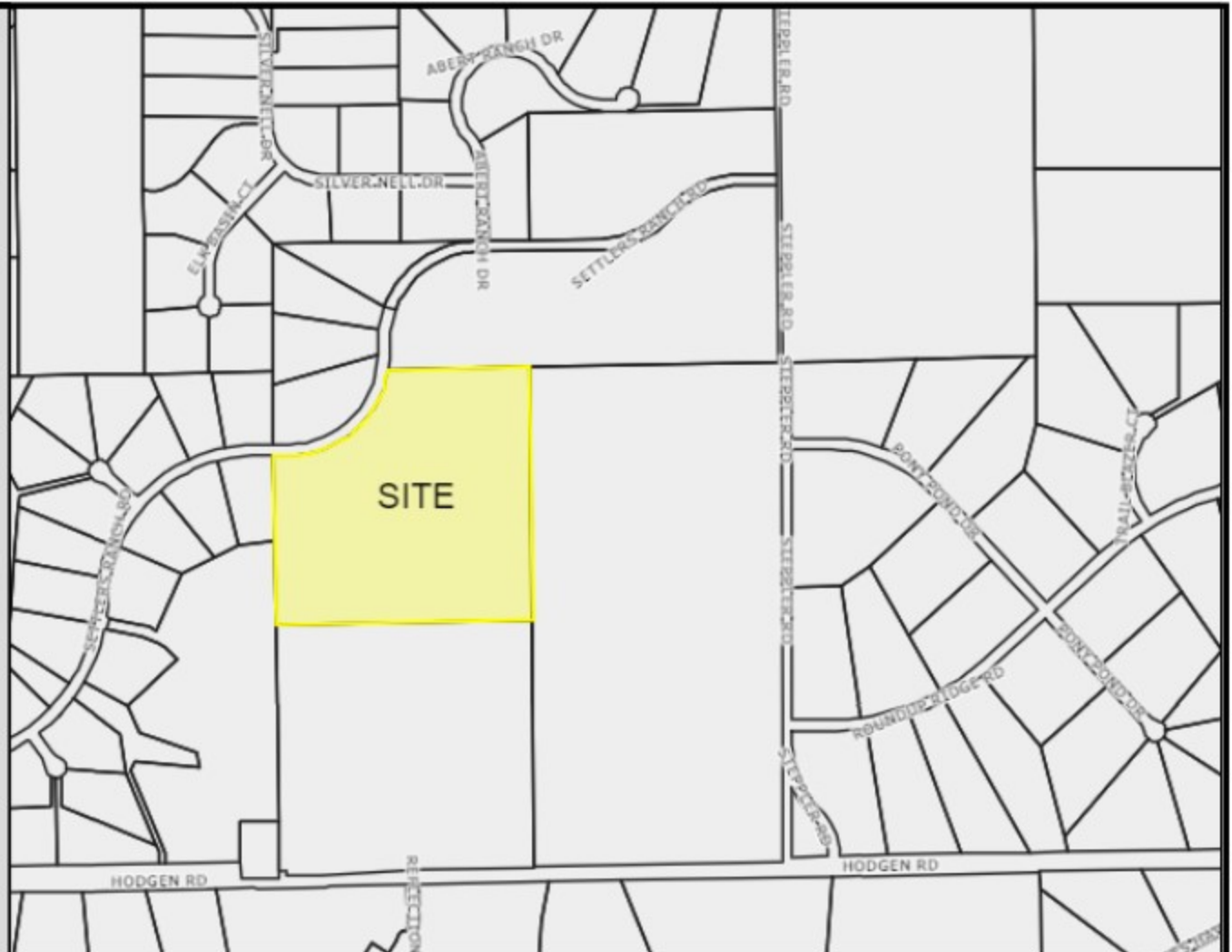
**EL PASO COUNTY**  
**PARCEL INFORMATION**

**FILE NAME:** P233

**PARCEL:** 6100000485

**NAME:** (OWNERS)  
Alfred & Donna Stewart

**ADDRESS:**  
16850 Stepler Rd.  
Colorado Springs, CO  
80908



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



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July 6, 2023

**APPLICANT-OWNER/CONSULTANT INFORMATION:**

**OWNER/APPLICANT**

Alfred C Stewart  
16850 Stepler Road  
Colorado Springs, CO 80908  
Email: alfredcstewart@aol.com  
Phone: 719-393-5322

**PLANNING/ENGINEERING**

KIMLEY-HORN & ASSOCIATES  
Attn: Kevin Kofford, PE  
2. North Nevada Avenue, Suite 300  
Colorado Springs, CO 80903  
Email: kevin.kofford@kimley-horn.com  
Phone: 719-453-0180

**TRANSPORTATION ENGINEERING (TRAFFIC IMPACT STUDY)**

KIMLEY-HORN & ASSOCIATES  
Attn: Jeff Plank  
4582 South Ulster Street, Suite 1500  
Denver, CO 80237  
Email: jeff.planck@kimley-horn.com  
Phone: (303) 228-2300

**LOCATION, ACREAGE, PARCEL ID INFO, & ZONING**

The application for a map amendment (rezoning) includes Parcel No. 6100000485, shown in Figure 1 below. The proposed rezoning site is located to the northwest of the Stepler Road and Hodgen Road intersection. Specifically, the tract is located at 16850 Stepler Road, El Paso County, Colorado Springs. The overall acreage of the property in the proposed rezone is ±36.38, currently zoned RR-5. Surrounding parcels to the west, north, and northwest are a part of the Settlers Ranch Subdivision, but Parcel No. 6100000485 is not a part of the subdivision.

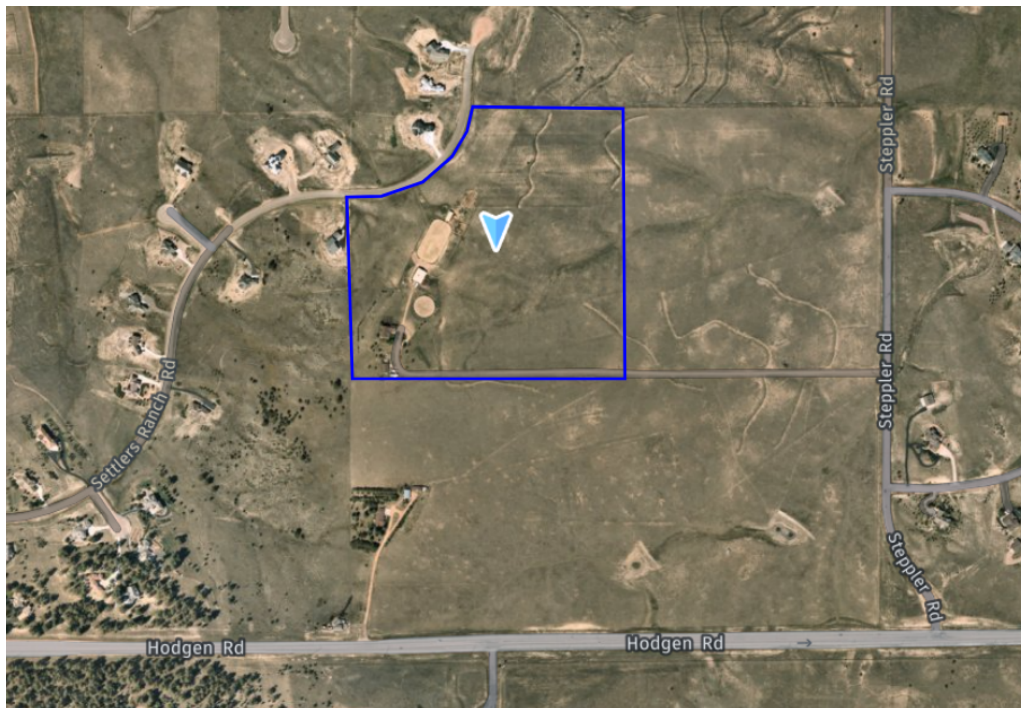


Figure 1. Vicinity Map

**REQUEST**

Alfred C Stewart (Applicant) requests the rezoning of Parcel No. 6100000485 (±36.38 acres) from the RR-5 zoning district to the RR-2.5 district. The approved final plat will clarify zone district boundaries with respect to ROW, adjacent parcels, landscape buffers, and setbacks as necessary.

The existing parcel consists of a single-family home and cattle/ranching infrastructure. The proposed zone change does not include any changes to existing property lines and the existing residence would maintain the same acreage (±36.38 acres) as in the existing condition.

## **JUSTIFICATION**

### **ZONING COMPLIANCE**

The site shall be in conformance with the zoning requirements of the RR-2.5 zone, including landscape buffering/screening requirements of the Code summarized below. Please note that the site does not fall within any Overlay zoning district.

- Maximum density: N/A
- Structural Setbacks (from property boundary or right-of-way):
  - Front: 25 feet
  - Side: 15 feet
  - Rear: 25 feet
- Max Lot Coverage: None
- Max Height: 30 feet
- Roadway Landscape Buffers:
  - Non-Arterial: 10 feet (1 tree/30 feet of frontage)
- Zoning District Boundary Trees:
  - A minimum of 1 tree shall be provided for every 30 feet of lot, parcel, or tract line coincident with a zoning district boundary line.
- Internal Landscaping Requirements:
  - N/A

### **CRITERIA FOR APPROVAL**

In approving a rezone Map Amendment, the following findings shall be made:

- The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
- The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116;
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

**MASTER PLAN CONFORMANCE**

The applicant requests approval of the rezoning based on findings of consistency and general conformance with the map amendment (rezoning) review Criteria of Approval outlined above. Master Plan conformity will be discussed in terms of general compliance with the Master Plan.

The rezone request is in general conformance with the following Core Principals and Goals of the El Paso County Master Plan:

*Core Principle 1* – Manage growth to ensure a variety of compatible land uses that preserve all character areas of the County.

*Core Principle 2* – Preserve and develop neighborhoods with a mix of housing types.

*Goal 1.1* - Ensure compatibility with established character and infrastructure capacity.

*Goal 1.3* - Encourage a range of development types to support a variety of land uses.

*Goal 2.2* – Preserve the character of rural and environmentally sensitive areas.

The request to rezone the ±36.38-acre site from RR-5 to RR-2.5 conforms with the surrounding developments in the area as well as the land use and placetype categories established by the Your El Paso Master Plan (Master Plan), adopted May 26<sup>th</sup>, 2021. Both the existing and proposed zoning districts for the property are categorized as Residential Rural Districts, and the land use category of the area allows for 2.5-acre lots. Many of the existing parcel sizes adjacent to the site are between 2.5 and 5-acres, consistent with the land use and placetype of the area. Nearby developments with existing parcel sizes between 2.5 and 5 acres are located to the north, west, and south of the site. Existing parcels in all directions are in conformance with ideal zoning and land use categories that justify the request, as described in further detail in the contents of this letter.

The proposed rezone provides opportunity to preserve the rural character of the existing community while allowing for 2.5-acre residential lots to be platted in the future. The character of the overall surrounding area is generally a mix of rural and suburban that is moderately distant from high activity and higher density areas. The purpose of rural zoned areas is to accommodate low-density, rural, single-family residential development, which is consistent with the existing community and the rezone request. Please see below Figure 2 for a chart of the El Paso County land use categories.

Land Use

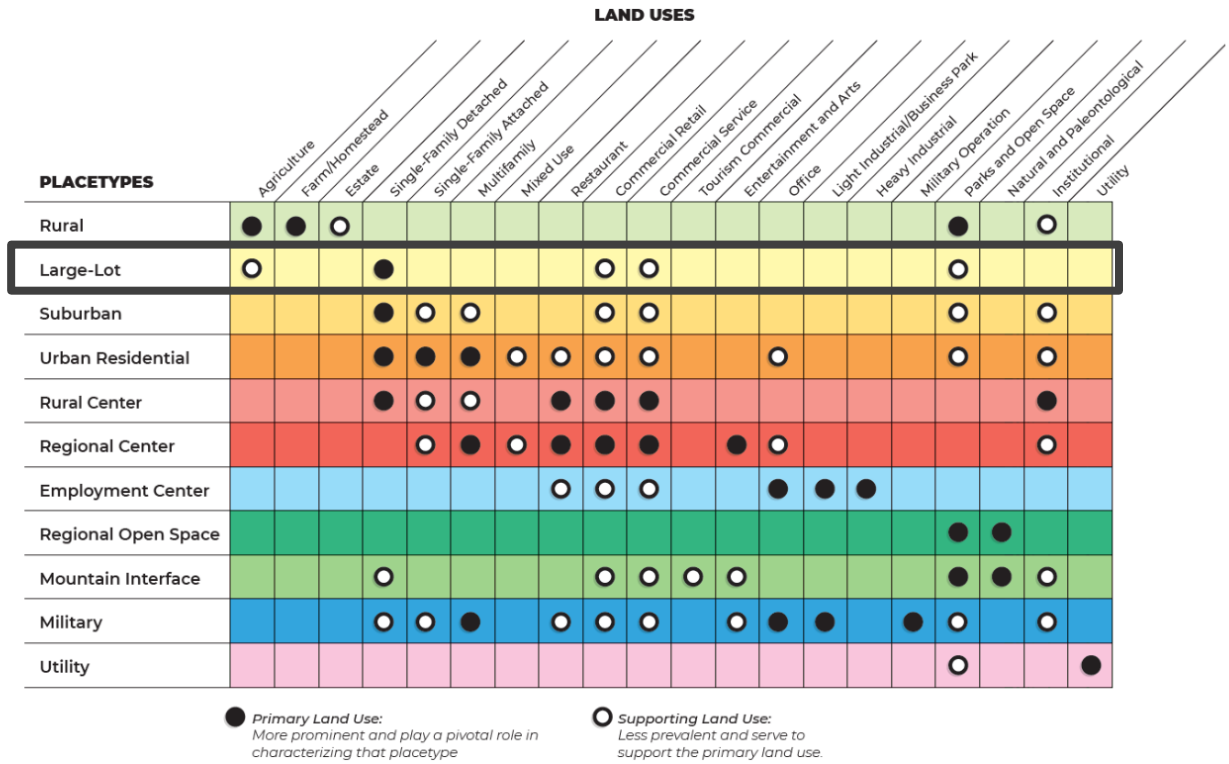
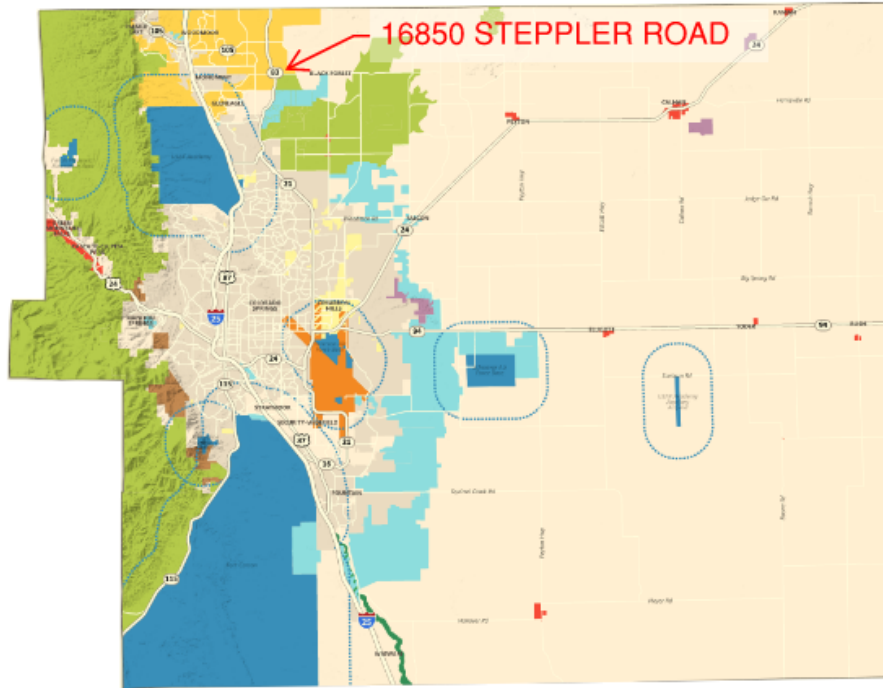


Figure 2. Land Use Category Chart, Your El Paso 2021

The site is located within the Large-Lot Residential Land Use Category as shown above. How this relates to the rezone request is discussed in greater detail in the Placetypes section of this letter.

Key Areas



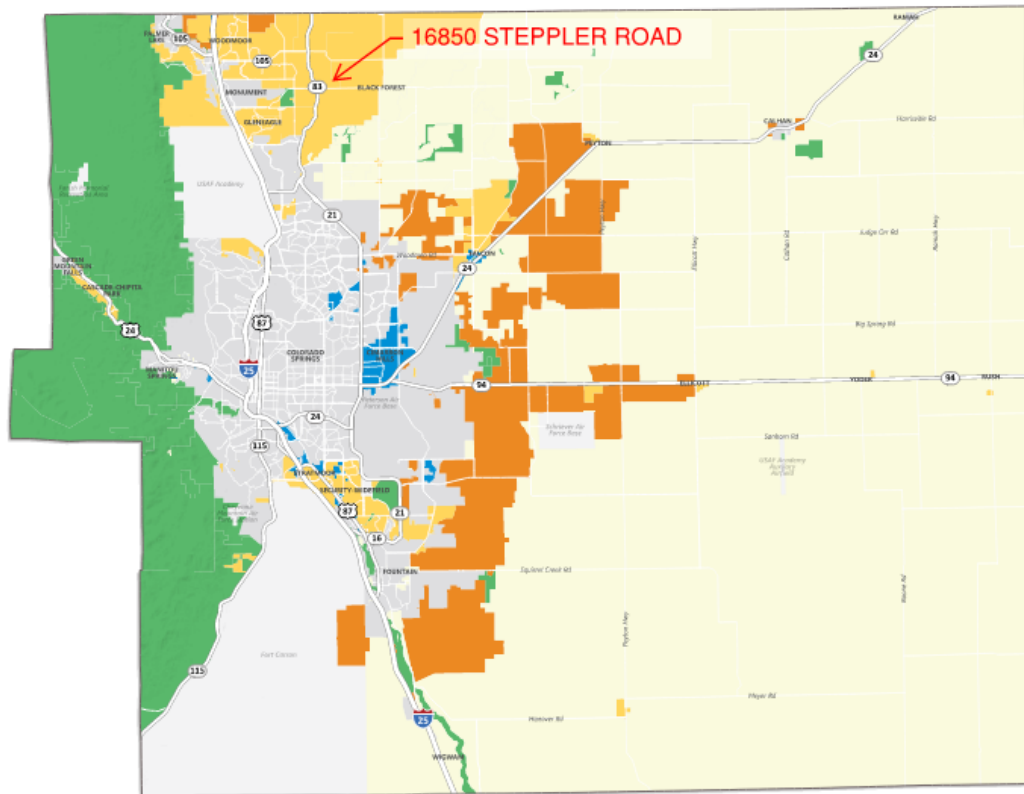
Key Areas

- Military Installations and 2-Mile Notification Zone
- Potential Areas for Annexation
- Enclaves or Near Enclaves
- Small Towns & Rural Communities
- Fountain Creek Watershed Flood Control & Greenway District
- Forested Area
- Pikes Peak Influence Area
- Tri-Lakes Area
- Colorado Springs Airport/Peterson Air Force Base
- Uncommon Natural Resources

Figure 3. Key Areas Map, Your El Paso 2021

The project site is located within the Tri-Lakes Key Area, as shown in Figure 3 above. The Tri-Lakes area is described as the most well-established community in the northern part of the County and serves as a place of residence to many who commute to work in the Denver Metropolitan Area. The rezone will support the mixture of existing housing types and strengthen the residential opportunities of the Tri-Lakes Area, providing a greater level of conformance with the Key Area’s objective. In addition, the rezone will help support the commercial, employment, and entertainment markets in the adjacent communities of Monument, Palmer Lake, and Woodmor by providing for additional residential lots in the area. The property is also classified as an economically attainable area according to the Master Plan.

Areas of Change



Areas of Change

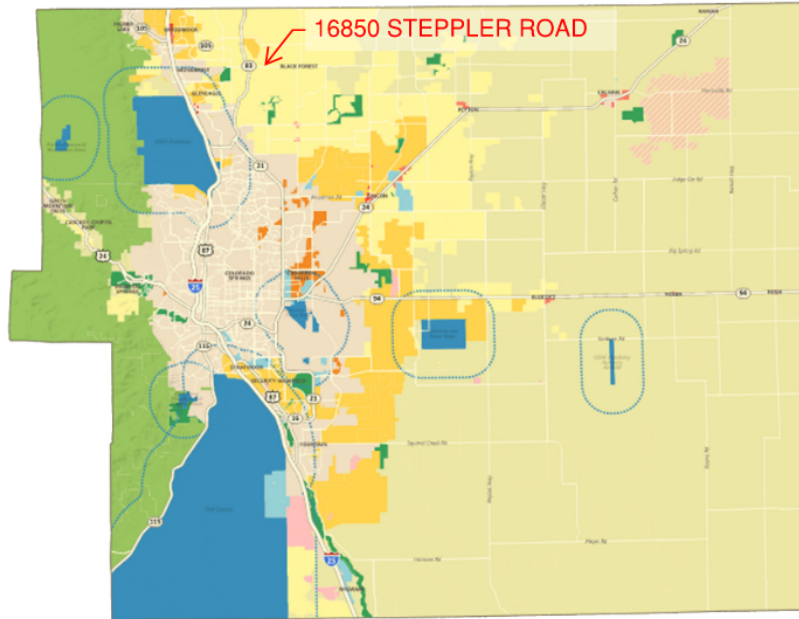
- Protected/Conservation Area
- Minimal Change: Undeveloped
- Minimal Change: Developed
- New Development
- Transition

Figure 4. Areas of Change Map, Your El Paso 2021

The property is located within the Minimal Change: Developed Area of Change, as shown in Figure 4 above. Sites in the Minimal Change: Developed category are defined as key areas that are largely built out with isolated pockets of vacant or under-utilized land. These areas are likely to see more infill development and a mix of uses and scale, with the ability to evolve to new development patterns. The rezoning request will bring the subject parcel to a higher level of consistency with the area by allowing for more parcels to be allocated within the ±36.38 acres and is not anticipated to conflict with the character of the established developments adjacent to the site.



Placetypes



Placetypes



Figure 5. Placetypes Map, Your El Paso 2021

The Stepler Road property is located within the Large-Lot Residential placetype as shown in Figure 5 above, which typically includes land for single-family detached residences, parks and open space, agriculture, as well as commercial service and retail developments. Communities within this placetype are typically more connected and less remote than the rural placetype. The Large-Lot Residential placetype allows for 2.5-acre minimum lots, which is consistent with this rezoning request. This placetype generally supports the proposed development pattern and the support of limited accessory dwelling units as well.

- A 2.5-acre minimum lot size is allowed within this placetype and is consistent with the rezoning request.
- The rezone and the code would protect the intent of the placetype, by the procedures and standards intended to promote safe and orderly development.
- The proposal is consistent with available and necessary services.
- The rezone would have no impact on any currently approved sketch plans



Priority Development Areas

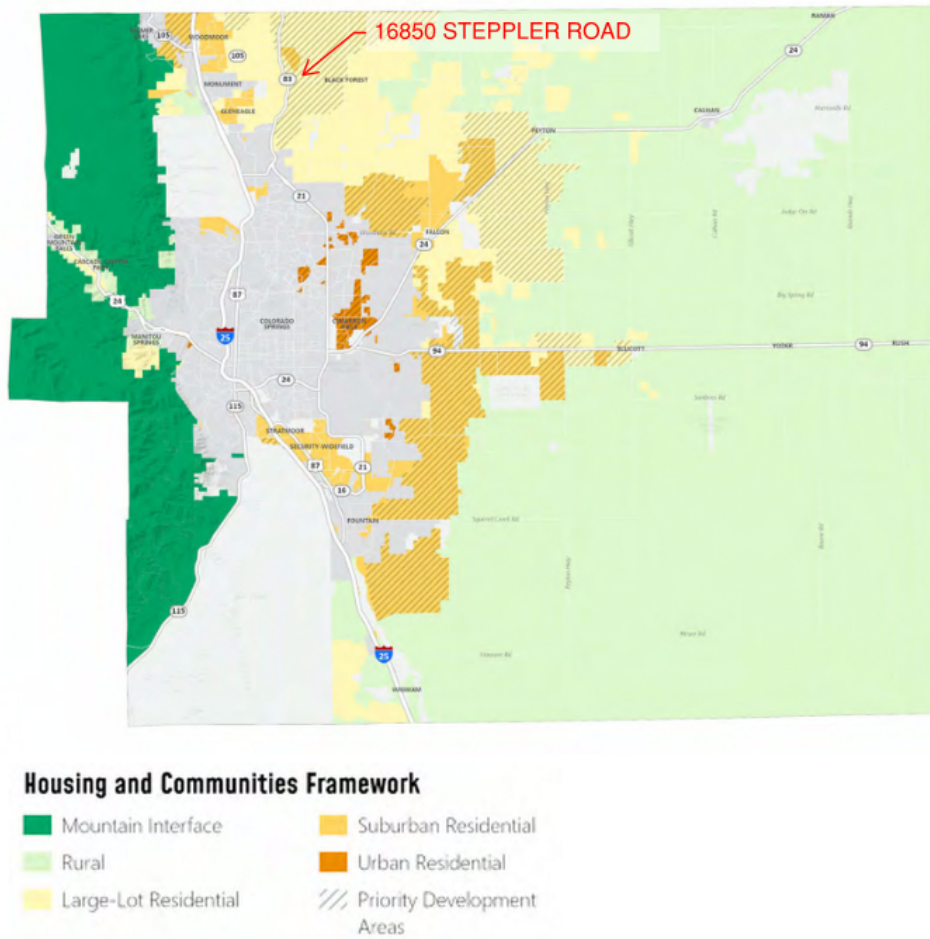
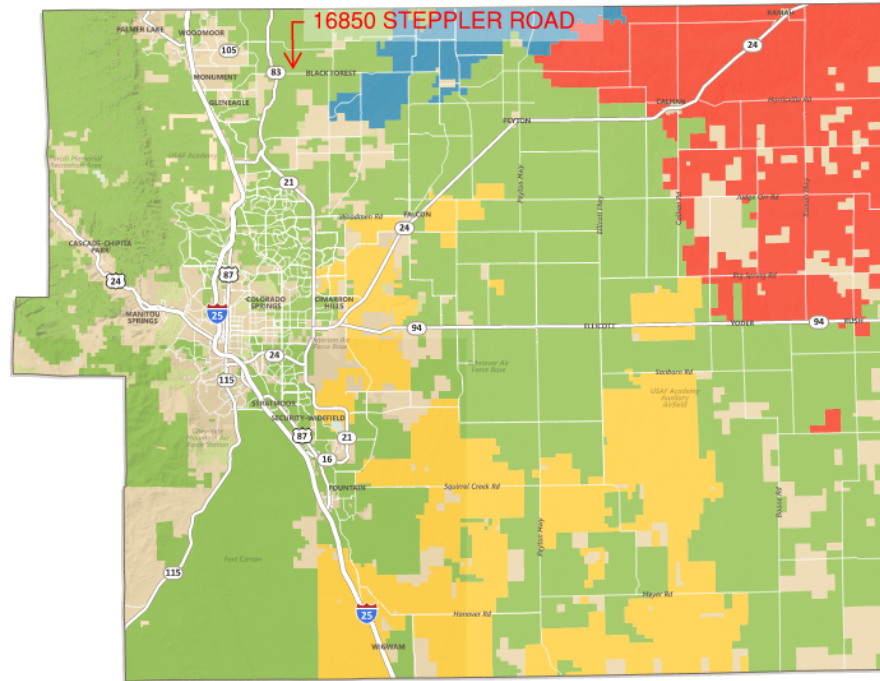


Figure 6. Housing and Communities Framework Map, Your El Paso 2021

The project site is located within a Priority Development Area as shown in Figure 6 above, which is defined as specific locations that should be prioritized first for residential development to help accommodate the projected significant growth of El Paso County.

The Stepler Road site happens to fall within the Black Forest/North Central Area of Large-Lot Residential Priority Development Areas. This Priority Development Area has one of the strongest and most well-established characters in El Paso County, with a focus on preserving the rural quality of the existing community and protecting the nearby forest. The proposed rezone is in line with the goals of the Black Forest/North Central Area Large-Lot Residential Priority Development category as it will maintain rural zoning while allowing for additional home sites to be platted in this area in the future, where the existing zoning district is currently limiting that.

Conservation Districts



Conservation Districts

- Central Colorado Conservation District
- El Paso County Conservation District
- Double El Conservation District
- Kiowa Conservation District

Figure 7. Conservation District Map, Your El Paso 2021

The requested rezone site falls within the El Paso County Conservation District, as shown in Figure 7 above. This request does not negatively impact the natural resources or rural character of the area and is considered to be compatible with the goals of the Conservation District.

Water Master Plan

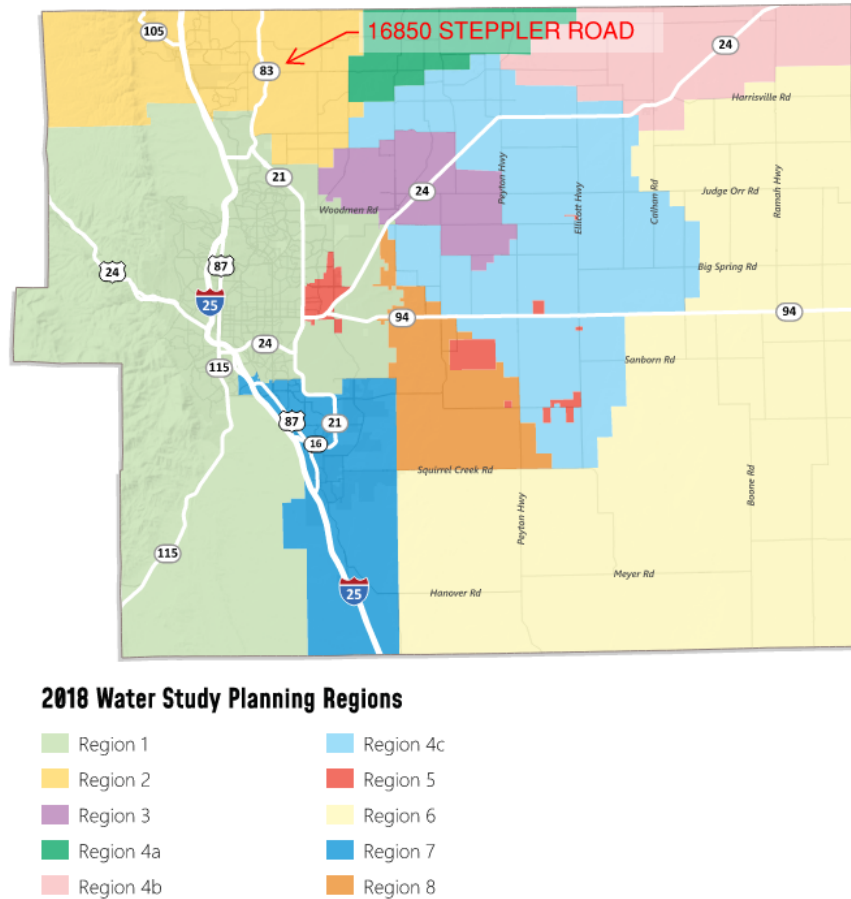


Figure 8. 2018 Water Study Planning Map, Your El Paso 2021

The Stepler Road site is located in Region 2 of the Water Master Plan, as shown in Figure 8 above. Region 2 is expected to experience significant growth through 2060. Future development of the site, while not part of this request, is anticipated to utilize groundwater sources from the Denver Basin via private well. At the time the Water Master Plan was published in 2018, there was a 353 acre-foot surplus in Region 2. Water production from Denver Basin wells in this region may not be economically sustainable in the long term, depending on local aquifer conditions. Water supplies in this region may need to be diversified in the years ahead, depending on local aquifer conditions.

A preliminary analysis was completed to estimate the maximum potential water usage for the property with fourteen 2.5-acre single family lots. It is anticipated each lot would require 0.65 acre-feet per lot for 300-years for a total of 9.1 acre-feet per year for the entire development. The existing capacity available is 10.8 acre-feet, so the total volume available is sufficient for the maximum usage for this development.

**Utility Provisions**

Services are or will be available to meet the needs of a future subdivision including, roads, police and fire protection, schools, recreation facilities, and utility service facilities. Required services are currently available to serve the needs of future development. Existing Services (and providers) include:

- Water & Wastewater Services: Private
- Natural Gas: Black Hills Energy
- Electric Service: Mountain View Electric
- Fire Protection: Tri-Lakes Monument Fire Protection
- Public Schools: Lewis-Palmer School District 38
- Library Services: Pikes Peak Library District
- Roads: El Paso County Road and Bridge
- Police Protection: El Paso County Sheriff’s Department
- Parks, Trails, Open Spaces: El Paso County, Colorado Springs, CMD

**Wastewater systems**

Future wastewater services will be provided by way of individual on-site septic/wastewater systems. Individual private property’s on-site sewage disposal systems will be established and comply with state and local laws and regulations, per [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of the Code.

**Natural or Physical Site Features**

The rezone will support the preservation of the natural features and drainages of the site and surrounding lands. The site is located within the West Cherry Creek drainage basin (CYCY0400), as shown in Figure 9 below.

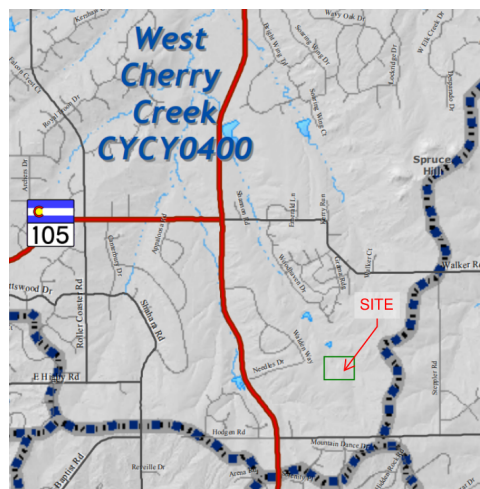


Figure 9. Drainage Basins Map, data provided by Muller Engineering Company; (1988)

There are no major hydrologic features within the project site. Review of FEMA Firm Panel '08041C0305G', effective date December 7, 2018, shows the project area is outside of a FEMA flood risk area. The parcel is identified as Zone X – Area of Minimal Flood Hazard. The site's flood condition is shown in the Figure below.

National Flood Hazard Layer FIRMette

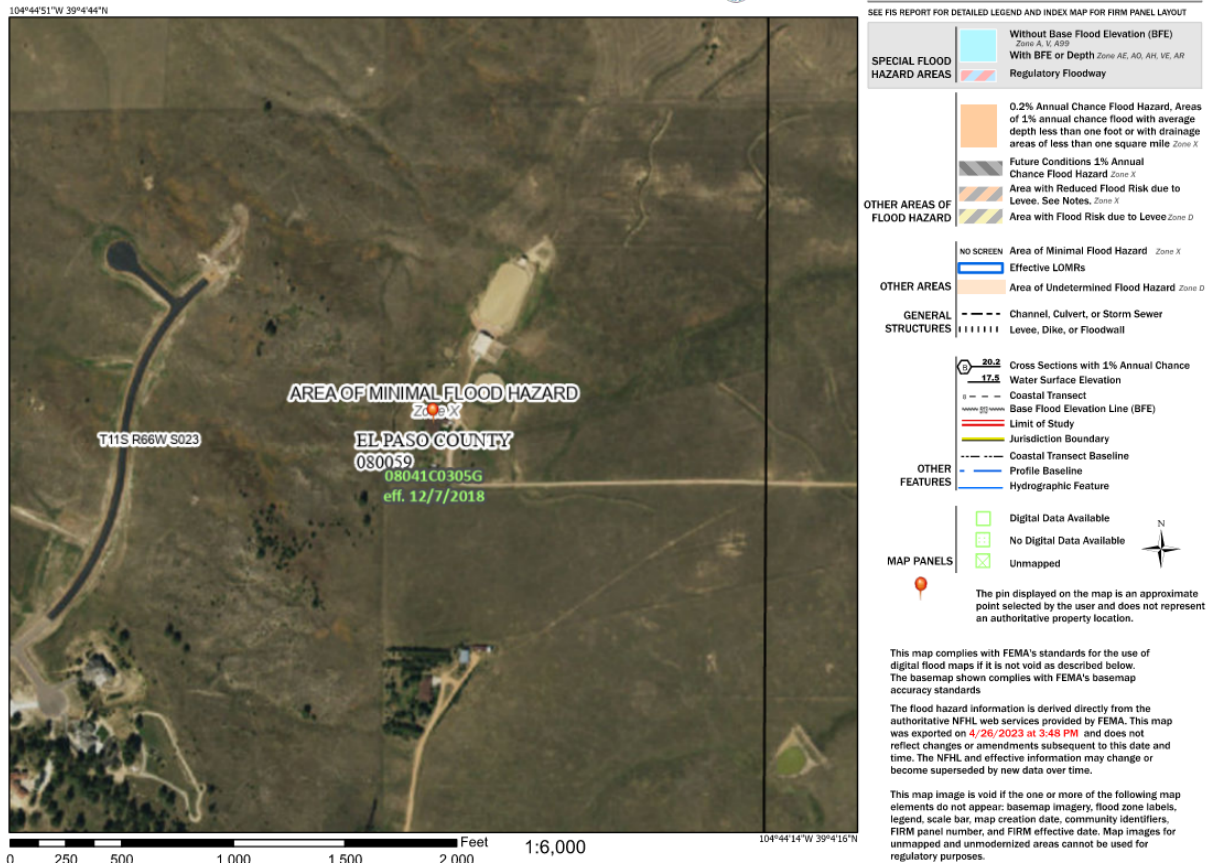


Figure 9. Drainage Basins Map, data provided by Muller Engineering Company; (1988)



**Wildfire Risk**

The site is mapped as low to very low risk on the Wildfire Risk Public Viewer shown in Figure 10 below.

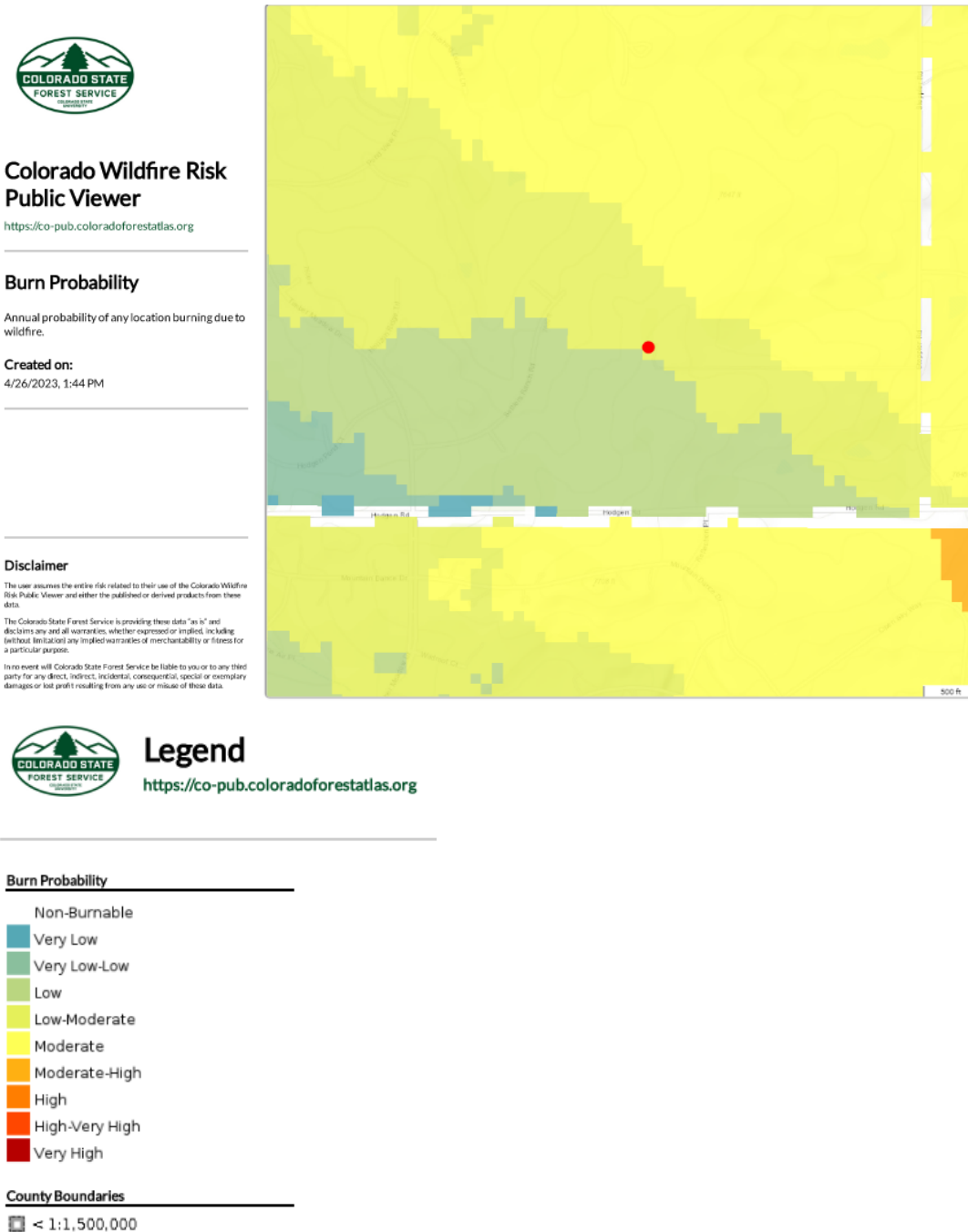


Figure 10. Wildfire Risk Map, Colorado Wildfire Risk Public Viewer

**Wildlife**

The site is located within a Conservation Area and has been identified in the Master Plan as an area of high wildlife habitat, but no significant data has been identified for the Black Forest area per the Colorado Wildlife Action Plan

**Wetlands**

There are no jurisdictional wetlands found within the proposed project site.

**Geological & Soil Hazards**

There are no anticipated geological or soil hazards associated with this site. Possible geologic hazards encountered at this site may include artificial fill, collapsible soils, expansive soils, areas of erosion, and groundwater. Mitigation would likely be accomplished with the implementation of common engineering and construction practices. At this time a soils and geologic hazard study has not been prepared.

**Vegetation & Wildlife**

The proposed project area is designated by the U.S. Geological survey as an area of urban development with no significant vegetation or wildlife.

**Sites of Historical Significance**

This site has no known historical significance.

**Air Quality**

The proposed rezone is not anticipated to negatively impact air quality. There are no expected long term air quality concerns.

**Water Quality**

The proposed rezone is not anticipated to be a source of water pollution.

**Traffic**

Based on the analysis presented in the provided Traffic Study Letter included with this submittal, Kimley-Horn believes that the rezoned site will be successfully incorporated into the existing roadway network. Regional access to 16850 Stepler Road will be provided by Interstate 25 (I-25), State Highway 83 (SH-83), and SH-105 while primary access to the site will be provided by SH-83, Hodgen Road, and Stepler Road. Direct access to the site will be provided by a proposed future access along Settlers Ranch Road to the northeast of the Settlers Ranch Rd and Timber Meadow Drive intersection. All of the existing direct access intersections are anticipated to operate well with future development of the site as they are currently constructed and do not warrant modifications or improvements. There are no pedestrian or bicycle facilities along the existing roadways within the study area. This project

is not anticipated to create the need for these alternate travel mode facilities. There is also no public transportation service in this area. With the rural nature of the site, it is believed that public transportation to serve this area is not feasible.

The existing residence located at 16850 Steppler Road obtains access from Steppler Road via a gravel driveway along the southern portion of the existing property (Parcel A) which extends to the west to within an existing 40' Private Access Easement (Parcel B). There are no changes proposed to the existing access to the property nor are there any additional lots proposed as a part of this Rezone Application. Any future subdividing of the existing property (under a separate application) would require the new parcels to obtain access via Settlers Ranch Road while the existing residence would maintain access via the existing driveway and access easement.

### **Community Outreach**

Adjacent property owners have been provided notices to announce the plan for the submittal of this application. Notices will be provided in kind to announce any future public hearings related to this request.

### **Summary**

The proposed rezoning is consistent with the Large-Lot Residential placetype and will uphold the rural character of the existing community while assisting in providing additional acreage for rural single-family residential lotting in the Tri-Lakes key area, which currently serves as a place of residence to many who commute to work in the Denver Metropolitan Area. Because the site is classified as a priority development area as well as being located in an economically attainable zip code, the rezone will aid the County in meeting its housing needs to accommodate the significant growth that is projected to take place within the next 20 years.

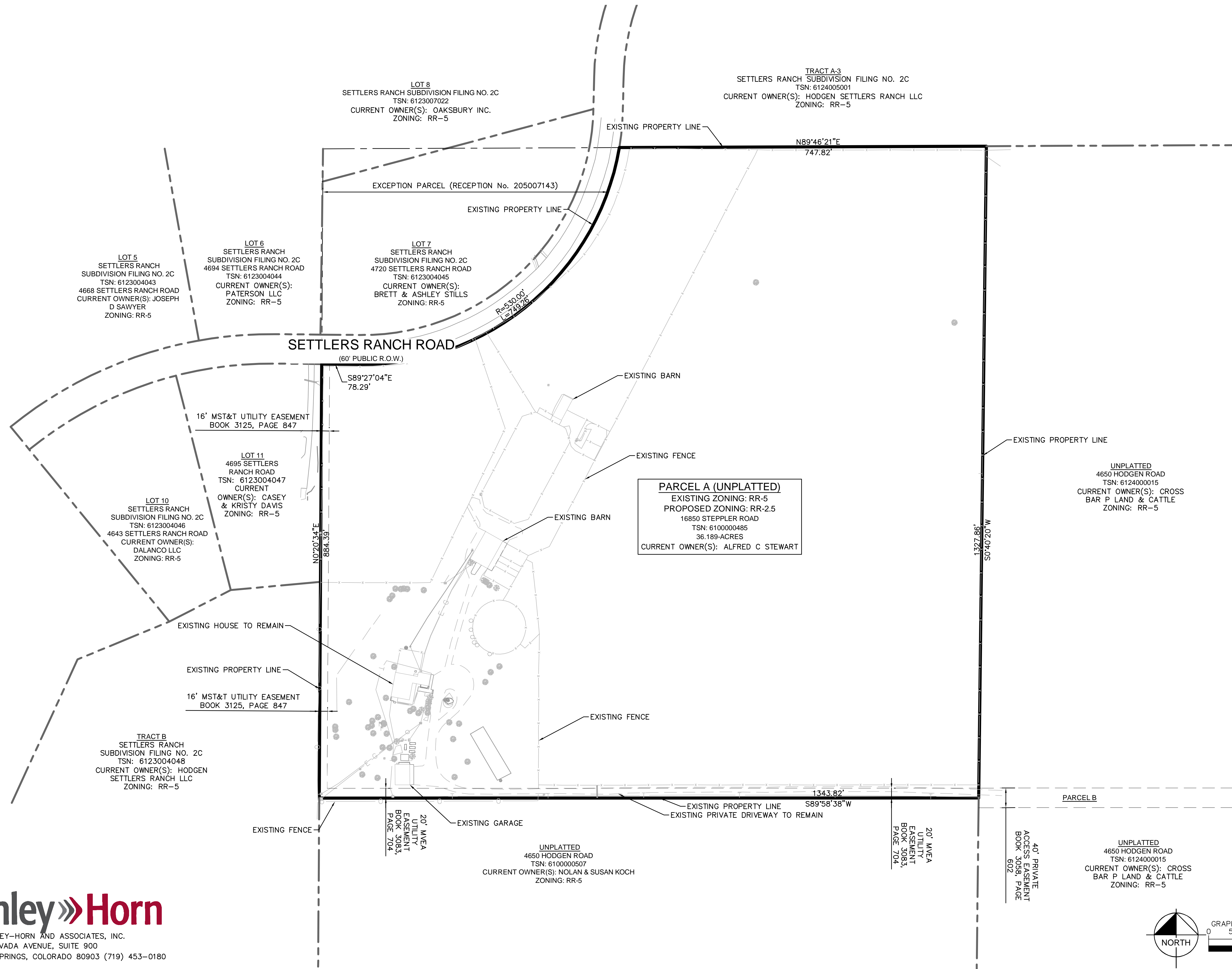
Existing roadway infrastructure supports future development of the site without modification or needed improvements. Utility services are or will be available to meet the needs of a future subdivision. No major utility improvements or upgrades are anticipated in order to adequately serve this site.



# 16850 STEPLER ROAD

## REZONE

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 11 SOUTH,  
RANGE 66 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO



**LEGAL DESCRIPTION:**

PARCEL A:  
THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 23, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO, EXCEPT THAT PORTION THEREOF CONVEYED BY WARRANTY DEED RECORDED JANUARY 13, 2005 UNDER RECEPTION NO. 205007143.

PARCEL B:  
A NON-EXCLUSIVE RIGHT OF WAY EASEMENT FROM STEPLER ROAD TO THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER IN SAID SECTION 23, SAID EASEMENT BEING 40 FEET IN WIDTH, 20 FEET ON EITHER SIDE OF THE NORTH BOUNDARY OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

(Per Title Commitment File No. 1883440 as provided by Stewart Title Guaranty Company)  
Address of Record: 16850 Stepler Road, Colorado Springs, CO 80908

**CONTACT INFORMATION**

**PARCEL A OWNER**  
CONTACT: ALFRED C STEWARD  
ADDRESS: 16850 STEPLER ROAD  
COLORADO SPRINGS, CO 80908  
TSN: 610000485

**MINERAL RIGHTS OWNER**  
CONTACT: SUSAN E KOCH  
ADDRESS: 4650 HODGEN ROAD  
COLORADO SPRINGS, CO 80908  
TSN: 610000507

**PARCEL A (UNPLATTED)**  
EXISTING ZONING: RR-5  
PROPOSED ZONING: RR-2.5  
16850 STEPLER ROAD  
TSN: 610000485  
36.189-ACRES  
CURRENT OWNER(S): ALFRED C STEWARD

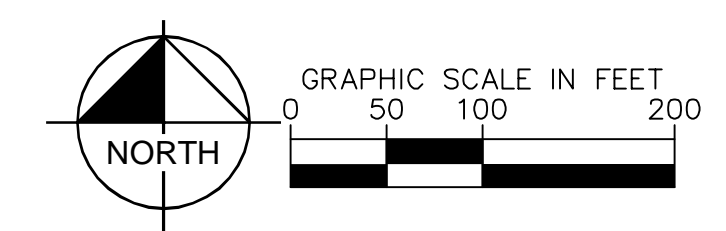
**UNPLATTED**  
4650 HODGEN ROAD  
TSN: 6124000015  
CURRENT OWNER(S): CROSS  
BAR P LAND & CATTLE  
ZONING: RR-5

**UNPLATTED**  
4650 HODGEN ROAD  
TSN: 610000507  
CURRENT OWNER(S): NOLAN & SUSAN KOCH  
ZONING: RR-5

**UNPLATTED**  
4650 HODGEN ROAD  
TSN: 6124000015  
CURRENT OWNER(S): CROSS  
BAR P LAND & CATTLE  
ZONING: RR-5



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2 NORTH NEVADA AVENUE, SUITE 900  
COLORADO SPRINGS, COLORADO 80903 (719) 453-0180



REZONE PLAN  
SHEET 1 OF 1

August 28, 2023

TO: Planner: [AshlynMathy@elpasoco.com](mailto:AshlynMathy@elpasoco.com) (Stewart rezone P233)  
Planner: [kyliebagley@elpasoco.com](mailto:kyliebagley@elpasoco.com) (Settlers Ranch rezone P2223)  
[PCDhearings@elpasoco.com](mailto:PCDhearings@elpasoco.com)

RE: 1. Stewart Rezone Request  
File Nmae: P233  
Parcel 6100000485  
16850 Stepler Rd., Colorado Springs, CO 80908  
Request to Rezone RR-5 to RR2.5  
Planner: [AshlynMathy@elpasoco.com](mailto:AshlynMathy@elpasoco.com)  
El Paso County Planning Public Hearing September 7, 2023 and  
El Paso County Board of County Commissioners Hearing September 28, 2023

2. P2223, Settlers Ranch request for rezoning  
Planner: [kyliebagley@elpasoco.com](mailto:kyliebagley@elpasoco.com)

FROM: 1. Nolan and Susan Koch, 4650 Hodgen Road

2. Susan Koch, President, Cross Bar P Land and Cattle, Inc., 4650 Hodgen Road

3. Amy (Koch) and John Robinson, 17245 Stepler Road

Contact Information for all: [suenolankoch@yahoo.com](mailto:suenolankoch@yahoo.com)  
719-495-4826

We, Nolan and Susan Koch, own 40 acres adjoining the Stewart property which is proposed for rezoning. We are also the owners of the mineral rights to the Stewart property (our Tax Schedule 99001-02-476). In addition, we represent the Cross Bar P Land and Cattle, Inc., which owns 80 acres also adjoining and the Amy and John Robinson property on the east side of Stepler Road (80 acres).

We are not able to attend the hearings; therefore, we are submitting these comments for consideration.

**In summary: We collectively hereby express our opposition to the proposed rezoning of the above-stated parcel from RR-5 to RR2.5**

In the past, we have been successful in maintaining that the land east of the ridge between Tri-Lakes and the Black Forest Preservation Plans be held to a 5 acres lot size. We feel that the El Paso Planning Commission and BOCC should maintain that 5 acre size if for no other reason than to be consistent with your previous rulings but also to provide a 5-acre transition buffer between this requested rezone and our adjoining 40-acre property, and the Cross Bar P Land & Cattle, Inc. and Robinson properties which are both conservation easement parcels and will never be developed (80 acres east of Stepler Road and 80 acres west of Stepler Road).

We are not going to leave or develop our land. This land has been in my family (Stepler) since the early 1900's. That is why it has been placed in a conservation easement. It will remain agricultural. This is historic family land and we request its heritage be respected.

At least give us this concession: maintain the 5 acres lot size ruling for the east side of the ridge that was previously defined as the boundary between the old Tri-Lakes and Black Forest Preservation Plans. We understand that you no longer acknowledge those plans, but it worth restating: That Black Forest Preservation Plan stated that development should focus on the forested rather than the open areas and recognized the Northern Grasslands (Unit #6) as an area that should be developed only minimally in order to protect agricultural areas in Black Forest. It stated “development which does take place should be strictly limited to an overall density of one dwelling unit per five acres.” **The Plan called for compatibility between subdivisions and adjacent agricultural uses and protection of existing ranches.**

The land use company working on this proposal stated that there are adjoining properties that are already 2.5 acres. That is true – because they are on the west side of the dividing ridge between Tri-Lakes and Black Forest areas staying true to the previous County decision. There is a market for 5-acre lots, so it would not be a detriment to the developers, yet allowing 2.5 acre lots would be a detriment to raising livestock.

We are also concerned that if approved this rezoning request would open up refileing possibilities for surrounding developments to refile for smaller lot sizes on any of their remaining parcels (reference Settlers Ranch rezoning request P2223). We request you not allow that to happen. Stand by your previous rulings.

In all cases, we are extremely concerned about the adequacy of the water supply. Aquifers are being depleted faster than earlier thought. And we have a concern about the environmental impacts that more individual septic systems will have. This not only affects our drinking supply but also our ranching needs.

We urge that the El Paso County Planning Commission and the Board of County Commissioners both hold to past rulings and **deny the 2.5 acre densities.**

Sincerely,

Susan and Nolan Koch  
4650 Hodgen Road  
Colorado Springs, CO 80908  
Representing 40 acres and mineral rights 99001-02-476

Susan Koch, President  
Cross Bar P Land & Cattle, Inc.  
4650 Hodgen Road  
Colorado Springs, CO 80908  
Representing 80 acres (conservation easement)

Amy and John Robinson  
17245 Stepler Road  
Colorado Springs, CO 80908  
Representing 80 acres (conservation easement)

RESOLUTION NO. 23-

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

APPROVAL OF MAP AMENDMENT (REZONE)  
16850 STEPLER ROAD – REZONE (P233)

WHEREAS Charlie Stewart did file an application with the El Paso County Planning and Community Development Department for an amendment to the El Paso County Zoning Map to rezone property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on September 7, 2023, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on September 28, 2023; 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. That the application was properly submitted for consideration by the Board of County Commissioners.
2. That the proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. That the hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, that all pertinent facts, matters and issues were submitted and reviewed, and that all interested persons were heard at those hearings.
4. That all exhibits were received into evidence.
5. That the proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.
6. That the proposed land use will be compatible with existing and permitted land uses in the area.

7. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.
8. That changing conditions clearly require amendment to the Zoning Resolutions.
9. That for the above-stated and other reasons, the proposed Amendment to 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, pursuant to Section 5.3.5 of the El Paso County Land Development Code, as amended, in approving this amendment to the El Paso County Zoning Map, the Board of County Commissioners considered one or more of the following criteria:

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the petition of Charlie Stewart to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district;

BE IT FURTHER RESOLVED the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. 1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and 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 threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

3. The developer shall participate in a fair and equitable manner in the construction improvements for future paving to both Settlers Ranch Road, and Steppler Road that is proportional to the development’s traffic impact shall be provided as determined at the Final Plat stage. As an alternative to the actual construction of improvements, subject to approval by the Board of County Commissioners, the estimated cost for such proportional improvements may be escrowed for the use of the County or other entity to construct the specified improvement to Settlers Ranch Road and Steppler Road.
4. A Driveway Access Permit will be required for the existing home and private driveway to Steppler Road.
5. A transportation memorandum will be required with the subdivision application to finalize details with the proposed design.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

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

DONE THIS 28th day of September 2023 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

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

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

EXHIBIT A

Parcel A:

The Northeast quarter of the Southeast quarter of Section 23, Township 11 South, Range 66 West of the 6th P.M., County of El Paso, State of Colorado, except that portion thereof conveyed by warranty deed recorded January 13, 2005 under reception No. 205007143.

Parcel B:

A non-exclusive right of way easement from Stepler road to the Northeast quarter of the Southeast quarter in said Section 23, said easement being 40 feet in width, 20 feet on either side of the North boundary of the Southwest quarter of the Southwest quarter of Section 24, Township 11 South, Range 66 West of the 6th P.M., County of El Paso, State of Colorado.

Area = 36.189-acres more or less.