

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

Owner:

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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.