



EL PASO COUNTY

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LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Brian Risley, Chair

FROM: Kylie Bagley, Planner II
Gilbert LaForce, PE Senior Engineer
Kevin Mastin, Interim Executive Director

RE: Project File #: MS-22-004
Project Name: Boyd Minor Subdivision
Parcel No.: 51000-00-433

OWNER:	REPRESENTATIVE:
Christopher & Jessica Boyd 6238 Gilmer Way Westerville, OH 4308	M.V.E, Inc. David Gorman 1903 Lelary Street, Suite 200 Colorado Springs, CO 80909

Commissioner District: 1

Planning Commission Hearing Date:	11/3/2022
Board of County Commissioners Hearing Date	11/15/2022

EXECUTIVE SUMMARY

A request by David Gorman for approval of a minor subdivision to create three (3) single-family residential lots. The 35.88 acre property is zoned RR-5 (Residential Rural), and is located directly southeast of the intersection of Brown Road and Running Horse View and approximately two miles north of the intersection of Thompson Road and Hodgen Road and within Section 7, Township 11 South, Range 65 West of the 6th P.M. (Parcel No.51000-00-433) (Commissioner District No. 1)

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A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by David Gorman for approval of a minor subdivision to create three (3) single-family residential lots.

Waiver(s)/Deviation(s): The following waivers from the El Paso County Land Development Code (2022) (LDC) is requested with the Boyd Minor Subdivision:

1. The applicants are requesting a waiver of Sections 8.4.4.C. and 8.4.4.E.3 of the Code to allow for the applicant to private road design criteria similar to driveway criteria.
 - Section 8.4.4.E.4, *Private Road Allowances*, of the Code states:
“In cases where private roads are approved, the private roads shall be deemed to comply with the access and frontage requirements of this Code as if the private roads were public roads.”

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

B. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

C. APPROVAL CRITERIA

In approving a final plat, the BoCC shall find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2022):

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- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
- The subdivision is consistent with the purposes of the Land Development Code (“Code”).
- The subdivision is in conformance with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analysis, studies, reports, plans, designs, documents, and other supporting materials.
- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code.
- A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of the Code.
- All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)].
- Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual (“ECM”) are provided by the design.
- The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development.
- Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County and in compliance with the Code and the ECM.

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- The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.
- Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.
- The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.
- The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.
- Off-site impacts were evaluated, and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code.
- Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.
- The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

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D. LOCATION

North: RR-5 (Residential Rural)	Single-Family Residential
South: A-35 (Agricultural)	Single-Family Residential
East: RR-5 (Residential Rural)	Single-Family Residential
West: RR-5 (Residential Rural)	Single-Family Residential

E. BACKGROUND

The property was zoned A-4 (Agricultural) on September 20, 1965, when zoning was first initiated for this portion of the County. Due to changes in the nomenclature of the Code, the A-4 zoning district was renamed as the RR-5 (Residential Rural) zoning district in 2007.

The applicant is requesting approval of a minor subdivision to create three (3) single-family residential lots from the existing 35.88-acre parcel. Two (2) lots are proposed to be 10 acres each and the third lot is proposed to be 15 acres.

F. ANALYSIS

1. Land Development Code Compliance

The final plat application meets the final plat submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the El Paso County Land Development Code (2022).

2. Zoning Compliance

The subject parcel is zoned RR-5 (Residential Rural). The RR-5 zoning district is intended to accommodate low-density, rural, single family residential development. The density and dimensional standards for the RR-5 zoning district are as follows:

- Minimum lot size: 5 acres *
- Minimum width at the front setback line: 200 feet
- Minimum setback requirement: front 25 feet, rear 25 feet, side 25 feet *
- Maximum lot coverage: 25 percent

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- Maximum height: 30 feet
 - * In the event that the land to be partitioned, platted, sold or zoned abuts a section line County road the minimum lot area for lots abutting the road shall be 4.75 acres and minimum lot width shall be 165 ft.
 - *Agricultural stands shall be setback a minimum of 35 feet from all property lines.

All three (3) proposed lots will exceed the minimum lot size of five (5) acres.

The applicant is not proposing to construct any new structures at this time. Any proposed additional structures constructed in the future will require site plan review and approval and will need to include confirmation that all site improvements (existing and proposed) comply with the dimensional standards included in Chapter 5 as well as any applicable development standards of Chapter 6 of the Code.

3. Policy Plan Analysis

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues and provides a framework to tie together the more detailed sub-area elements of the County Master Plan. Relevant policies are as follows:

G. MASTER PLAN ANALYSIS

1. Your El Paso Master Plan

a. Placetype: 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



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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.

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

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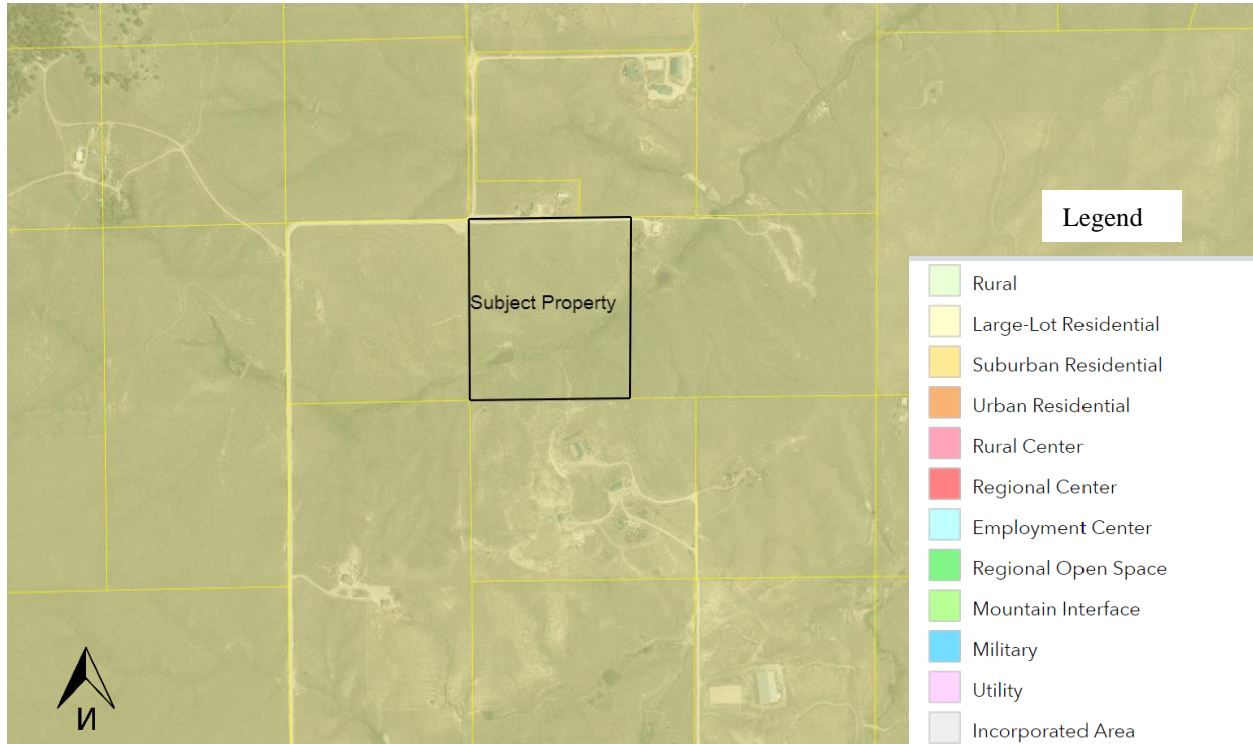


Figure G.1: Placetype Map

Analysis:

The property is located within the Large-Lot Residential placetype. The Large-Lot Residential placetype supports the rural character of the County while providing for unique and desirable neighborhoods. Relevant goals and objectives are as follows:

Goal LU1 – *Ensure compatibility with established character and infrastructure capacity.*

Objective LU3-1 – *Development should be consistent with the allowable land uses set forth in the placetypes first and second to their built form guidelines.*

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Objective HC1-5 – *Focus detached housing development in Large-Lot Residential and Suburban Residential areas given the increasing infrastructure and environmental constraints associated with such development to help maintain the established character of rural communities.*

Goal HC2 – *Preserve the character of rural and environmentally sensitive areas.*

Goal HC-2 Specific Strategy – *Maintain existing and expand the Large-Lot Residential placetype in Black Forest/North Central area in a development pattern that matches the existing character of the developed Black Forest community.*

The proposed subdivision would create three (3) single-family detached residential lots. The proposed use and lot size are consistent with the character and intent of the Large-Lot Residential placetype. The three lots are each proposed to be a minimum of 5 acres. By maintaining a larger lot size than the recommended 2.5 acres, which has been identified as suitable within the Large-Lot Residential placetype, the proposed subdivision is in line with preserving the rural character of the area. The increased lot size also accommodates the large electrical easement that bisects the property.

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

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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.

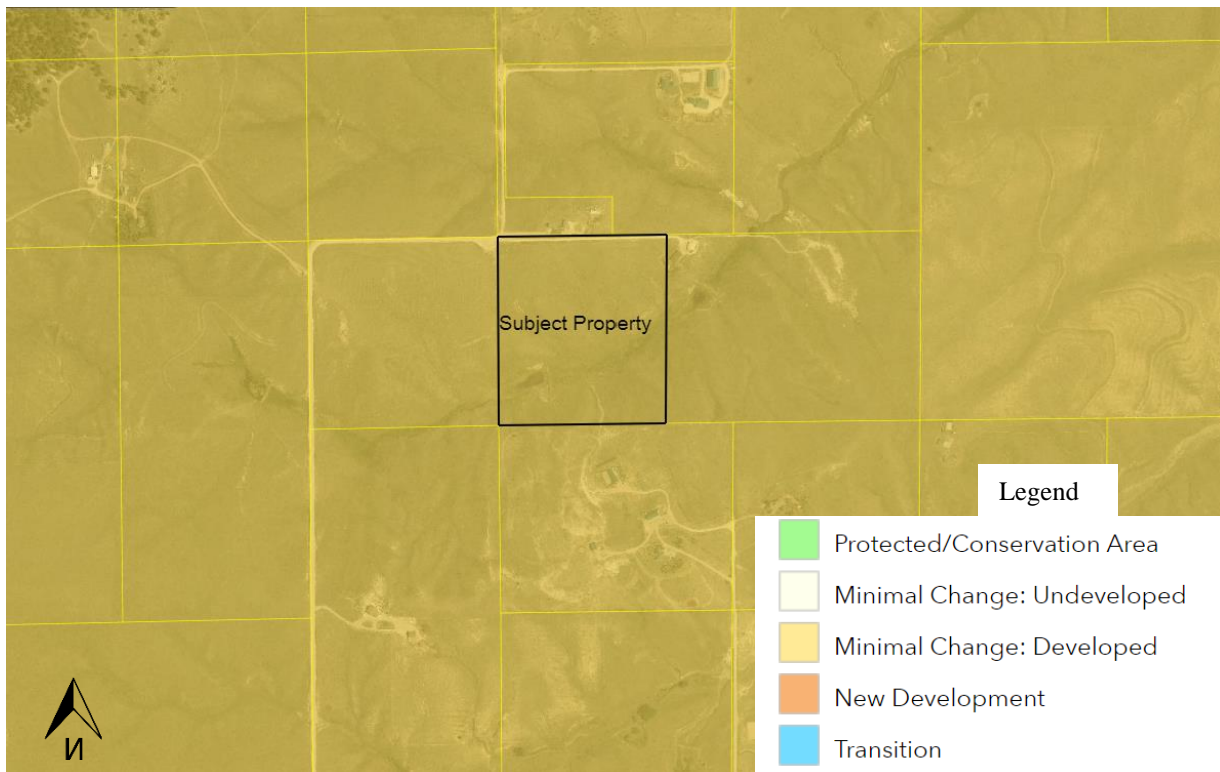


Figure G.2: Area of Change Map

Analysis:

The subject property is adjacent to rural residential properties on all sides. The properties to the north, south, east, and west of the subject property are used for single-family detached residential purposes.



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The proposed minor subdivision to create three (3) rural residential lots is compatible with the surrounding lot sizes, which vary in size but are all a minimum of five (5) acres. The character of the surrounding area is consistent with the Area of Change designation, which identifies that existing vacant land may be developed in the future.

c. Key Area Influences

El Paso County represents a vast area composed of many distinct areas. These “Key Areas” have their own unique identities and are generally localized into smaller geographic areas with distinct characteristics that distinguish them from other areas of the County. The subject property is not within a Key Area.

4. Water Master Plan Analysis

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

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

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

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

Goal 4.3 – *Collaborate with the State and other stakeholders to extend the economic life of the Denver Basin aquifers.*

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The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The proposed development will not be served by a central water system. The following has been included for informational purposes only as it pertains to water demands and supplies in Region 2 for central water providers:

The property is located within Planning Region 2 of the Plan, which is an area anticipated to experience growth by 2040. 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 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 is 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.

Water sufficiency has been analyzed with the review of the proposed minor subdivision. The augmentation decree for the property allows the subdivision to draw 2.55 acre-feet of water per year over a 300-year period from the Dawson Aquifer for the three (3) proposed lots. The applicant's water resources report indicates an estimated use of approximately 2.55 acre-feet per year.

The applicant's water resources report and augmentation plan include measures for recharging renewable water resources in the Dawson aquifer. The applicant has shown a sufficient water supply for the required 300-year period. The State Engineer and the County Attorney's Office have recommended that the proposed minor subdivision has an adequate water supply in terms of quantity and dependability. El Paso County Public Health has recommended that the proposed minor subdivision has an adequate water supply in terms of quality. Please see the Water section below for a summary of the water findings and recommendations for the proposed minor subdivision.

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5. Other Master Plan Elements

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

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

Please see the Parks Section below for information regarding conformance with The El Paso County Parks Master Plan (2013).

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

H. PHYSICAL SITE CHARACTERISTICS

1. Hazards

Geologic hazards found to be present at this site include faults/seismicity and radon. Geologic constraints found to be present at this site include expansive soils, compressible soils, and artificial fill. The foundation systems for the proposed single-family residential structures and any retention/detention facilities should be designed and constructed based upon recommendations developed in a site-specific subsurface soil investigation.

2. Wildlife

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

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3. Floodplain

FEMA Flood Insurance Rate Map No. 08041C0305G which has an effective date of December 07, 2018 indicates the subdivision is located in Zone X, areas outside of the 500-yr floodplain.

4. Drainage and Erosion

The development is located within the unstudied East Cherry Creek drainage basin (CYCY0200). No drainage fee is associated with this basin.

Per Section I.7.1.B of the El Paso County Engineering Criteria Manual (ECM) permanent water quality facility is not required for single-family residential lots greater than or equal to 2.5 acres and having a total lot impervious area of less than 10 percent.

5. Transportation

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471).

A waiver of Section 8.4.3.B of the Code, Minimum Frontage, which requires lots have a minimum of 30 feet of frontage and have access on a public road has been requested for Lots 2 and 3 which are to be accessed from Brown Road via a proposed private driveway easement. The applicant has prepared a driveway maintenance agreement as part of this minor subdivision.

Fair and equitable participation in the construction of off-site improvements to Brown Road proportional to the development's traffic impact shall be provided via escrow for the use of the County or other entity.





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I. SERVICES

1. Water

Sufficiency:

Quality: Sufficient

Quantity: Sufficient

Dependability: Sufficient

Attorney's summary: Water will be provided by individual onsite wells. The State Water Engineer's Office has made a finding of adequacy and has stated water can be provided without causing injury to decreed water rights. The County Attorney's Office is recommending a finding of sufficiency with regard to water quantity and dependability.

2. Sanitation

Individual onsite wastewater treatment systems (OWTS) are proposed to serve the residential lots. The applicant submitted an OWTS report which indicated that the lots are suitable for the construction of these systems. El Paso County Public Health was sent a referral and has no outstanding comments

3. Emergency Services

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

4. Utilities

Mountain View Electric Association (MVEA) will provide electrical service and Black Hills Energy (BHE) will provide natural gas service to the area included within the final plat. Both utility providers were sent referrals for the final plat; MVEA has no outstanding comments and BHE did not provide a response.

5. Metropolitan Districts

The property is not located within the boundary of a metropolitan district.

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6. Parks/Trails

Fees in lieu of park land dedication in the amount of \$1,380.00 for regional fees and zero dollars for urban park fees will be due at the time of recording the final plat.

7. Schools

Fees in lieu of school land dedication in the amount of \$924.00 shall be paid to El Paso County for the benefit of Lewis Palmer School District No. 38 at the time of plat recording

J. APPLICABLE RESOLUTIONS

See attached resolution

K. STATUS OF MAJOR ISSUES

There are no major issues associated with this request.

L. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2019) staff recommends the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development

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Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.

3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
8. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.
9. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee

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obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

10. Park fees in lieu of land dedication for regional parks (Area 2) in the amount of \$1,380.00 and urban park (Area 1) fees in the amount of zero dollars shall be paid at the time of plat recordation.
11. Fees in lieu of school land dedication in the amount of \$924.00 shall be paid to El Paso County for the benefit of Lewis Palmer School District No. 38 at the time of plat recording.
12. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
13. Prior to recording the final plat, Applicant shall enter into an Escrow Agreement ("Agreement") with the County in which Applicant shall agree to participate in the completion of off-site public improvements to bring Brown Road into compliance with El Paso County local roadway standards ("Brown Road Improvements"). Said Agreement shall address the following:
 - a. Applicant's total fair, equitable, and reasonably proportional contribution to the Brown Road Improvements shall be \$14,866.00 per lot for a total of \$44,598.00. Prior to recording the final plat, Applicant shall deposit the sum of \$44,598.00 with the El Paso County Treasurer, which funds the County shall maintain and deposit in a separate, interest-bearing account not part of the County's operating budget.
 - b. Said funds shall only be used for the purpose of construction or contributing to the construction of the Brown Road Improvements.
 - c. On or before the expiration date, the County may use the funds, including any interest accrued thereon, only for the purpose of construction or contributing to the construction of the Brown Road Improvements. The expiration date is 20 years from the date of the Agreement.
 - d. Should the County not use said funds on or before the expiration date, the County shall return the funds to the applicant, their heirs, successors, and

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assigns (excluding individual lot owner successors), together with accrued interest.

NOTATIONS

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

M. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified nine adjoining property owners on October 6, 2022, for the Choose an item. meeting. Responses will be provided at the hearing.

N. ATTACHMENTS

Vicinity Map
Letter of Intent
Plat Drawing
State Engineer's Letter
County Attorney's Letter
Draft PC Resolution

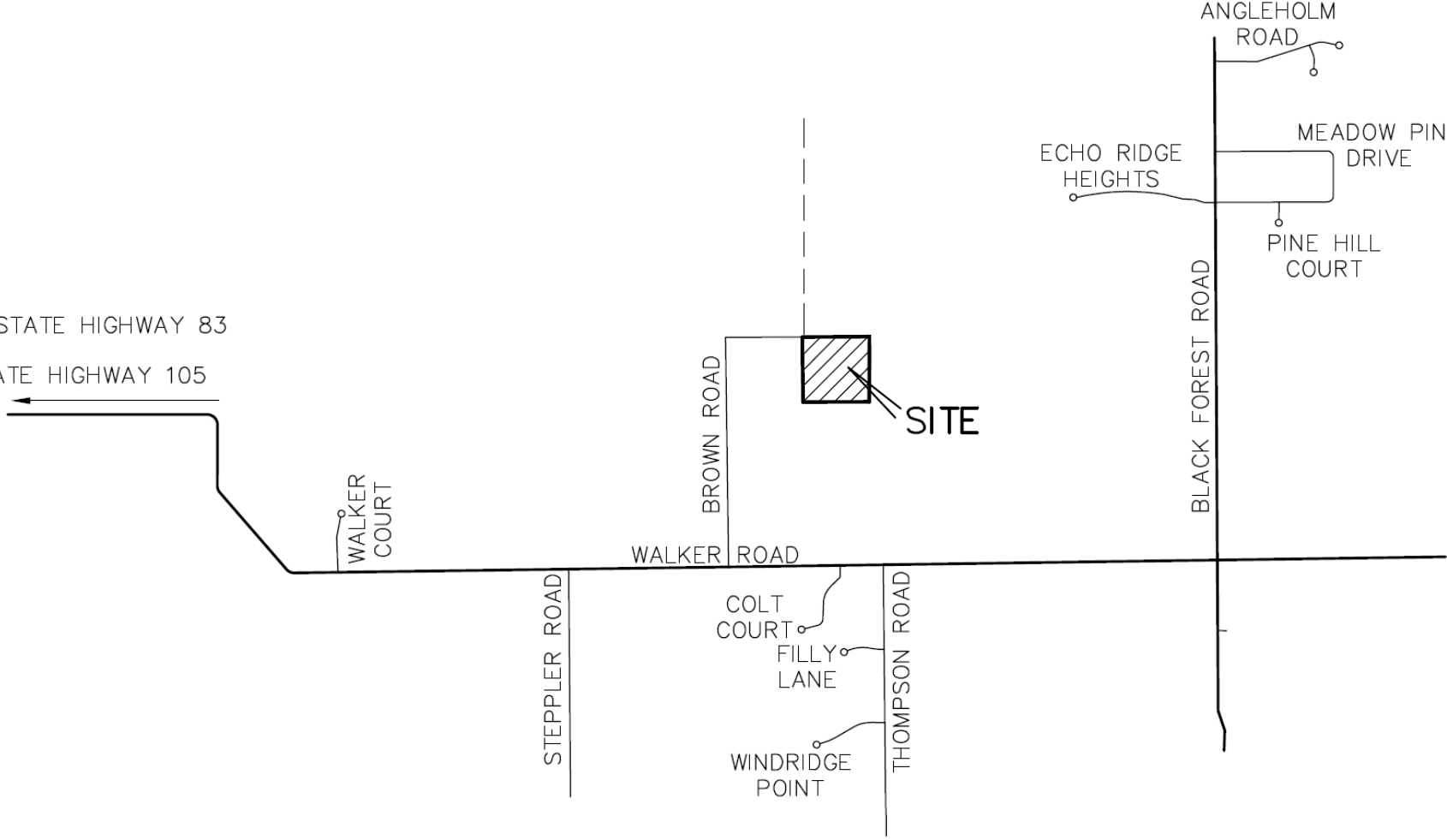
2880 INTERNATIONAL CIRCLE
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910
PLNWEB@ELPASOCO.COM

WWW.ELPASOCO.COM

TO STATE HIGHWAY 83
STATE HIGHWAY 105



VICINITY MAP
NO SCALE

**LETTER OF INTENT
BOYD SUBDIVISION FILING NO. 1
MINOR SUBDIVISION
PCD File Number MS-224**

Owner:

Christopher T. & Jessica M. Boyd
6238 Gilmer Way
Westerville, Ohio 43081
920.660.7886
Boyd1635@gmail.com

Applicant:

Christopher T. Boyd
6238 Gilmer Way
Westerville, Ohio 43081
920.660.7886
Boyd1635@gmail.com

Site Location Size and Zoning:

The proposed subdivision to be known as “Boyd Subdivision Filing No. 1” is located within the Southwest quarter of the Southwest quarter of Section 7, Township 11 South, Range 65 West of the 6th principal meridian in El Paso County, Colorado. The property has El Paso County Tax Schedule Number: 510000433. The current address of the site is 18735 Brown Road. The property was historically used as agricultural grazing land and is vacant with no structures. The site is 35.88± acres in area and is zoned RR-5 (Residential Rural – 5 Acre). The site is located north of Walker Road and at the east end of the section of Brown Road that runs east and west. Brown Road terminates where the subject property begins. All surrounding properties are currently not platted. However, the neighboring 39.769-acre property to the West (Tax Schedule Number 610000483) is a proposed major subdivision (seven RR-5 lots) known as the Prairie Ridge Subdivision.

Request and Justification:

The request is for approval of the Minor Subdivision plat of Boyd Subdivision Filing No. 1, containing 35.88± acres. This proposed Minor Subdivision will create three (3) large rural residential single-family lots in the RR-5 zone (Residential Rural – 5 Acre), each with lot areas of 10 acres or more. The plat shall maintain the existing 30-foot access easement running along the entire northern edge of the property line. The easement is recorded under reception number 204150806 of the records of El Paso County. Currently, the neighboring 54.41-acre property to the East at 18845 Brown RD (Tax Schedule Number: 51000043) gains access across the subject property via this easement. A waiver from LDC section 8.4.3 (B) that “Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC” is also requested. Instead of road frontage, access to proposed lots 2 and 3 shall also be through the existing common access easement connecting the site to Brown Road. The justification for the requested waiver is included in a separate section below.

This Minor Subdivision plat is consistent with the requirements of the existing RR-5 zoning with respect to the layout, land use (single-family residential), lot size, minimum building setbacks, water supply, and wastewater disposal. There is not an existing residence nor any auxiliary structures or facilities on any of the proposed lots.

The proposed Minor Subdivision is compatible with the surrounding land uses and neighborhood listed above and coincides with the adjacent zoning and platted lot sizes on the north, south, east, and west, all being larger than 5 acres. The proposed Minor Subdivision application is in conformance with the goals, objectives, and policies of the Master Plan.

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

1. *The subdivision is in conformance with the goals, objectives, and policies of the Master Plan.*

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

The site is not located directly within one of the 10 key areas defined by the Master Plan. The subject site is designated to be a Large-Lot Residential Placetype. The Primary Land Use of this placetype is Single Family Detached housing with Agriculture, Commercial Retail, Commercial Service, and Parks and Open Space as Supporting Land Uses. The location of this site and existing infrastructure is suited to single family residential use. The existing roadway layout in the immediate area is not suitable for Commercial Service and Commercial Retail uses. In the Land Use category, Goal 1.1 is *“Ensure compatibility with established character and infrastructure capacity.”* This area of the County is conducive to rural residential development that allows residential use of property but preserves the natural character of the landscape. The proposed subdivision is compatible and identical to the existing neighborhood and surrounding development. The existing community character is preserved with this proposed plat. The proposed density is less than allowed by zoning. The proposed density will not overburden the existing roadway infrastructure or capacity of the land to support the water and wastewater needs of the development. The proposed Minor Plat will not create the need for additional roadways or public facilities. Goal 2.2 is *“Preserve the character of rural and environmentally sensitive areas.”* The proposed subdivision will keep the rural nature of the area intact. The five-acre lot density has reduced impact on environmental conditions. Density and land use are compatible with the surrounding area and the natural features of the site will remain preserved, even with the addition of three residences on the site. The private driveways to be used for access will have minimal impact on the existing terrain. No new roads are proposed with this subdivision since all access is proposed to be provided by Brown Road (lot 1) or a single low-impact driveway contained within the existing driveway contained within the easement connecting to Brown Road (lots 2, 3, and east neighboring property). In this way, lot access is provided while eliminating the need for additional access points or additional public roadway. The driveway will maintain the rural character of the site and neighborhood. In addition, the need for additional public right-of-way and additional public maintenance to serve 3 large rural residential single-family lots is eliminated. The driveway will be maintained by the owners of Lot 2 and Lot 3 and potentially by the adjacent east neighbor as will be provided in a common access and maintenance agreement.

The proposed subdivision is in compliance with the **2040 Major Transportation Corridors Plan (MTCP)**. The site is adequately served with access and there is no need to dedicate public road right-of-way from the subject parcel.

The proposed Minor Plat is in compliance with the **Parks Master Plan**, which does not appear to call for trails or parks in the site. Any required Park Fees will be paid at the time of plating. The proposed subdivision is also in compliance with the Master Plan for Mineral Extraction as no separate mineral estate owners were found for the property and the existing development on surrounding properties is not compatible with any potential mineral extraction operations.

The proposed subdivision is in compliance with the **El Paso County Water Master Plan (2018)**. The District Court, Water Division 1 Colorado, has decreed certain water rights and approved plan for augmentation as necessary to allow the drilling of three new wells for the subdivision in Case No. 2021CW3156. The owner seeks a finding of sufficiency from the Colorado Division of Water Resources and the eventual granting of well permits based on the decreed water rights.

Boyd Subdivision Filing No. 1 is located within Region 2 in the Water Master Plan. This is comprised of the northwest corner of the county including the tri-lakes area. The site is located in the 2060 designated Growth Area as determined in the Water Master Plan. The Water Master Plan contains estimates of the demands and available supply by region at the years 2018, 2040 and 2060 Build-Out. The 2018/2040/2060 demands in Region 2 are estimated to be 7,532 acre-feet per year, 11,713 acre-feet per year, and 13,254 acre-feet per year, respectively. The 2018/2040/2060 supplies in Region 2 are estimated to be 13,607 acre-feet per year, 20,516 acre-feet per year, and 20,756 acre-feet per year, respectively, indicating a surplus of supply for the region at each time. However, a significant portion of the supply is derived from non-renewable Denver Basin groundwater. Considering only Boyd Subdivision Filing No. 1, demands are estimated to be 2.25 acre-feet of water per year for the current, 2040 and 2060 time frames, respectively. Water supply available by decree to the subdivision is 2.25 acre-feet per year for each of the current, 2040 and 2060 time frames from the Dawson Aquifer only. Additional water is available from the remaining aquifers located beneath the property, which will be used for augmentation in the future. The decree allows up to 1.2 acre-feet of water per year for irrigation of up to 24,000 square feet of landscaping. In practice, it is likely that the property owners will limit water use for landscape irrigation as a conservation measure.

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

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

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

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

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

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

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

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

Waste water is intended to be treated via individual onsite septic systems designed, constructed and operated under State and County Health Department rules and regulations and in accordance with the Water Decree.

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

A soils report has been prepared for the site and the owner will comply with the recommendations of the report. Areas were encountered where the geologic conditions will impose some constraints on development and land use. These include areas of potentially expansive soils, compressible soils, artificial fill, faults/seismicity, and radon which can be satisfactorily mitigated through avoidance or proper engineering design and construction practices. Based on the proposed plat, these areas will have minor impacts on the development. These conditions are discussed in further detail in the Soils & Geology Report produced by RMG – Rocky Mountain Group. The seasonally high ground water area indicated in the RMG report is included in the drainage no-build area shown on the plat.

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

The proposed Minor Subdivision is consistent with the submitted Final Drainage Report. There are not Drainage facilities needed or proposed with this development. The owner will comply with the requirements of the drainage report.

8. *Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM.*

The existing 35.88-acre parcel has the required 30 feet of access to Brown Road and therefore, so does proposed lot 1. Proposed lots 2 and 3, along with the neighboring property, shall access through an existing easement. Access easements are provided on the Final Plat and a private access and maintenance agreement will be established to facilitate the common access.

The subject property currently has a 30-foot access easement running along the entire northern edge of the property line. The easement is recorded under reception number 204150806 of the records of El Paso County. This easement shall remain unchanged and will not be impacted by this project. Currently, the neighboring 54.41-acre property to the East at 18845 Brown RD (Tax Schedule Number: 510000043) has access across the subject property via this easement.

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

The site is located within the jurisdiction of the El Paso County Sheriff's Office. The Sheriff's office currently provides police protection for the site and surrounding area. Boyd Subdivision Filing No. 1 is located within the Tri-Lakes Monument Fire Protection District (TLMFPD) service area, which is providing fire protection for the site and has agreed to serve this subdivision. Water and sanitary sewer provisions are discussed in items 4 & 5 above. The property is located within the service areas of Mountain View Electric Association, Blackhills Energy Corporation, Centurylink Telephone, and Lewis-Palmer School District 38 which will serve the subdivision. Transportation is being facilitated by the existing adjacent roadway system.

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

Boyd Subdivision Filing No. 1 is located within the Tri-Lakes Monument Fire Protection District (TLMFPD) which is providing fire protection for the site and the surrounding area. The district has agreed to serve this subdivision. Building permits for each structure shall be in accordance with the requirements of the Fire District as administered by the Pikes Peak Regional Building Department.

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

All Offsite impacts are determined to be insignificant with the addition of three residences to the site. The owner will be responsible to pay park, school, and Traffic Impact fees. There are no Drainage Fees charged in the major Drainage Basin in which this project is located.

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

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

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

Upon approval of a waiver to the LDC section 8.4.3 (B) stating “Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to waiver granted under Section 8.4.4 (E)” the subdivision will meet the requirements of the Land Development Code. The subdivision is in accordance with the Land Development Code with respect to zoning, lot size, building setbacks, provision of utilities and storm drainage. The waiver is requested with this application to allow access by one common private driveway for 3 lots (lots 2, 3, and neighboring property) without the required 30 feet of frontage for each lot. The code allows up to three lots to access one driveway, however the waiver is needed to address the lack of road frontage onto a public roadway for proposed lots 2 and 3. The waiver is more fully discussed below.

A Wildlife Report and Wetlands Report has been prepared for the site. No impacts to protected wildlife are anticipated as a result of the proposed Minor Subdivision and no mitigation is required. The wetland features may have a potential downstream connection to East Cherry Creek. However, since no ground disturbance is planned, no Section 404 permitting or mitigation is required. Following the recommendations of the wetlands report produced by Pinyon, the areas identified as wetlands are included in the drainage no-build area shown on the plat. Further details can be found in the Wildlife Report and Wetlands Report produced by Pinyon Environmental, Inc.

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

No mineral estate owners have been identified in association with this application.

Requested Waiver:

As previously mentioned, a waiver from LDC section 8.4.3 (B) is requested. The provision requires that “Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC.” Proposed lot 1 will have access at the east cul-de-sac terminus of Brown Road. It is proposed that Lot 2 & Lot 3 gain access by way of the existing common access easement connecting the lots to Brown Road near the Northwest corner of the site. This is consistent with how the neighboring 54.41-acre property to the East at 18845 Brown Rd (Tax Schedule Number: 510000043) currently gains access. The plat shall maintain the existing 30-foot access easement running along the entire northern edge of the property line. The easement is recorded under reception number 204150806 of the records of El Paso County. The responsibility and maintenance of said access shall be carried out as described in a private access maintenance agreement.

The sharing of a common driveway is an acceptable and valid mode of access in the Land Development Code and Engineering Criteria manual, especially in rural residential environments. The arrangement is the most practical and efficient solution for access for this subdivision rather than extending a public roadway into the site. The arrangement eliminates the need for additional public right-of-way and additional public maintenance to serve the large rural residential single-family lots. Private access drives, coupled with private maintenance agreements have been shown to be effective and efficient modes of access for up to three lots within the county. Each criteria for

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

1. *The waiver does not have the effect of nullifying the intent and purpose of this code;*

The request for a waiver of the LDC section 8.4.3 (B) does not go against the intent and purpose of this code. This request is in line with the requirements set forth in the LDC, and the shared driveway complies with all applicable design standards.

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

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

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

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

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

The Boyd Subdivision Filing No. 1 contains 35.88± acres and three (3) lots. Because the site does not contain more than three lots, a shared driveway may be used to provide access to lots 2, 3, and the neighboring property in lieu of a public or private roadway. Lot 1 retains direct access to Brown Road.

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

With strict application of this code, the subdivision would be required to access by a public roadway constructed to El Paso County standards. The public road would increase the maintenance responsibility of the county, for only 3 large rural residential single-family lots in the RR-5 zone.

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

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

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

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

Existing and Proposed Facilities:

Other than the established driveway the neighboring 54.41-acre property to the East at 18845 Brown RD (Tax Schedule Number: 510000043) currently uses to gain access, there are no existing improvements within the subject parcel. There are no required public subdivision improvements required for this site.

Total Number of Residential Units and Densities:

The gross area of Boyd Subdivision Filing No. 1 is 35.88+/- acres and the site is proposed to contain three single-family residential units. An area of 35.88+/- acres will consist of single-family residential lots. The average lot size for the 3 proposed lots is 11.96+/- acres. The gross density of the site is 0.084 units per acre.

Fire Protection:

The Boyd Subdivision Filing No. 1 property is located within the Tri-Lakes Monument Fire Protection District (TLMFPD) service area. The lots and homes are subject to the codes and policies adopted by the said District regarding fire protection.

Proposed Access Locations:

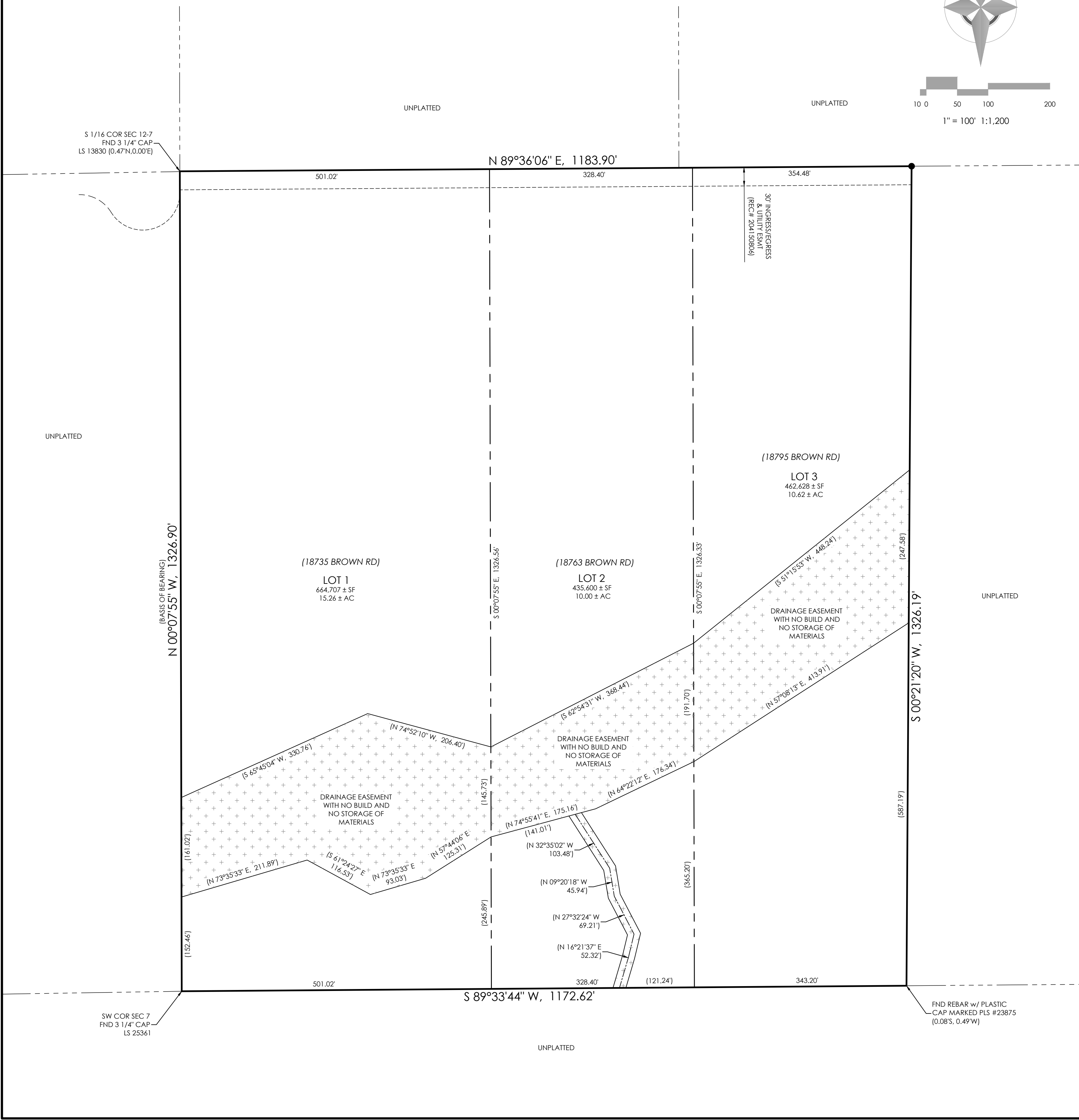
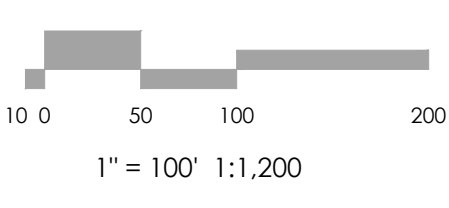
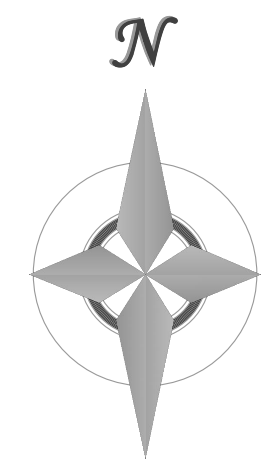
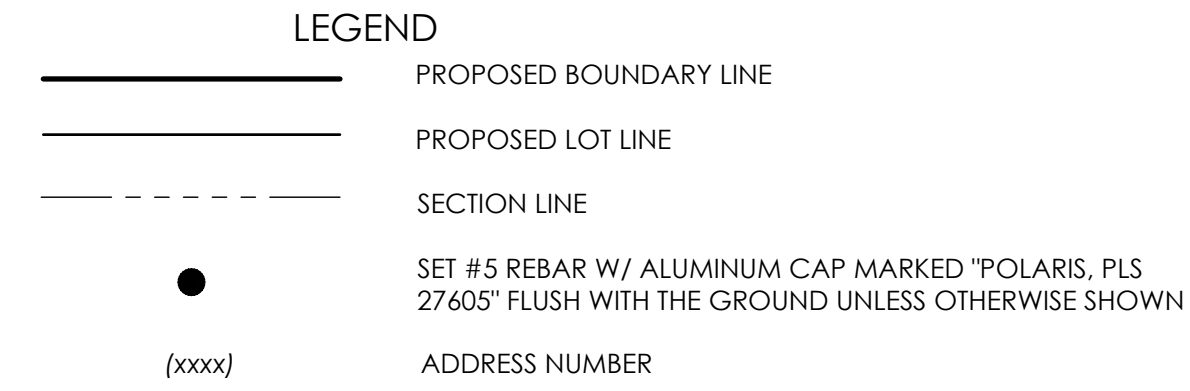
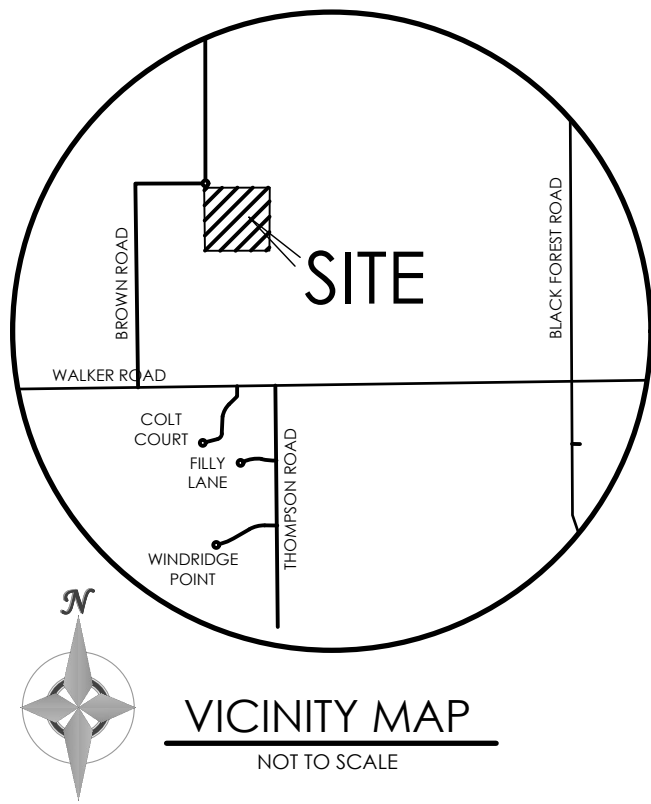
Brown Road terminates at the west boundary of proposed Boyd Subdivision Filing No. 1. All access is proposed to be provided either directly by Brown Road (lot 1) or a single low-impact driveway contained connecting to Brown Road (lots 2, 3, and neighboring property). Access for the proposed lots will either be direct from Brown Road or through a joint access easement that currently runs along the northern edge of the property line.

Traffic Impact and Traffic Impact Fees:

The three (3) proposed single family residential units will access public Brown Road. The development is expected to generate a total of 28 trips per day (Average weekday trips ends) and 3 trips in the peak hour based on 9.44 trips per unit for Single Family Detached Housing (according to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers). This number of trips is below the County threshold of 100 trips per day or 10 trip during the peak hour. Therefore, a Transportation Impact Study (TIS) is not required for the project. A Traffic Memorandum has been prepared and submitted to provide and estimate of Brown Road Improvement costs and establish the equitable fair share contribution to the Brown Road Improvements Escrow Fund. This development is also subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 19-471. The owners have elected to not be included in a Public Improvements District. Traffic Impact Fees will be paid at time of building permit.

BOYD SUBDIVISION FILING NO. 1

LOCATED IN THE SOUTH HALF OF LOT 2, SECTION 7, TOWNSHIP 11 SOUTH,
RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO



- ### COUNTY GOVERNMENT NOTES
- NOTE REGARDING REPORTS ON FILE: THE FOLLOWING REPORTS HAVE BEEN SUBMITTED IN ASSOCIATION WITH THE FINAL PLAT FOR THIS SUBDIVISION AND ARE ON FILE AT THE COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT: FINAL DRAINAGE REPORT; WATER RESOURCES REPORT; WASTEWATER DISPOSAL REPORT; GEOLOGY & SOILS REPORT; FIRE PROTECTION REPORT; WILDFIRE HAZARD REPORT; AND TRAFFIC MEMO.
 - ALL PROPERTY OWNERS ARE RESPONSIBLE FOR MAINTAINING PROPER STORM WATER DRAINAGE IN AND THROUGH THEIR PROPERTY. PUBLIC DRAINAGE EASEMENTS AS SPECIFICALLY NOTED ON THE PLAT SHALL BE MAINTAINED BY THE INDIVIDUAL LOT OWNERS UNLESS OTHERWISE INDICATED. HOMEBUILDERS ARE RESPONSIBLE TO ENSURE PROPER DRAINAGE AROUND STRUCTURES, INCLUDING ELEVATIONS OF FOUNDATIONS AND WINDOW WELLS IN RELATION TO SIDE LOT DRAINAGE EASEMENTS AND SWALES. HOMEOWNERS SHALL NOT CHANGE THE GRADE OF THE LOT OR DRAINAGE SWALES WITHIN SAID EASEMENTS, AS CONSTRUCTED BY THE BUILDER, IN A MANNER THAT WOULD CAUSE ADVERSE DRAINAGE IMPACTS TO PROPERTIES, STRUCTURES, FENCES, MATERIALS OR LANDSCAPING THAT COULD IMPEDE THE FLOW OF RUNOFF SHALL NOT BE PLACED IN DRAINAGE EASEMENTS.
 - DEVELOPER SHALL COMPLY WITH FEDERAL AND STATE LAWS, REGULATIONS, ORDINANCES, REVIEW AND PERMIT REQUIREMENTS, AND OTHER AGENCY REQUIREMENTS, IF ANY, OF APPLICABLE AGENCIES INCLUDING, BUT NOT LIMITED TO, THE COLORADO DIVISION OF WILDLIFE, COLORADO DEPARTMENT OF TRANSPORTATION, U.S. ARMY CORPS OF ENGINEERS AND THE U.S. FISH AND WILDLIFE SERVICE REGARDING THE ENDANGERED SPECIES ACT, PARTICULARLY AS IT RELATES TO THE LISTED SPECIES (E.G., PEBBLES MEADOW JUMPING MOUSE).
 - THE ADDRESSES EXHIBITED ON THIS PLAT ARE FOR INFORMATIONAL PURPOSES ONLY. THEY ARE NOT THE LEGAL DESCRIPTION AND ARE SUBJECT TO CHANGE.
 - NO DRIVEWAY SHALL BE ESTABLISHED UNLESS AN ACCESS PERMIT HAS BEEN GRANTED BY EL PASO COUNTY.
 - MAILBOXES SHALL BE INSTALLED IN ACCORDANCE WITH ALL EL PASO COUNTY AND UNITED STATES POSTAL SERVICE REGULATIONS.
 - INDIVIDUAL WELLS ARE THE RESPONSIBILITY OF EACH PROPERTY OWNER. PERMITS FOR INDIVIDUAL WELLS MUST BE OBTAINED FROM THE STATE ENGINEER WHO BY LAW HAS THE AUTHORITY TO SET CONDITIONS FOR THE ISSUANCE OF THESE PERMITS. WATER IN THE DENVER BASIN AQUIFERS IS ALLOCATED BASED ON A 100-YEAR AQUIFER LIFE; HOWEVER, FOR EL PASO COUNTY PLANNING PURPOSES, WATER IN THE DENVER BASIN AQUIFERS IS EVALUATED BASED ON A 300-YEAR AQUIFER LIFE. APPLICANTS AND ALL FUTURE OWNERS OF THE SUBDIVISION SHOULD BE AWARE THAT THE ECONOMIC LIFE OF A WATER SUPPLY BASED ON WELLS IN A GIVEN DENVER BASIN AQUIFER MAY BE LESS THAN EITHER THE 100 YEARS OR 300 YEARS INDICATED DUE TO ANTICIPATED WATER LEVEL DECLINES. FURTHERMORE, THE WATER SUPPLY PLAN SHOULD NOT RELY SOLELY ON NON-RENEWABLE AQUIFERS. ALTERNATE RENEWABLE WATER RESOURCES SHOULD BE ACQUIRED AND INCORPORATED IN A PERMANENT WATER SUPPLY PLAN THAT PROVIDES FUTURE GENERATIONS WITH A WATER SUPPLY.
 - SEWAGE TREATMENT IS THE RESPONSIBILITY OF EACH INDIVIDUAL PROPERTY OWNER. THE EL PASO COUNTY DEPARTMENT OF HEALTH AND ENVIRONMENT MUST APPROVE EACH SYSTEM AND, IN SOME CASES THE DEPARTMENT MAY REQUIRE AN ENGINEER DESIGNED SYSTEM PRIOR TO PERMIT APPROVAL. THESE SYSTEMS MAY COST MORE TO DESIGN, INSTALL, AND MAINTAIN.
 - PROPERTY WITHIN THIS SUBDIVISION IS SUBJECT TO THE TERMS OF THE EL PASO COUNTY TRANSPORTATION IMPROVEMENT FEE RESOLUTION (RESOLUTION 19-47) AS AMENDED. FEES FOR EACH LOT WITHIN THIS SUBDIVISION SHALL BE PAID IN FULL AT TIME OF BUILDING PERMIT ISSUANCE.
 - THE SUBDIVIDER(S) AGREES ON BEHALF OF HIM/HERSELF AND ANY DEVELOPER OR BUILDER SUCCESSORS AND ASSIGNEES THAT SUBDIVIDER AND/OR SAID SUCCESSORS AND ASSIGNS SHALL BE REQUIRED TO PAY TRAFFIC IMPACT FEES IN ACCORDANCE WITH EL PASO COUNTY ROAD IMPACT FEE PROGRAM RESOLUTION NO. 16-454, OR ANY AMENDMENTS THERETO, AT OR PRIOR TO THE TIME OF BUILDING PERMIT SUBMITTALS. THE FEE OBLIGATION, IF NOT PAID AT FINAL PLAT RECORDING, SHALL BE DOCUMENTED ON ALL SALES DOCUMENTS AND IN PLAT NOTES TO ENSURE THAT A TITLE SEARCH WOULD FIND THE FEE OBLIGATION BEFORE SALE OF THE PROPERTY.
 - SOIL AND GEOLOGIC CONDITIONS: AREAS WITHIN THIS SUBDIVISION HAVE BEEN FOUND TO BE IMPACTED BY POTENTIAL GEOLOGIC CONSTRAINTS AS DETAILED IN THE SOIL, GEOLOGY, AND WASTEWATER STUDY FOR 18735 BROWN ROAD, LOTS 1-3, BOYD MINOR SUBDIVISION PREPARED BY RMG, AND DATED JANUARY 24, 2021. THE REPORT IS AVAILABLE IN THE EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT RECORDS (WWW.EPCDEVPLANREVIEW.COM) UNDER FILE NUMBER MS224. THE REPORT INCLUDES MAPPING OF THE POTENTIAL HAZARD AREAS WITHIN THE SUBDIVISION. A DESCRIPTION OF AFFECTED LOTS, POTENTIAL CONSTRAINTS AND MITIGATION MEASURES ARE LISTED BELOW. NO AREAS OF THE SITE EXCEED 30% IN GRADE. INDIVIDUAL SOILS INVESTIGATIONS AND FOUNDATION DESIGNS FOR ALL NEW BUILDING SITES AND SEPTIC SYSTEMS ARE REQUIRED ONCE BUILDING LOCATIONS HAVE BEEN DETERMINED. SHOULD GROUNDWATER OR BEDROCK BE ENCOUNTERED WITHIN 4 FEET OF THE SURFACE, DESIGNED ONSITE WASTEWATER SYSTEMS ARE REQUIRED. WASTEWATER ABSORPTION FIELDS MUST BE LOCATED AT LEAST 100 FEET FROM ANY WELL, 50 FEET FROM DRAINAGES, FLOODPLAINS OR PONDED AREAS AND 25 FEET FROM DRY GULLCHES.
- EXPANSIVE SOILS: LOTS 1, 2, 3
- MITIGATION MEASURES INCLUDE: SPECIAL FOUNDATION DESIGN, OVEREXCAVATION, REPLACEMENT AND COMPACTION OF SOILS BENEATH FOUNDATIONS.
- COMPRESSIVE SOILS: LOTS 1, 2, 3
- MITIGATION MEASURES INCLUDE: SPECIAL FOUNDATION DESIGN, OVEREXCAVATION, REPLACEMENT AND COMPACTION OF SOILS BENEATH FOUNDATIONS.
- ARTIFICIAL FILL: LOT 1
A LOT SPECIFIC SUBSURFACE SOIL INVESTIGATION SHOULD BE PERFORMED IF BUILDINGS ARE ANTICIPATED IN THE AREAS OF ARTIFICIAL FILL.
- POTENTIALLY SHALLOW GROUNDWATER: LOTS 2, 3
- MITIGATION MEASURES INCLUDE: SPECIAL FOUNDATION DESIGN, EXTENSION OF FOUNDATIONS A MINIMUM OF 30 INCHES BELOW GRADE, INSTALLATION OF FOUNDATION PERIMETER DRAINS AND GRADING TO DIRECT SURFACE FLOWS AWAY FROM STRUCTURES. NO ELEMENTS OF WASTEWATER TREATMENT SYSTEMS SHOULD BE PLACED IN AREAS OF POTENTIALLY SEASONAL SHALLOW GROUNDWATER.
 - LOT AND DENSITY DATA:
- GROSS ACREAGE: 35.880 ACRES
- TOTAL NUMBER OF LOTS: 3
- GROSS DENSITY: 0.084 LOTS PER ACRE
 - ALL PROPERTY WITHIN THIS SUBDIVISION IS SUBJECT TO A DECLARATION OF COVENANTS AS RECORDED AT RECEPTION NO. _____ OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER.
 - INDIVIDUAL LOT PURCHASERS ARE RESPONSIBLE FOR CONSTRUCTING DRIVEWAYS, INCLUDING NECESSARY DRAINAGE CULVERTS FROM BROWN ROAD PER LAND DEVELOPMENT CODE SECTION 4.3.3.C.2 AND 4.3.3.C.3. DUE TO THEIR LENGTH, SOME OF THE DRIVEWAYS WILL NEED TO BE SPECIFICALLY APPROVED BY TRI-LAKES MONUMENT FIRE PROTECTION.
 - NOTICE: FUTURE PROPERTY OWNERS ARE ADVISED THAT EL PASO COUNTY'S APPROVAL OF THIS PLAT DOES NOT INCLUDE CERTIFICATION OF WATER RIGHTS OR THE STRUCTURAL STABILITY OF THE EXISTING STOCK POND LOCATED ON THE SUBJECT PROPERTY. THE STATE OF COLORADO HAS JURISDICTION REGARDING MODIFICATION OR ELIMINATION OF THE POND. EL PASO COUNTY SHALL NOT BE RESPONSIBLE OR LIABLE FOR SUCH MODIFICATIONS, REPAIRS, ENLARGEMENTS, OR REPLACEMENT AND THE COST THEREOF BY VIRTUE OF THIS SUBDIVISION APPROVAL.
 - LOTS 1, 2, AND 3 WILL ACCESS BROWN ROAD VIA A PRIVATE SHARED INGRESS AND EGRESS EASEMENT RECORDED AT RECEPTION NO. 204150806.
 - OWNERSHIP AND MAINTENANCE OF THE EXISTING LIVESTOCK WATER TANK LOCATED ON LOT 1 IS VESTED TO THE OWNER OF LOT 1.

NOTES

- BASIS OF BEARING: BEARINGS REFERRED TO HEREON ARE RELATIVE TO THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 12, TOWNSHIP 11 SOUTH, RANGE 66 WEST, BEARING N 00°07'55" W, MONUMENTED AS SHOWN HEREON.
 - ALL CORNERS SET WITH NO. 5 REBAR WITH SURVEYOR'S ALUMINUM CAP PLS 27605 AND FLUSH WITH THE GROUND, UNLESS OTHERWISE NOTED.
 - THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY M.V.E., INC.. TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD, FOR ALL INFORMATION REGARDING EASEMENTS, RIGHTS-OF-WAY AND TITLE OF RECORD, POLARIS SURVEYING, INC. RELIED UPON TITLE INSURANCE POLICY PREPARED _____.
 - FLOODPLAIN STATEMENT: THIS PROPERTY IS LOCATED WITHIN ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOODPLAIN) AS ESTABLISHED BY FEMA PER FIRM PANEL 08041C0305 G, EFFECTIVE DATE 12/7/2018.
 - LINEAL UNITS USED FOR THIS SURVEY ARE U.S. SURVEY FEET.
 - LAND SURVEY PLAT FILED UNDER DEPOSIT #204990117, OF THE RECORDS OF EL PASO COUNTY, COLORADO, WAS USED AS A REFERENCE FOR THIS SURVEY.
 - NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BE BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON. (SECTION 13-80-105 C.R.S.).
 - ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY COMMITTS A CLASS TWO (2) MISDEMEANOR PURSUANT TO C.R.S. § 18-4-508.
- ### EASEMENTS
- UNLESS OTHERWISE INDICATED, ALL SIDE, FRONT, AND REAR LOT LINES ARE HEREBY PLATTED ON EITHER SIDE WITH A 10 FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT UNLESS OTHERWISE INDICATED. ALL EXTERIOR SUBDIVISION BOUNDARIES ARE HEREBY PLATTED WITH A 20 FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT. THE SOLE RESPONSIBILITY FOR MAINTENANCE OF THESE EASEMENTS IS HEREBY VESTED WITH THE INDIVIDUAL PROPERTY OWNERS.

BE IT KNOWN BY THESE PRESENTS

THAT CHRISTOPHER T. & JESSICA M. BOYD ARE THE OWNER OF THE FOLLOWING DESCRIBED TRACT OF LAND, TO WIT:
A TRACT OF LAND LOCATED IN THE SOUTH ONE-HALF OF LOT 2, SECTION 7, TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

[BEARINGS REFERRED TO HEREIN ARE BASED ON THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 12, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEARING N 00°07'55" W.]
BEGINNING (P.O.B.) AT THE SOUTHWEST CORNER OF SAID LOT 2, THENCE N 00°07'55" W, A DISTANCE OF 1326.89 FEET ALONG THE WEST LINE OF SAID LOT 2 TO THE NORTHWEST CORNER OF THE SOUTH ONE-HALF OF SAID LOT 2,

THENCE N 89°36'06" E, A DISTANCE OF 1183.91 FEET ALONG THE NORTH LINE OF THE SOUTH ONE-HALF OF SAID LOT 2;

THENCE S 00°21'22" W, A DISTANCE OF 1326.19 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 2;

THENCE S 89°33'44" W, A DISTANCE OF 1172.62 FEET ALONG THE SOUTH LINE OF SAID LOT 2 TO THE SOUTHWEST CORNER THEREOF AND **THE POINT OF BEGINNING**;

SAID TRACT CONTAINS 1,562,936 SF (35,880 ACRES), MORE OR LESS.

OWNER'S CERTIFICATE

THE UNDERSIGNED, BEING ALL THE OWNERS, MORTGAGEES, BENEFICIARIES OF DEEDS OF TRUST AND HOLDERS OF OTHER INTERESTS IN THE LAND DESCRIBED HEREIN, HAVE VACATED, LAID OUT, SUBDIVIDED, AND REPLATTED SAID LANDS INTO LOTS AND EASEMENTS AS SHOWN HEREON UNDER THE NAME AND SUBDIVISION OF "BOYD SUBDIVISION FILING NO. 1". THE UTILITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED FOR PUBLIC UTILITIES AND COMMUNICATION SYSTEMS AND OTHER PURPOSES AS SHOWN HEREON. THE ENTIRE RESPONSIBILITY FOR PROVIDING THE SERVICES FOR WHICH THE EASEMENTS ARE ESTABLISHED ARE HEREBY GRANTED THE PERPETUAL RIGHT OF INGRESS AND EGRESS FROM AND TO ADJACENT PROPERTIES FOR INSTALLATION, MAINTENANCE, AND REPLACEMENT OF UTILITY LINES AND RELATED FACILITIES.

CHRISTOPHER T. BOYD, OWNER

STATE OF COLORADO)
COUNTY OF EL PASO) SS

ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2022 BY CHRISTOPHER T. BOYD AS OWNER.

MY COMMISSION EXPIRES _____

WITNESS MY HAND AND OFFICIAL SEAL _____ NOTARY PUBLIC

JESSICA M. BOYD, OWNER

STATE OF COLORADO)
COUNTY OF EL PASO) SS

ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2022 BY JESSICA M. BOYD AS OWNER.

MY COMMISSION EXPIRES _____

WITNESS MY HAND AND OFFICIAL SEAL _____ NOTARY PUBLIC

SURVEYOR'S STATEMENT

I, RANDALL D. HENCY, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS SUBDIVISION EXEMPTION TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE ON 10/08/2020, BY ME OR UNDER MY DIRECT SUPERVISION AND THAT ALL MONUMENTS EXIST AS SHOWN HEREON; THAT MATHEMATICAL CLOSURE ERRORS ARE LESS THAN 1:10,000; AND THAT SAID SUBDIVISION EXEMPTION HAS BEEN PREPARED IN FULL COMPLIANCE WITH ALL APPLICABLE LAWS OF THE STATE OF COLORADO DEALING WITH MONUMENTS, SUBDIVISION, OR SURVEYING OF LAND AND ALL APPLICABLE PROVISIONS OF THE EL PASO COUNTY LAND DEVELOPMENT CODE AND IS NOT A WARRANTY EITHER EXPRESSED NOR IMPLIED.

I ATTEST THE ABOVE ON THIS _____ DAY OF _____, 2022.

RANDALL D. HENCY
COLORADO REGISTERED PLS #27605
FOR AND ON BEHALF OF M.V.E., INC.

BOARD OF COUNTY COMMISSIONERS CERTIFICATE

THIS PLAT FOR "BOYD SUBDIVISION FILING NO. 1" WAS APPROVED FOR FILING BY THE EL PASO COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS ON THE _____ DAY OF _____, 20____, SUBJECT TO ANY NOTES SPECIFIED HEREON AND ANY CONDITIONS INCLUDED IN THE RESOLUTION OF APPROVAL. THE DEDICATIONS OF LAND TO PUBLIC STREETS & EASEMENTS ARE ACCEPTED. BUT PUBLIC IMPROVEMENTS THEREON WILL NOT BECOME THE MAINTENANCE RESPONSIBILITY OF EL PASO COUNTY UNTIL PRELIMINARY ACCEPTANCE OF THE PUBLIC IMPROVEMENTS IN ACCORDANCE WITH THE REQUIREMENTS OF THE LAND DEVELOPMENT CODE AND ENGINEERING CRITERIA MANUAL, AND THE SUBDIVISION IMPROVEMENTS AGREEMENT.

CHAIR, BOARD OF COUNTY COMMISSIONERS _____ DATE _____

PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR _____ DATE _____

CLERK AND RECORDER

CLERK AND RECORDER:
STATE OF COLORADO)
COUNTY OF EL PASO) SS

OWNER OF RECORD
AT TIME OF PLATTING:
CHRISTOPHER & JESSICA BOYD
6238 GILMER WAY
WESTERVILLE, OH 43081
(920) 660-7886

CHARLES D. BROERMAN, RECORDER
BY: _____ DEPUTY
SCHOOL FEE: _____
BRIDGE FEE: _____
PARK FEE: _____
DRAINAGE FEE: _____
PCD FILE NO.: MS224

MINOR SUBDIVISION PLAT
BOYD SUBDIVISION FILING NO. 1
PORTION OF LOT 2, SEC 7, T11S, R65W

MVE PROJECT: 61170
MVE DRAWING: 61170-PLAT-CS
DATE: APRIL 27, 2022
SHEET: 1 OF 1

1903 LeMay Street, Suite 200
Colorado Springs, CO 80909
719.635.5736 www.mvecivil.com



May 10, 2022

Kylie Bagley, Project Manager
El Paso County Development Services Department
Transmitted via the EPC EDARP Portal (epcdevplanreview.com)

Re: Boyd Minor Subdivision
File #MS224
Part of the SW ¼ SW ¼ of Sec. 7, Twp. 11 South, Rng. 65 West, 6th P.M.
Water Division 1, Water District 8

Dear Kylie Bagley:

We have reviewed the May 9, 2022 referral concerning the above-referenced proposal to subdivide 35.88 acres in the SW ¼ SW ¼ of Sec. 7, Twp. 11 South, Rng. 65 West, 6th P.M. located at 18735 Brown Road into three single-family residential lots: Lot 1 will be 15.26 acres, Lot 2 will be 10.00 acres, and Lot 3 will be 10.62 acres.

Water Supply Demand

According to the submittal, the estimated water requirements total 2.25 acre-feet annually (0.75 acre-feet/lot). The following uses are proposed for each lot: in-house use in one single-family dwelling (0.3 acre-feet/year/lot); irrigation of 8,000 square-feet of lawn, garden, trees, and use in greenhouses (0.4 acre-feet/year/lot); and watering of 4 large domestic animals (0.05 acre-feet/year/lot).

Source of Water Supply

The proposed source of water is individual on-lot wells producing from the not-nontributary Dawson aquifer that will operate pursuant to the decree and plan for augmentation in case no. 21CW3156 approved by the Division 1 Water Court. The plan for augmentation decreed in case no. 21CW3156 allows for an average diversion of 2.25 acre-feet annually for a maximum of 300 years. The proposed uses are allowed by the decree.

The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to section 37-90-137(4)(b)(I), C.R.S., "Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years." Based on this allocation approach, the annual amounts of water decreed in 21CW3156 are equal to one percent of the total amount, as determined by rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

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

“(7) Finding of Sufficient Quantity

(b) Required Water Supply. The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of 300 years.”

The State Engineer's Office does not have evidence regarding the length of time for which this source will “meet the average annual demand of the proposed subdivision.” However, treating El Paso County's requirement as an allocation approach based on three hundred years, the allowed average annual amount of withdrawal of 33.4 acre-feet/year would be reduced to one third of that amount, or 11.13



acre-feet/year, which is greater than the annual demand for this subdivision. Additionally, the plan for augmentation allows for an average diversion of 2.25 acre-feet annually for a maximum of 300 years which is equal to the annual demand for this subdivision. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

Applications for on lot well permits, submitted by an entity other than the current water right holder (Christopher and Jessica Boyd), must include evidence that the applicant has acquired the right to the portion of water being requested on the application.

State Engineer's Office Opinion

Based upon the above and pursuant to section 30-28-136(1)(h)(l), C.R.S., it is our opinion that the proposed water supply is **adequate** and can be provided without causing injury to decreed water rights.

Our opinion that the water supply is adequate is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory allocation approach, for the proposed uses is equal to the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Division 1 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, pending actual geophysical data from the aquifer.

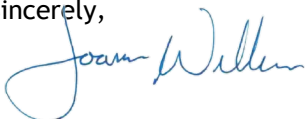
The amounts of water in the Denver Basin aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100 year aquifer life. The county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 100 years (or 300 years) used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.

Additional Comments

According to the submittal, there is a permitted livestock watering tank located on the property, receipt no. 5385. Note that a livestock water tank dam cannot expose groundwater. If the pond remains continuously filled with some water (not just filled by infrequent precipitation events), that may be evidence of a connection to groundwater and the area of exposed groundwater would need to be backfilled so as not to expose groundwater. In addition, the livestock watering tank must be used in accordance with statute including sections 35-49-101 through 116, C.R.S.

If you or the Applicant have any questions, please contact Wenli Dickinson at (303) 866-3581 x8206 or at Wenli.Dickinson@state.co.us.

Sincerely,



Joanna Williams, P.E.
Water Resources Engineer

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

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Lori L. Seago
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Dorey L. Spotts
Steven W. Martyn

September 16, 2022

Boyd Minor Subdivision Filing No. 1
Final Plat MS-22-4

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

FINDINGS AND CONCLUSIONS:

1. This is a subdivision proposal by Christopher and Jessica Boyd ("Applicant") for a 3-lot subdivision on a parcel of 35.88 acres of land (the "property"). The property is zoned RR-5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary ("WSIS"), the water demand for the subdivision is 2.25 acre-feet/year, reflecting 0.30 acre-feet/lot for household use (0.90 acre-feet total), plus 1.2 acre-feet/year for irrigation and 0.15 acre-feet/year for stock watering, equating to 0.75 acre-feet/year for each lot. Based on this total demand, Applicant must be able to provide a supply of 675 acre-feet of water (2.25 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from individual on-lot wells in the not nontributary Dawson aquifer as provided in Findings of Fact, Conclusions of Law, Ruling of Referee, and Judgment and Decree, Division 1 Case No. 21CW3156, consolidated with Division 2 Case No. 21CW3041 (hereinafter referred to as "Case No. 21CW3156", "Decree" or "Augmentation Plan"). The Decree was granted to Christopher and Jessica Boyd on March 11, 2022.

The Decree adjudicated 3,340 acre-feet of Dawson-aquifer water underlying the 35.88-acre property.¹ Pursuant to the Augmentation Plan, "2.25 acre-feet per year for 300 years of not-nontributary Dawson Aquifer groundwater [are] decreed herein." The Dawson-aquifer groundwater

¹ Note: The Decree also adjudicated water in the following aquifers: Denver (2,990 acre-feet), Arapahoe (1,590 acre-feet), and Laramie-Fox Hills (1,100 acre-feet).

will serve 3 individual wells, each serving one of 3 residences in the amount of 0.3 acre-feet/year for household use, plus 0.4 acre-feet/year for irrigation, and 0.05 acre-feet/year for stock watering for up to 4 large domestic animals per lot. The water use will total 0.75 acre-feet/year for each lot. Pursuant to the Decree, water may be used for "domestic, commercial, irrigation, including in greenhouses, swimming pool filling, stockwatering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property."

State Engineer's Office Opinion

4. In a letter dated May 10, 2022, the State Engineer stated the estimated water requirements are 2.25 acre-feet/year, which reflects "in-house use in one single-family dwelling (0.3 acre-feet/year/lot); irrigation of 8,000 square-feet of lawn, garden, trees, and use in greenhouses (0.4 acre-feet/year/lot); and watering of 4 large domestic animals (0.05 acre-feet/year/lot)." The State Engineer noted that "the plan for augmentation allows for an average diversion of 2.25 acre-feet annually for a maximum of 300 years which is equal to the annual demand for this subdivision."

Finally, the State Engineer provided their opinion that "pursuant to 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights. Our opinion that the water supply is adequate is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions."

Recommended Findings

5. Quantity and Dependability. Applicant's water demand for the Boyd Minor Subdivision Filing No. 1 is 2.25 acre-feet per year for a total demand of 675 acre-feet for the subdivision for 300 years. The Decree and Augmentation Plan in Case No. 21CW3156 permits withdrawal of 2.25 acre-feet/year (675 acre-feet total) of Dawson-aquifer water for a period of 300 years.

Based on the water demand of 2.25 acre-feet/year for the Boyd Minor Subdivision Filing No. 1 and Case No. 21CW3156 permitting withdrawals in that amount, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the Boyd Minor Subdivision Filing No. 1.

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

7. Basis. The County Attorney's Office reviewed the following documents in preparing this review: The Water Supply Information Summary provided on March 28, 2022, a Water Resources Report for the Boyd Subdivision Filing No. 1 dated March 21, 2021, the State Engineer's Office Opinion dated May 10, 2022, and Decree and Augmentation Plan in Case No. 21CW3156 issued on March 11, 2022. The recommendations herein are based on the

information contained in such documents and on compliance with the requirements set forth below. **Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.**

REQUIREMENTS:

A. Applicant and its successors and assigns shall comply with all requirements of the Decree and Augmentation Plan in Case No. 21CW3156. Water use shall not exceed 2.25 acre-feet annually for the 3-lot subdivision for a period of 300 years. Stream depletions shall be replaced with non-evaporative septic system return flows for a period of 300 years pursuant to the Court's approved augmentation plan.

B. The County prefers that when there is an augmentation plan, Applicant create a homeowners' association ("HOA") for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water decrees and augmentation plans for the property. For minor subdivisions such as this, however, Applicant may elect to solely rely on the covenant provisions required below and forego creation of an HOA.

C. Applicant shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of the Decree and Augmentation Plan in Case No. 21CW3156.

Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 675 acre-feet of not nontributary Dawson aquifer water and 675 acre-feet of nontributary Laramie-Fox Hills aquifer water pursuant to Case No. 21CW3156. The Covenants shall further identify that 225 acre-feet (0.75 AF/year) of Dawson aquifer water and 225 acre-feet of Laramie-Fox Hills aquifer water is allocated to each residential lot. Said reservation shall recite that this water shall not be separated from transfer of title to the property and shall be used exclusively for primary water supply.

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

3) Require non-evaporative septic systems and reserve return flows from the same. The Covenants shall require each lot owner to use a non-evaporative septic system to ensure that return flows from such systems are made to the stream system to replace actual deletions during pumping, shall reserve said return flows to replace depletions during

pumping, and shall state that said return flows shall not be separately sold, traded, assigned, or used for any other purpose. The Covenants more specifically shall require that each lot served have an occupied single-family dwelling that is generating return flows from a non-evaporative septic system before any irrigation or animal watering is allowed. The Covenants shall also include the following or similar language to ensure that such return flows shall only be used for replacement purposes: "Return flows shall only be used for replacement purposes, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose."

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

"The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not Case No. 21CW3156 and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

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

6) Require well permits. The Covenants shall require that well permits be obtained pursuant to the requirements of Case No. 21CW3156 and C.R.S. § 37-90-137(4) and (10).

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

"Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Boyd Minor Subdivision Filing No. 1 pursuant to Case No. 21CW3156. Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County

Attorney's Office. Any amendments must be pursuant to the Division 1 Water Court approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such adjudication."

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

"These Covenants shall not terminate unless the requirements of Case No. 21CW3156 are also terminated by the Division 1 Water Court and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County."

D. Applicant and its successors and assigns shall reserve in any deeds of the Property Dawson aquifer water in the decreed amount of 225 acre-feet (0.75 AF/year for 300 years) and Laramie-Fox Hills aquifer water in the decreed amount of 225 acre-feet per lot. Said reservation shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply.

E. Applicant and its successors and assigns shall convey by recorded warranty deed those reserved Dawson and Laramie-Fox Hills aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Dawson and Laramie-Fox Hills aquifers to satisfy El Paso County's 300-year water supply requirement.

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary supply (Dawson aquifer): "These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during pumping, for each of the lots of the Boyd Minor Subdivision Filing No. 1. The water rights so conveyed and the return flows therefrom shall be appurtenant to each of the respective lots with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

F. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions, and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney's Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney's Office prior to recording the final plat. Said Declaration shall cross-reference Case No. 21CW3156 and shall identify the obligations of the individual lot owners thereunder.

G. Applicant and its successors and assigns shall record all applicable documents, including, but not limited to, Case No. 21CW3156, agreements, assignments, and warranty deeds regarding the water rights, and Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

H. The following plat note shall be added that addresses the State Engineer's admonition to advise landowners of potential limited water supplies in the Denver Basin:

"Water in the Denver Basin aquifers is allocated based on a 100-year aquifer life; however, for El Paso County planning purposes, water in the Denver Basin aquifers is evaluated based on a 300-year aquifer life. Applicant and all future owners in the subdivision should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than either the 100 years or 300 years used for allocation indicated due to anticipated water level declines. Furthermore, the water supply plan should not rely solely upon non-renewable aquifers. Alternative renewable water resources should be acquired and incorporated in a permanent water supply plan that provides future generations with a water supply."

cc: Kylie Bagley, Planner II

FINAL PLAT (RECOMMEND APPROVAL)

_____ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. MS-22-004

BOYD MINOR SUBDIVISION

WHEREAS, M.V.E, Inc. did file an application with the El Paso County Planning and Community Development Department for approval of a final plat minor subdivision to create three (3) lots within the RR-5 (Residential Rural) zoning district for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on November 3, 2022; 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 final plat minor subdivision is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, code citation from staff report approval criteria In approving this final plat minor subdivision, the El Paso County Planning Commission considered one or more of the following criteria:

1. The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
2. The subdivision is consistent with the purposes of the Land Development Code ("Code").
3. The subdivision is in conformance with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analysis, studies, reports, plans, designs, documents, and other supporting materials.
4. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code.
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of the Code.
6. All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)].
7. Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual ("ECM") are provided by the design.
8. The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development.
9. Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County and in compliance with the Code and the ECM.

10. The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.
11. Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.
12. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.
13. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.
14. Off-site impacts were evaluated, and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code.
15. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.
16. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

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

Delayed finding: A finding of sufficient water supply in terms of quantity, quality, and dependability is hereby postponed until the final plat. With each final plat filing the applicant shall submit documentation in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of the Land Development Code and shall make a request to the Board of County Commissioner for a finding of water sufficiency.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends approval of the final plat minor subdivision to allow three (3) lots within the RR-5 (Residential Rural) zoning district with the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
8. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.

9. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
10. Park fees in lieu of land dedication for regional parks (Area 2) in the amount of \$1,380.00 and urban park (Area 1) fees in the amount of zero dollars shall be paid at the time of plat recordation.
11. Fees in lieu of school land dedication in the amount of \$924.00 shall be paid to El Paso County for the benefit of Lewis Palmer School District No. 38 at the time of plat recording.
12. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
13. Prior to recording the final plat, Applicant shall enter into an Escrow Agreement ("Agreement") with the County in which Applicant shall agree to participate in the completion of off-site public improvements to bring Brown Road into compliance with El Paso County local roadway standards ("Brown Road Improvements"). Said Agreement shall address the following:
 - a. Applicant's total fair, equitable, and reasonably proportional contribution to the Brown Road Improvements shall be \$14,866.00 per lot for a total of \$44,598.00. Prior to recording the final plat, Applicant shall deposit the sum of \$44,598.00 with the El Paso County Treasurer, which funds the County shall maintain and deposit in a separate, interest-bearing account not part of the County's operating budget.
 - b. Said funds shall only be used for the purpose of construction or contributing to the construction of the Brown Road Improvements.
 - c. On or before the expiration date, the County may use the funds, including any interest accrued thereon, only for the purpose of construction or contributing to the construction of the Brown Road Improvements. The expiration date is 20 years from the date of the Agreement.
 - d. Should the County not use said funds on or before the expiration date, the County shall return the funds to the applicant, their heirs, successors, and assigns (excluding individual lot owner successors), together with accrued interest.

NOTATIONS

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

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

_____ seconded the adoption of the foregoing Resolution.

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

Brian Risley	aye / no / abstain / absent
Thomas Bailey	aye / no / abstain / absent
Tim Trowbridge	aye / no / abstain / absent
Joan Lucia-Treese	aye / no / abstain / absent
Becky Fuller	aye / no / abstain / absent
Sarah Brittain Jack	aye / no / abstain / absent
Jay Carlson	aye / no / abstain / absent
Eric Moraes	aye / no / abstain / absent
Joshua Patterson	aye / no / abstain / absent
Bryce Schuettpeiz	aye / no / abstain / absent
Christopher Whitney	aye / no / abstain / absent
Brandy Merriam	aye / no / abstain / absent

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

DONE THIS 3rd day of November, 2022, at Colorado Springs, Colorado

EL PASO COUNTY PLANNING COMMISSION
DATED: November 3, 2022

Brian Risley, Chair

EXHIBIT A

LAND DESCRIPTION: (*Boyd Subdivision Filing No. 1*)

A TRACT OF LAND LOCATED IN THE SOUTH ONE-HALF OF LOT 2, SECTION 7 ,
TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY
OF EL PASO, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED
AS FOLLOWS:

(BEARINGS REFERRED TO HEREIN ARE BASED ON THE EAST LINE OF THE
SOUTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 12,
TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY
OF EL PASO, STATE OF COLORADO, BEARING N 00°07'55" W.)

BEGINNING (P.O.B.) AT THE SOUTHWEST CORNER OF SAID LOT 2, THENCE N
00°07'55" W, A DISTANCE OF 1326.89 FEET ALONG THE WEST LINE OF SAID LOT 2 TO
THE NORTHWEST CORNER OF THE SOUTH ONE-HALF OF SAID LOT 2,

THENCE N 89°36'06" E, A DISTANCE OF 1183.91 FEET ALONG THE NORTH LINE OF THE
SOUTH ONE-HALF OF SAID LOT 2;

THENCE S 00°21'22" W, A DISTANCE OF 1326.19 FEET TO A POINT ON THE SOUTH
LINE OF SAID LOT 2;

THENCE S 89°33'44" W, A DISTANCE OF 1172.62 FEET ALONG THE SOUTH LINE OF
SAID LOT 2 TO THE SOUTHWEST CORNER THEREOF AND THE POINT OF BEGINNING;

SAID TRACT CONTAINS 1,562,936 SF (35.880 ACRES), MORE OR LESS.