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**RESOLUTION NO. 22-399**

**BOARD OF COUNTY COMMISSIONERS**

**COUNTY OF EL PASO**

**STATE OF COLORADO**

**APPROVAL OF MINOR SUBDIVISION FINAL PLAT MS-22-004  
BOYD MINOR SUBDIVISION**

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

WHEREAS, a public hearing was held by the El Paso County Planning Commission on November 3, 2022, upon which date the Planning Commission did by formal resolution recommend approval of the final plat application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on November 15, 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, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Planning Commission.
2. Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. All exhibits were received into evidence.
5. The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
6. The subdivision is consistent with the purposes of the Land Development Code ("Code").

7. 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.
8. 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.
9. 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.
10. 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)].
11. 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.
12. 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.
13. 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.
14. 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.
15. Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.

16. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.
17. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.
18. 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.
19. 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.
20. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of El Paso County, Colorado, hereby approves the minor subdivision final plat application for the Boyd Minor Subdivision.

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

#### CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service

regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.

6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the 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**

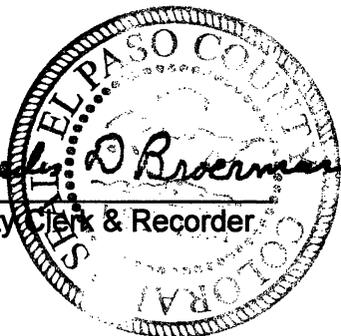
- 1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
- 2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held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

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

DONE THIS 15th day of November, 2022, at Colorado Springs, Colorado.

ATTEST:

By: Cheryl D. Broerman  
County Clerk & Recorder



BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

By: Stan VanderWey  
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.