

EL PASO  **COUNTY**
COLORADO

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

TO: El Paso County Planning Commission
Stan VanderWerf, 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 43081	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)

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: As a consent item at the November 3rd, 2022, hearing.

Recommendation: Approval based on recommended conditions and notations.

Waiver Recommendation: Approval of one waiver.

Vote: 8 - 0

Vote Rationale: N/A

Summary of Hearing: The Planning Commission draft minutes are attached.

Legal Notice: Not required.

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):

- 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.
- 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.].

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
- 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 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

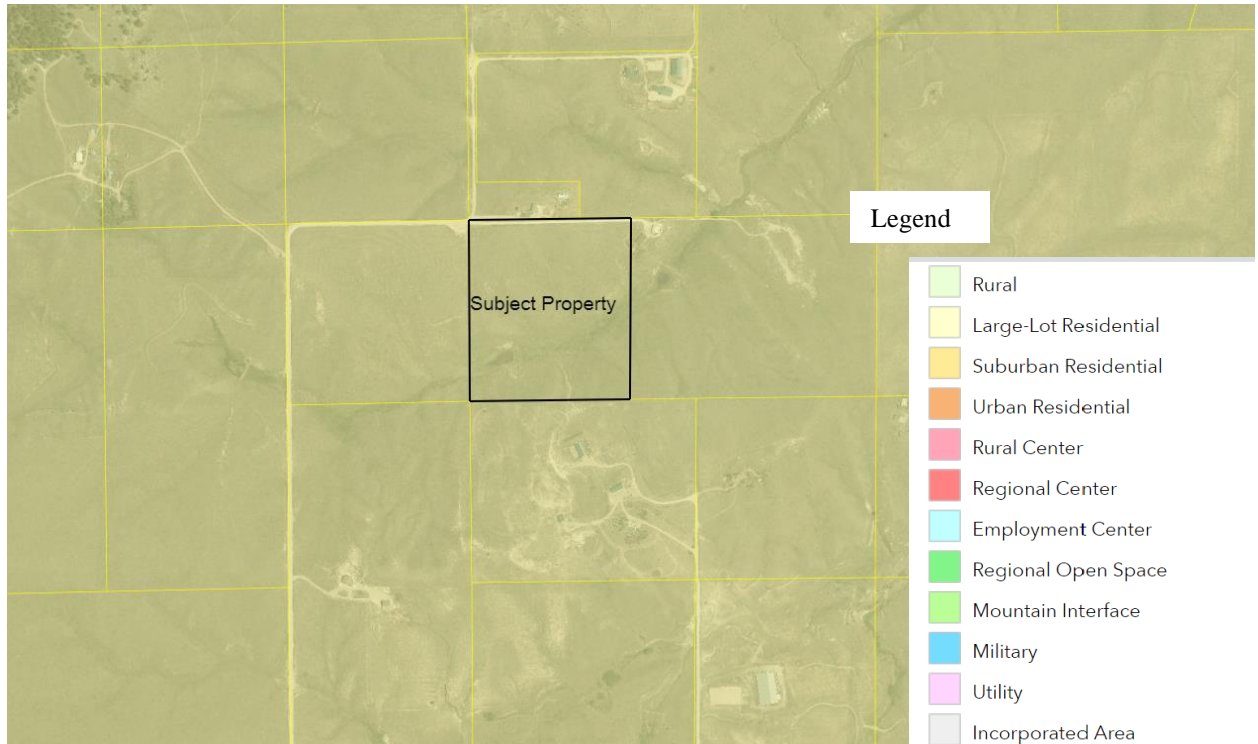


Figure G.1: Placetype Map

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.

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 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.

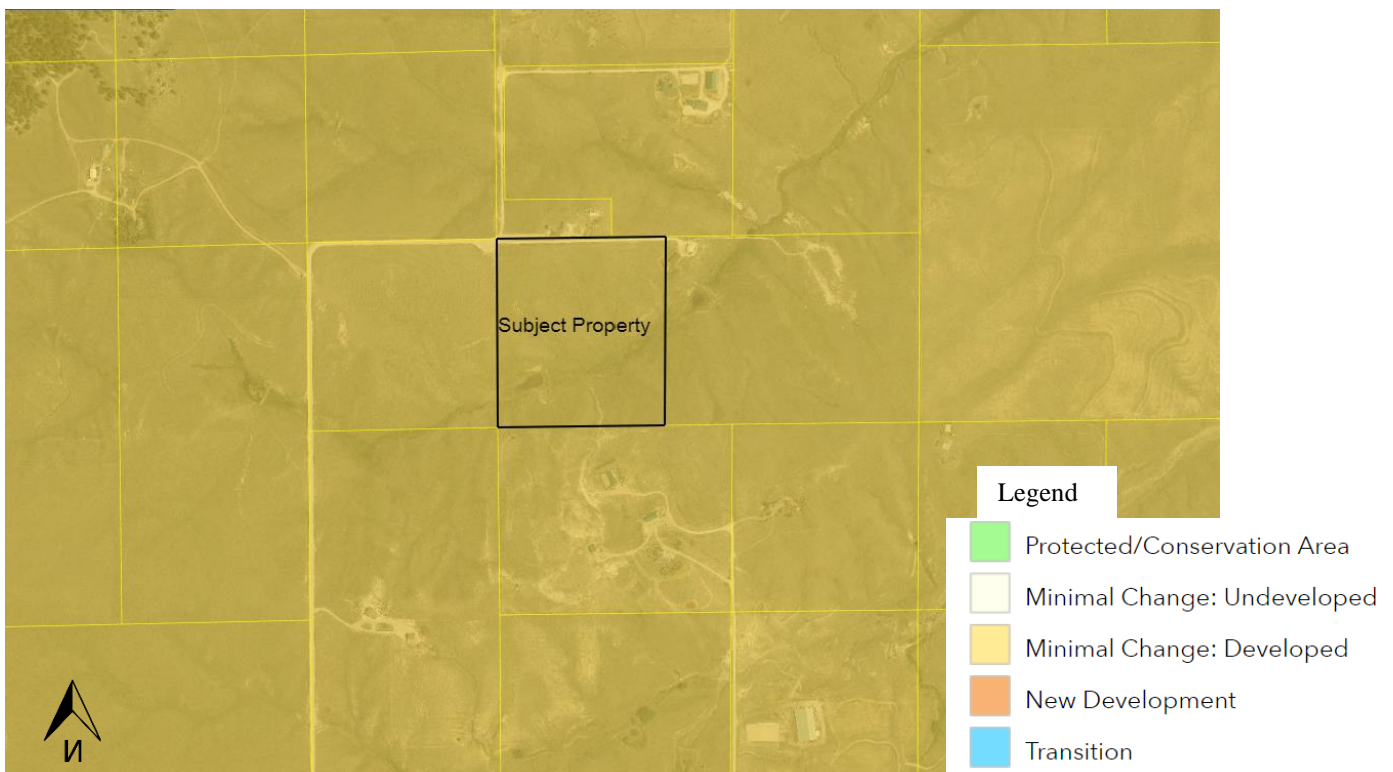


Figure G.2: Area of Change Map

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.

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.*

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.

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.

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 1.7.1.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.

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.

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 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.

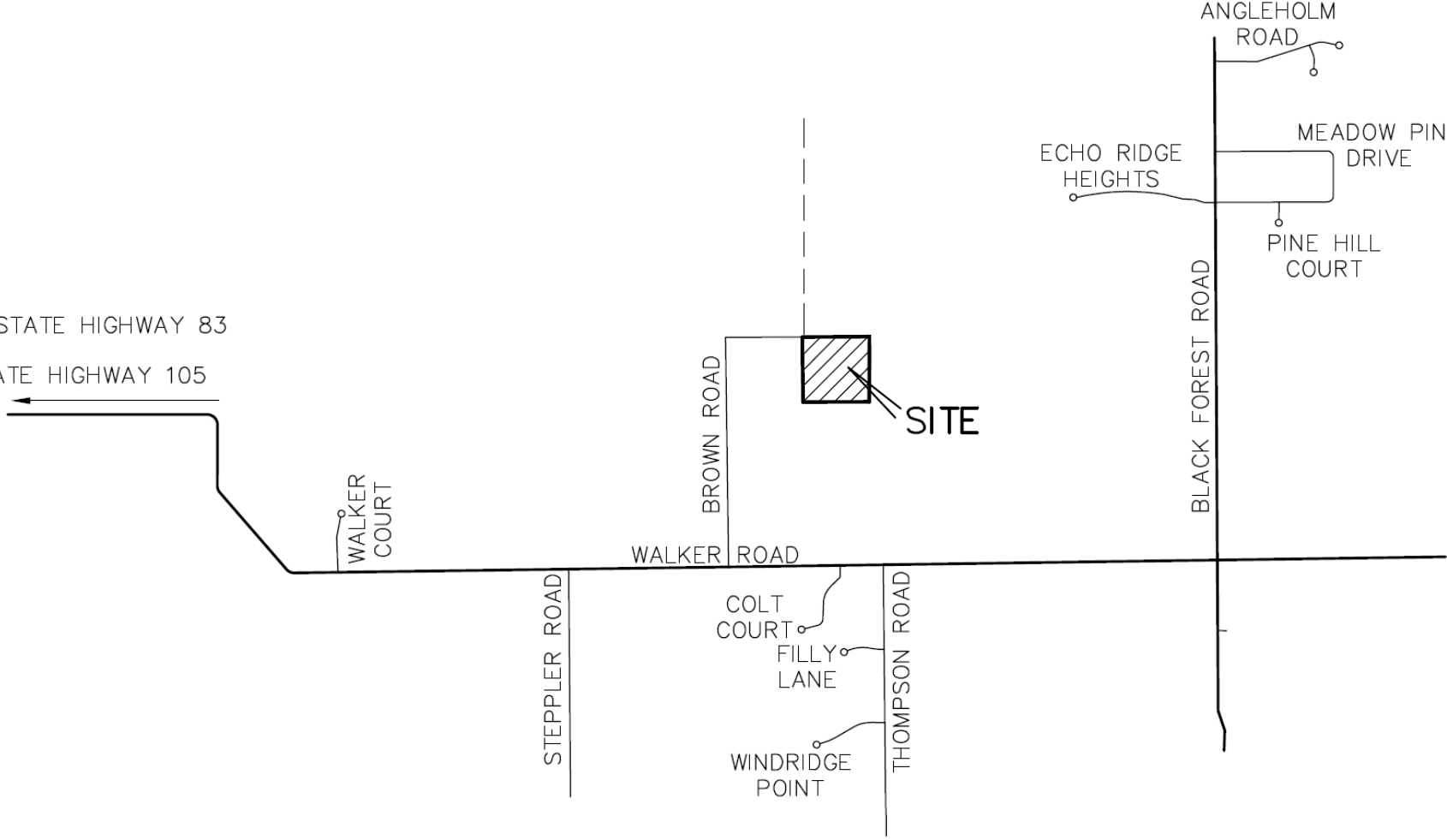
M. PUBLIC COMMENT AND NOTICE

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 11/3/2022 Minutes
Draft PC Resolution
Draft BOCC Resolution

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:

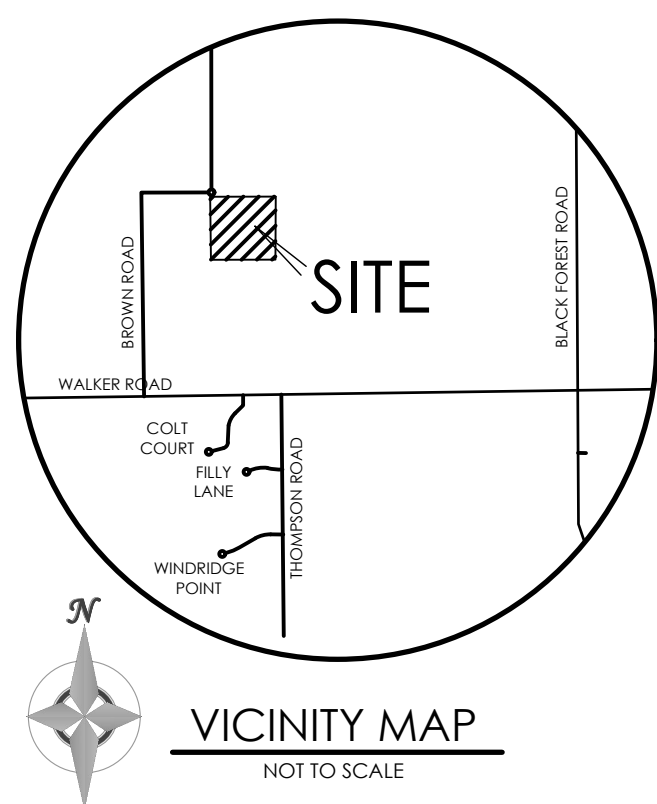
Brown Road terminates at the west boundary of proposed Boyd Subdivision Filing No. 1. All access is proposed to be provided either directly by Brown Road (lot 1) or a single low-impact driveway contained connecting to Brown Road (lots 2, 3, and neighboring property). Access for the proposed lots will 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:

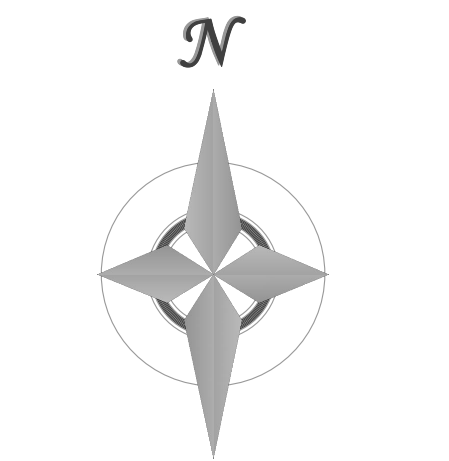
The three (3) proposed single family residential units will access public Brown Road. The development is expected to generate a total of 28 trips per day (Average weekday trips ends) and 3 trips in the peak hour based on 9.44 trips per unit for Single Family Detached Housing (according to Trip Generation, 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



- LEGEND**
- PROPOSED BOUNDARY LINE
 - PROPOSED LOT LINE
 - SECTION LINE
 - SET #5 REBAR W/ ALUMINUM CAP MARKED "POLARIS, PLS 27605" FLUSH WITH THE GROUND UNLESS OTHERWISE SHOWN
 - (xxxx) ADDRESS NUMBER



COUNTY GOVERNMENT NOTES

1. 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.
2. 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.
3. 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., PREBLE'S MEADOW JUMPING MOUSE).
4. THE ADDRESSES EXHIBITED ON THIS PLAT ARE FOR INFORMATIONAL PURPOSES ONLY. THEY ARE NOT THE LEGAL DESCRIPTION AND ARE SUBJECT TO CHANGE.
5. NO DRIVEWAY SHALL BE ESTABLISHED UNLESS AN ACCESS PERMIT HAS BEEN GRANTED BY EL PASO COUNTY.
6. MAILBOXES SHALL BE INSTALLED IN ACCORDANCE WITH ALL EL PASO COUNTY AND UNITED STATES POSTAL SERVICE REGULATIONS.
7. 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.
8. 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.
9. PROPERTY WITHIN THIS SUBDIVISION IS SUBJECT TO THE TERMS OF THE EL PASO COUNTY TRANSPORTATION IMPROVEMENT FEE RESOLUTION (RESOLUTION 19-471) AS AMENDED. FEES FOR EACH LOT WITHIN THIS SUBDIVISION SHALL BE PAID IN FULL AT TIME OF BUILDING PERMIT ISSUANCE.
10. 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 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.
11. 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 26, 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 GULCHES.
 - 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 1, 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.
12. LOT AND DENSITY DATA:
 - GROSS ACREAGE: 35.880 ACRES
 - TOTAL NUMBER OF LOTS: 3
 - GROSS DENSITY: 0.084 LOTS PER ACRE
13. 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.
14. 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.
15. 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.
16. LOTS 1, 2, AND 3 WILL ACCESS BROWN ROAD VIA A PRIVATE SHARED INGRESS AND EGRESS EASEMENT RECORDED AT RECEPTION NO. 204150806.
17. OWNERSHIP AND MAINTENANCE OF THE EXISTING LIVESTOCK WATER TANK LOCATED ON LOT 1 IS VESTED TO THE OWNER OF LOT 1.

NOTES

1. 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.
2. ALL CORNERS SET WITH NO. 5 REBAR WITH SURVEYOR'S ALUMINUM CAP PLS 27605 AND FLUSH WITH THE GROUND, UNLESS OTHERWISE NOTED.
3. 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 _____.
4. 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 0804100305 G, EFFECTIVE DATE 12/7/2018.
5. LINEAL UNITS USED FOR THIS SURVEY ARE U.S. SURVEY FEET.
6. LAND SURVEY PLAT FILED UNDER DEPOSIT #204900117, OF THE RECORDS OF EL PASO COUNTY, COLORADO, WAS USED AS A REFERENCE FOR THIS SURVEY.
8. 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 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.).
9. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY COMMITS 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 THE 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: _____

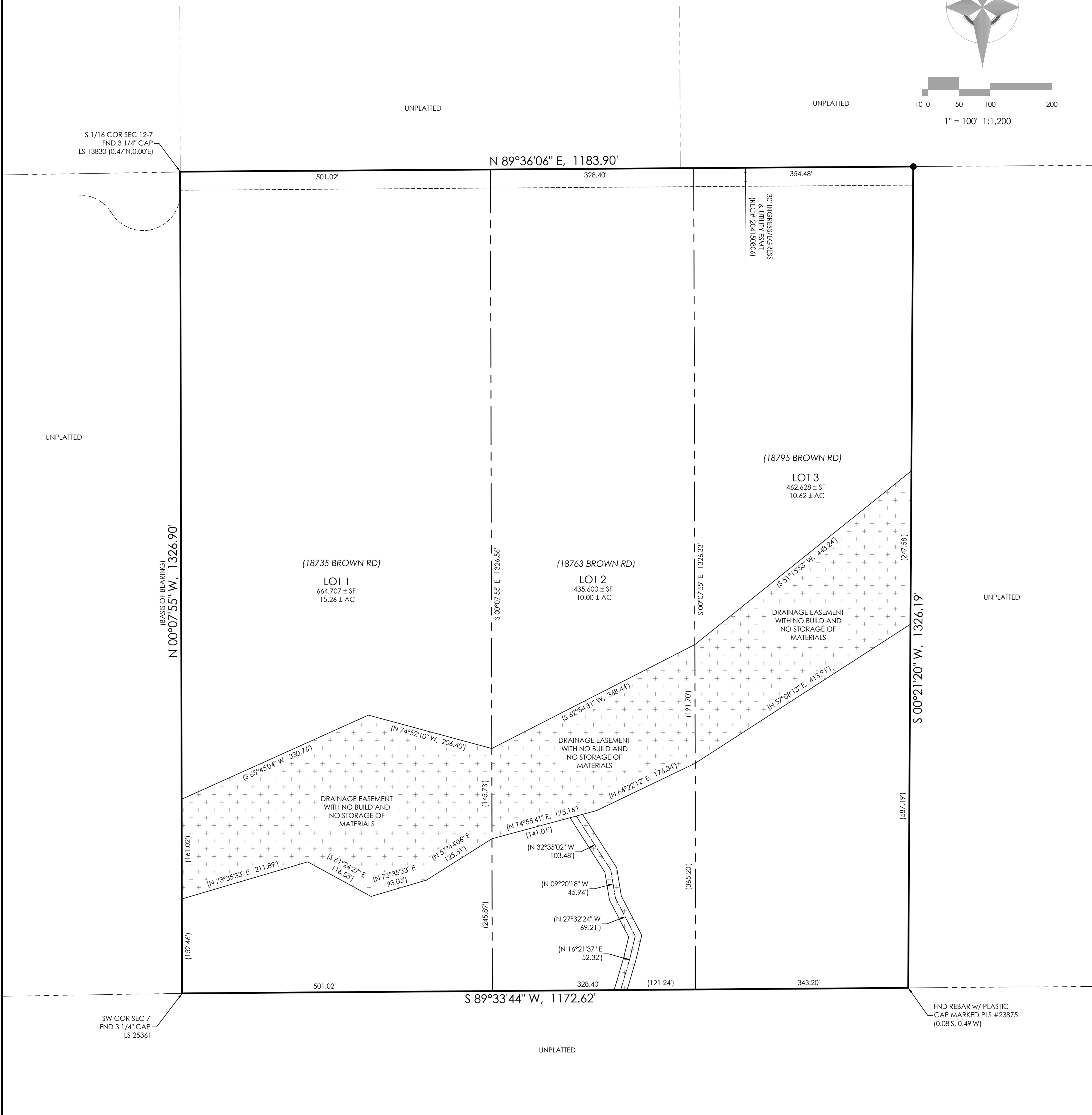
PCD FILE NO.: MS224

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

MVE, INC.
ENGINEERS SURVEYORS

1903 Lelary Street, Suite 300
Colorado Springs, CO 80909
719.635.5736 www.mvecivil.com

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





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.

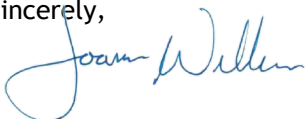
The amounts of water in the Denver Basin aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100 year aquifer life. The county should be aware that the economic 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

Kenneth R. Hodges, County Attorney

Assistant County Attorneys

Lori L. Seago
Steven A. Klaffky
Mary Ritchie
Bryan E. Schmid
Nathan J. Whitney
Christopher M. Strider
Terry A. Sample
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

Kevin Mastin, Interim Executive Director
El Paso County Planning & Community Development
O: 719-520-6300
KevinMastin@elpasoco.com
2880 International Circle, Suite 110
Colorado Springs, CO 80910

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

Planning Commission Meeting
Thursday, November 3rd, 2022
El Paso County Planning and Community Development Department
2880 International Circle – Second Floor Hearing Room
Colorado Springs, Colorado

REGULAR HEARING, 9:00 a.m.

PC MEMBERS PRESENT AND VOTING: BRIAN RISLEY, TOM BAILEY, JAY CARLSON, TIM TROWBRIDGE, BECKY FULLER, BRANDY MERRIAM (ABSENT FROM VOTING ON ITEM 4C), AND CHRISTOPHER WHITNEY (RECUSED FROM ITEM 4C), BRIAN SCHUETTPELZ, SARAH BRITTAIN JACK (ADDED BEGINNING WITH ITEM 4C).

PC MEMBERS VIRTUAL AND VOTING: ERIC MORAES (ADDED BEGINNING WITH ITEM 4A).

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: JOSHUA PATTERSON, JOAN LUCIA-TREESE.

STAFF PRESENT: KEVIN MASTIN, JUSTIN KILGORE, KARI PARSONS, GILBERT LAFORCE, RYAN HOWSER, CARLOS HERNANDEZ MARTINEZ, KYLIE BAGLEY, ED SCHOENHEIT, PETRA RANGEL, MIRANDA BENSON, AND EL PASO COUNTY ATTORNEY LORI SEAGO.

OTHERS PRESENT AND SPEAKING: SEE ATTACHED SIGN-IN SHEETS, EXHIBIT A.

1. REPORT ITEMS

A. Planning Department: Next scheduled Planning Commission hearing is 11/17/2022.

DISCUSSION

Mr. Mastin stated he would like to implement a program to help the public understand the PCD process. His comments are based off the 300+ emails received over the last week of cut and paste information provided by one or two individuals. He stated he is not an elected official; He is an employee of El Paso County. He cannot deny a project. He does not have that authority, and neither does anyone on his team. The process begins with an Early Assistance meeting, where PCD asks for documents to support what the applicant is doing. PCD attempts to guide them through the application process. PCD does not choose sides. PCD does not represent the applicant. PCD does not represent anyone from the public who is either for or against a project, regardless of what has been socialized over the past week and a half. In the staff report, there is a document that says, "Recommend Approval". That is a template; It is a blank document

included for every project. Contrary to what has been socialized, nobody at PCD has recommended approval for anything. There is no document that says, "Recommend Disapproval" in the staff report because if there is a recommendation for disapproval from the PC, PCD needs to know the exact reasons *why*, and the document is drafted to capture that information. Contrary to what has been socialized, this PC has no authority to deny or stop a project. The members of this commission are here on their own time to represent the citizens of this county, to review applications, and provide recommendations to BOCC so *they* can decide if a project is approved or disapproved. The PC's recommendation is based upon information provided by the applicant, based upon the comments of both those who support and oppose a project. Mr. Mastin gave a sincere "thank you" to the members of the public who took the time to reach out to discuss this process and how they can best represent their views when they attended this meeting. He stated that filling his and Mr. Howser's inbox with over 300 emails was not an appropriate way to express how the opposition feels, especially when most of those emails were cut and paste with no address or salutation. He thanked those who took the time to *actually* write an email with their concerns because PCD knows how they individually feel. It is important to everyone at PCD that they do the best job they can with the resources they have available. Profanity, derogatory comments, insinuations of illegal activity, or accusations that PCD staff has accepted bribery will not be tolerated and is unacceptable. It violates their core values; It violates what PCD does every day to represent the citizens. He stated, "I will not tolerate anybody who tries to defame or make derogatory comments about anyone who works for me, and when I say, 'works for me', I mean works with me. This is my team, and I will protect my team. They are doing the best they can every single day, and I will not tolerate what I have had to deal with in this last week."

Mr. Kilgore advised the Board that members of the public would like to speak regarding item 2C. Staff is requesting a date-certain continuance to December 1st, 2022, for item 4A.

Ms. Merriam asked if item 2C was being moved from consent to regular?

Mr. Risley explained that when it is time to address item 2C in the agenda, he will ask if any member of the public would like the item to be called as a regular item, and it will be pulled at that time.

Ms. Seago reminded the Board that item 3 on the agenda is specifically to address called-up consent items.

B. Call for public comment for items not on agenda. None.

2. CONSENT ITEMS

A. Adoption of Minutes – October 20th, 2022

DISCUSSION

Mr. Trowbridge pointed out that regarding item AL-19-018, the minutes do not note that there was first a motion to deny that failed. It was also noted that on the vote to approve, it was not noted which board members voted "no" and why.

PC ACTION: THE PC MINUTES FROM REGULAR PC HEARING HELD OCTOBER 20th, 2022, WERE APPROVED WITH TWO MODIFICATIONS BY UNANIMOUS CONSENT. (8-0)

B. MS-22-004

BAGLEY

**MINOR SUBDIVISION
BOYD MINOR SUBDIVISION**

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).

Mr. Risley asked if any members of the Board would like them pulled to be heard as a regular item? There were none. Asked if any audience members would like the item pulled? There were none. Asked if any members of the Board had questions for staff? There were none.

PC ACTION: TROWBRIDGE MOVED / MERRIAM SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, MS-22-004 FOR APPROVAL OF A MINOR SUBDIVISION, BOYD MINOR SUBDIVISION, UTILIZING THE APPROVAL ATTACHED TO THE STAFF REPORT, WITH ONE (1) WAIVER, THIRTEEN (13) CONDITIONS, TWO (2) NOTATIONS, AND A RECOMMENDED FINDING OF WATER SUFFICIENCY WITH REGARD TO QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-0).

3. CALLED UP CONSENT ITEMS

(2C.) P-22-006

BAGLEY

**MAP AMENDMENT (REZONE)
MCDANIELS REZONE**

A request by William Guman and Associates for approval of a map amendment (rezoning) from A-35 (Agricultural) to RR-5 (Residential Rural). The 40-acre property is located directly southwest of the intersection of McDaniels Road and North Log Road and within Section 11, Township 14 South, Range 63 West of the 6th P.M. (Parcel No.34000-00-295) (Commissioner District No. 4).

STAFF PRESENTATION. APPLICANT'S PRESENTATION.

DISCUSSION

Ms. Whitney asked how many of this type of project could be approved before it changes the overall character of the neighborhood?

Ms. Bagley replied that each application is evaluated individually.

Mr. Carlson asked if the intent to subdivide to 4 10-acre parcels becomes a requirement or if the applicant could change their mind?

Ms. Bagley replied that the applicant *could* change their mind but noted there is not an application for minor subdivision submitted at this time.

Mr. Bailey stated regarding the Master Plan, A-35 and RR-5 are compatible and somewhat similar. He stated there's not that much different in the context of the Master Plan between the two zoning types

even when the *use* is different. To rezone from one to the other is consistent with the Master Plan. He wanted to point out to the audience that the applicant, the landowner in this case, is called the developer. He stated “big, mean, evil developers” are sometimes single individuals like your grandparents or your mother.

Mr. Morgan speaking on behalf of the applicant, stated they are only pursuing 4 lots and referenced the creek running through the lot as reasoning.

Mr. Lambrecht lives directly across from the proposed project. He is opposed to the rezone. He is surrounded by 40-acre tracts and lives there for that reason. Three 40-acre lots were recently sold in the area, and he is worried that if this rezone is approved, those lots could also be rezoned, and he would then be living in the suburbs. He is concerned about the lack of water and privacy.

Ms. Fuller requested the approval criteria be displayed.

Citizen stated she moved out of the city after it got congested. Everyone who lives there now has livestock. If this rezoning is approved, it opens the door for further development. There are currently 67,000 wells in El Paso County. She asked that you imagine a straw for every well. The proposed project will add 4 more straws and will also require septic systems. All landowners in the area have 40-acre tracts. There are adequate homes and building of affordable homes in a 10-mile radius; There are over 300 homes or places for homes. There will be 1,600 homes built at Marksheffel and Hwy 94. This rezone might not be impactful in Colorado Springs, but it impacts this specific area greatly.

Mr. Robinson lives near the proposed rezone. He stated the proposed driveways are less than 300 feet from his garage. He stated this is irresponsible growth to add wells and septic systems on these smaller parcels, regardless of what the engineers say. There are only dirt roads in this area. The dust is a concern. If this is approved, this opens the door to other developers who maximize the development to make a profit.

Ms. Earnst stated they run a small ranch in the area. She’s worried that if there are more wells drilled in the area, it will impact her water available for her cattle. The cattle are part of her livelihood. She is concerned about other people using up her well and her water. The dust is also a concern.

Mr. Morgan spoke on behalf of the applicant. He reiterated that there would only be 3 additional homes if the rezone is approved. They have a letter of recommendation from the CO Dept. of Public Health that there is sufficient water to add three homes.

Mr. Carlson does not believe the application meets at least 2 criteria of approval. He does not believe this would meet the general conformance with the Master Plan. While RR-5 is a rural place type and A-35 is already approved there, he does not believe it meets the character of the surrounding area. Staff’s report mentions that leapfrog development should be avoided, which this is doing. He disagrees with the previous comment that A-35 is similar to RR-5. There is a significant difference between 1 home on 40 acres vs. 8 homes on that 40 acres, especially when the wells and traffic are considered. He is not in favor of this zone change.

Ms. Merriam agreed with Mr. Carlson’s statement. She also stated water would be a concern. The illustration of a straw was apt, but she also wants to be respectful of landowners’ rights. Agriculture and farming should be protected.

Mr. Whitney stated he agrees with the remarks of Mr. Carlson. This property is surrounded by A-35. There is a concern of leapfrogging and spot-zoning. If there had been buffers, it may have been fine.

Mr. Bailey reminded the commission and public this is a zoning action, not a determination of whether the water will support the use. Water has no bearing on the decision made today. The approval criteria are the only subject matter to consider when making recommendation to BOCC. The Master Plan gives enough flexibility to balance change vs. individual property owners. This applicant is a single landowner. Any neighbor should have the freedom to ask to change, or do what they want, on their own property. He believes anyone who owns property should be able to do whatever they want with it within the broad limits set by the County. He disagreed that this is incompatible and does not see a concern at this point. A-35 and RR-5 can be contiguous and is not prohibited by the Master Plan. A property owner should be able to do what they want with their property, and if a “big, bad developer” decides to go to each neighbor and offer to buy their property, that’s ok.

Ms. Fuller stated she leans towards the opinion that this is leapfrog zoning. She may feel differently if there were RR-5 nearby, but there isn’t. Raising the concern of water is not persuasive at this point, and arguments brought to BOCC should focus on the criteria for approval. The Master Plan defines this area as large-lot residential, not RR-5. She stated she would not be in favor of this project.

PC ACTION NO. 1: CARLSON MOVED / MERRIAM SECONDED FOR DISAPPROVAL OF CALLED-UP CONSENT ITEM NUMBER 2C, P-22-006, FOR APPROVAL OF A MAP AMENDMENT (REZONE), MCDANIELS REZONE, BASED ON NOT MEETING CRITERIA FOR APPROVAL, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION FAILED (4-4).

IN FAVOR: CARLSON, MERRIAM, FULLER, WHITNEY

IN OPPOSITION: BAILEY, SCHUETTPELZ, TROWBRIDGE, RISLEY

COMMENT: Ms. Merriam reiterated that water is a concern but will be addressed at a different stage. Her reasoning for disapproval at this time is due to the surrounding A-35 (this rezone would not be in general compliance).

PC ACTION NO. 2: SCHUETTPELZ MOVED / BAILEY SECONDED FOR APPROVAL OF CALLED-UP CONSENT ITEM NUMBER 2C, P-22-006, FOR APPROVAL OF A MAP AMENDMENT (REZONE), MCDANIELS REZONE, UTILIZING THE APPROVAL ATTACHED TO THE STAFF REPORT, WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION FAILED (4-4).

IN FAVOR: BAILEY, SCHUETTPELZ, TROWBRIDGE, RISLEY

IN OPPOSITION: CARLSON, MERRIAM, FULLER, WHITNEY

COMMENT: No further comment made by those who voted no.

THIS ITEM WILL BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS WITH NO RECOMMENDATION FROM THE PLANNING COMMISSION.

Mr. Moraes joined the hearing online and is designated a voting member moving forward.

4. REGULAR ITEMS

A. MP-22-001

MEYER

MASTER PLAN EPC PARKS MASTER PLAN UPDATE 2022

El Paso County Community Services Department requests adoption of the El Paso County Parks Master Plan. This Master Plan repeals and/or replaces the existing El Paso County Parks Master Plan (2013). The Master Plan area includes all land within El Paso County located outside the incorporated municipalities and includes the accompanying maps, charts, and descriptive and explanatory matter. The Master Plan is an advisory document to guide park, trail, and open space development and preservation decisions.

DISCUSSION

Ms. Parsons requested a date-certain continuance to December 1st, 2022, for this item.

PC ACTION: FULLER MOVED / TROWBRIDGE SECONDED THAT ITEM NUMBER 4A, MP-22-001, FOR APPROVAL OF THE MASTER PLAN, EPC PARKS MASTER PLAN UPDATE 2022, BE POSTPONED AND HEARD AT REGULAR PC HEARING ON DECEMBER 1ST, 2022. THE MOTION WAS APPROVED (9-0).

B. LDC-22-002

PARSONS

EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT RM-12 (Residential Multi-Dwelling)

A request by the El Paso County Planning and Community Development Department to amend Chapters 3 and 5 of the El Paso County Land Development Code (2022) pertaining to the RM-12 (Residential Multi-Dwelling zoning district). The proposed revisions, in their entirety, are on file with the El Paso County Planning and Community Development Department. (All Commissioner Districts).

STAFF PRESENTATION. APPLICANT'S PRESENTATION.

DISCUSSION

Mr. Moraes asked when RM-12 change to allow single-family detached dwelling unit? He searched the attached resolutions for Table 5-1 but could not determine when that happened. He thinks it may have happened between December of 2017 and December of 2018?

Ms. Parsons replied that the item before the PC is to modify the LDC as it is currently adopted. The current code does allow the use. She stated that question may not be material to what is before the PC at this time.

Mr. Risley clarified that exactly when it became codified would not be relevant, if currently allowed.

Ms. Parsons stated that is correct. This is not a proposal to add a new use to the RM-12 zone type.

Mr. Moraes stated he was concerned that he cannot determine on paper when that change happened. He would like to track the paper trail of that change. He is concerned that at some point in time,

someone could have entered the letter “A” by mistake. He would like to see a specific resolution that shows that use as allowed because it was addressed to be so.

Ms. Seago stated she does not currently have when the change occurred. Regarding whether it is relevant, this is a legislative item. The item can be continued, or research can be done during a recess at the commission’s discretion.

Ms. Parsons stated that in 2019, PCD overhauled the entire LDC formatting (Municode) before the PC and BOCC. The BOCC approved those recommendations in its entirety. The single-family detached use within the RM-12 was noted in that.

Mr. Moraes stated he understood that the change was within the approved LDC during its revision adoption in 2019 and his concerns were satisfied.

Mr. Risley thanked Mr. Moraes for his thoroughness.

Mr. Bailey wanted to add that in addition to “staying out of hot water” it’s also good to make sure the County is not overreaching and whatever is being adopted has the appropriate authority behind it.

[Ms. Parsons provided Table 5-4, 2006 Code identifying the detached single-family use to Mr. Risley, Mr. Moraes, and Ms. Seago via email.]

PC ACTION: BAILEY MOVED / MERRIAM SECONDED FOR APPROVAL OF REGULAR ITEM NUMBER 4B, LDC-22-002 FOR AMENDMENT TO THE EL PASO COUNTY LAND DEVELOPMENT CODE, RM-12 (RESIDENTIAL MULTI-DWELLING), UTILIZING THE APPROVAL ATTACHED TO THE STAFF REPORT, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

Ms. Brittain Jack joined the hearing in-person and was designated a voting member moving forward.

Mr. Whitney volunteered to be removed from the voting members at this time.

RECESS

Mr. Whitney stated that while he is confident that he could consider the upcoming agenda item without bias, he requested to recuse himself from hearing item 4C, SKP-22-003, due to his residence’s proximity to the area being discussed so as not to cause question in his recommendation.

C. SKP-22-003

HOWSER

SKETCH PLAN FLYING HORSE NORTH

A request by PRI #2, LLC, c/o Elite Properties of America, and Flying Horse Country Club, LLC, for approval of a sketch plan for 846 single-family residential lots, approximately 58.8 acres of commercial and hotel uses, and approximately 204 acres of open space. The 912-acre property is zoned PUD (Planned Unit Development) and RR-5 (Residential Rural), and is located at the southwest corner of Hodgen Road and Black Forest Road, continuing south to incorporate land on the north and south sides of Old Stagecoach Road and within Sections 30, 31, and 36, Township

11 South, Ranges 65 and 66 West of the 6th P.M. (Parcel Nos. 51000-00-437, 51300-00-002, 51300-00-004, 51310-00-001, 51310-05-001, 61360-00-003, 61360-00-004, 61360-03-004, 61360-04-037, and 61360-04-038) (Commissioner District No. 1).

DISCUSSION

Mr. Risley reiterated the 9 voting members at this time (Risley, Bailey, Brittain Jack, Carlson, Fuller, Merriam, Moraes, Schuettpelz, and Trowbridge). He also went over general housekeeping items.

Ms. Fuller requested that Mr. Howser outline PCD process and what a Sketch Plan means at this stage through the entire process of digging a foundation.

Mr. Howser went over the general criteria of a sketch plan, read from LDC. If this Sketch Plan is approved, the next step is a Preliminary Plan. After that, the next step is a Final Plat application.

Ms. Seago asked Mr. Howser if there were other intervening zoning actions involved in the described process like PUD/PUD amendment?

Mr. Howser responded that this property is currently subject to a PUD. In order for the applicant to move forward with the Sketch Plan they are proposing, they would need come back for an amended PUD. Typically, that is done at the same stage as the Preliminary Plan but can be done separately as well.

Mr. Risley commented that at each of these stages, there is opportunity for public comment.

Mr. Howser agreed and added that Preliminary Plan and PUD both require public hearings before PC and BOCC. If a finding of water sufficiency is determined at Preliminary Plan, the Final Plat *may* be approved administratively. However, if water sufficiency is not determined at that stage, a public hearing would again be required for Final Plat.

APPLICANT'S PRESENTATION.

Mr. Trowbridge asked if the traffic engineer had studied Colorado Springs's standards regarding traffic impact requirements since it was mentioned in the presentation that the roads would be developed to city standards in the event of annexation to Colorado Springs?

Mr. Rocha, representing SM Rocha, LLC for traffic engineering, stated they had. It was found that there are subtle differences between city and county standards, but those will be addressed with construction plans at a later time. Presentation continued.

Mr. Carlson asked if any other residents of Flying Horse North were on municipal water?

Mr. Hill, representing Hill and Pollock, LLC as water attorney, replied that the Flying Horse North residential lots are all Dawson (aquifer) wells. The golf course is irrigated from an Arapaho deep well for the first 110 years. There is currently not a central system in place.

Ms. Merriam asked if the fire hydrants would be multiple based on the land, or is there a sketch plan associated with that? This is a large facility to include 275 keys, the needs of a hotel, pools, recreation, etc. Does that all go on the central water provider?

Mr. Hill replied that the hotel keys and the 846 units proposed would be on a separate system both providing water and wastewater treatment. Hydrants would be connected to the central system and would be consistent with code provisions. He stated he did not know if there were hydrants already in place with the existing residences.

Mr. Stuepfert stated hydrants will be adequately spaced throughout the property once the central system is in place. There are no hydrants in place currently.

Ms. Merriam stated there are people living there now without hydrants?

Mr. Stuepfert replied that they are 2.5-acre lots on well and septic systems. Presentation continued.

Mr. Carlson asked if he had seen somewhere in the report that there were 400 rooms in the hotel?

Mr. Stuepfert stated the hotel will have 275 keys, which includes the golf casitas.

Mr. Carlson asked for the applicant's definition of "low density" areas.

Mr. Stuepfert responded that at this point they don't know.

Mr. Carlson stated he just wanted to clarify that by "low density", they don't mean 6 units/acre.

Mr. Stuepfert stated no, that's not what they meant. He stated it would be more like 3 units/acre. He stated that in the future, this project will not exceed 846 total units.

Mr. Carlson asked for the same type of definition for areas labeled "medium density".

Mr. Stuepfert stated that medium density would be 3/acre, and low density would be more like 1.5/acre.

Ms. Merriam stated that during the presentation, it was mentioned this would be a tourist destination in accordance with the Master Plan, and that this would be like the Broadmoor. The Broadmoor area of the city has services to help with the traffic brought in for conferences. This area is forest. There are no services. Won't that create more traffic?

Mr. Stuepfert replied that some services will be available on-site in the commercial areas, but most traffic will likely be on Hwy 83. Services aren't that far away. Interquest is 10 minutes away. Overall, yes there will be more traffic.

Ms. Merriam asked if this area includes the burned area from the recent Black Forest fire. She asked if this area was in a place where regrowth of native vegetation/trees needed to be a priority?

Mr. Stuepfert stated the area of this project does not include burn area.

Mr. Balsick with Flying Horse Development stated the fire did go through the area. The fire cleaned up a lot of deadfalls. There is still a significant number of trees, and 30-60 trees would still need to be removed to build a house.

Ms. Fuller stated she is having a problem with having a 275-key hotel in large-lot residential and asked how the applicant justifies that?

Mr. Stuepfert stated there are parts they do not comply with, but they are meeting the intention of tourism. They intend to bring needed tourism to the County. The public raised concerns that a hotel does not fit in Black Forest. This is a tough transition. This developer builds great communities. He wants to build a hotel on his property. It's going to be a beautiful facility.

Ms. Fuller stated large-lot residential is primarily 5-acre parcels?

Mr. Stuepfert stated 2.5-acre.

Ms. Fuller stated she doesn't see the compatibility.

Mr. Stuepfert stated the hotel will sit in the middle, surrounded by golf course, and buffered by residential lots. They're not proposing a hotel right up against the other Black Forest residents.

Ms. Brittain Jack stated the existing Flying Horse development off Hwy 83 has a hotel.

Mr. Stuepfert stated they are building one right now.

Mr. Bailey reminded the room that this stage is to determine the feasibility of the concept. Down the road, it may be determined that the hotel is not feasible. The focus today is on the concept. Details from fire hydrants and other things come at later stages in the process.

Mr. Stuepfert added that even if this is approved, there is no zoning besides the existing zoning. They don't currently have the zoning that would be required for what they want to do.

RECESS.

Mr. Howser reminded the room that PCD staff presentation does not provide justification for nor against a project but is meant to provide information regarding staff's analysis of the Code and how it relates to the project. County staff maintains a neutral stance. The presentation should give an unbiased approach. The staff report has language that may come across vague, such as "it *may be* consistent" or "it *may be* compliant". The intent of this language is meant to convey that staff is making observations regarding how this project relates to the Code, but it is up to the Planning Commission and the Board of County Commissioners to make a final determination.

STAFF PRESENTATION.

Ms. Fuller asked (regarding an image on presentation) how much open space the current sketch plan has?

Mr. Howser stated the sketch plan shows 203.9 acres. Stated the applicant is proposing an additional 39 acres of land that wasn't in the initial PUD. Continued Presentation.

DISCUSSION

Mr. Stauch provided presentation, see attached Exhibit B. Time was donated by: K. Ehlers, B. Heeter, K. Correa, and N. Piasecki. Presentation was read from PowerPoint slides attached.

Mr. Stokka provided presentation, see attached Exhibit C. Time was donated by: C. Trump, T. Smith, and G. Chaffee. Presentation was read from PowerPoint slides attached.

Mr. Bailey reminded the public that water is not thoroughly considered at the sketch plan stage.

Mr. Shecter provided presentation, see attached Exhibit D. Time was donated by: B. Brian, C. Taylor, J. Von Ahlefeldt, S. Stihl, K. Dillon, L. Otero, B. McIlrath, and C. Sorenson. He is a resident of the existing Flying Horse community. He would hate to see major changes to the community he bought into. Asked if the PC read the report he compiled?

Mr. Trowbridge stated that the PC Members do receive the full packets which include all public comments and Mr. Shecter's 26-page letter.

Mr. Shecter stated there is a misrepresentation in the sketch plan being presented. There are only 862 acres that remain undeveloped, not 912.6 acres. He doesn't know how it is allowed to add 39-42 acres to an already approved subdivision. How can a developer annex more land into their subdivision without having to come back before the PC or BOCC? The applicant mentioned 846 single-family units, but that needs to include the additional 50 "bonded flats" and casitas. He thinks it should reflect 896 additional units. Even without including the additional 50 units, the proposed density would average 1 unit per 0.70 acres. Including the 50, the average is 1 unit per 0.67 acres. This conflicts with the existing residential community. The initial PUD was approved in Dec 2016, the Preliminary Plan was approved Sept 2018. In Oct 2018, 79 pages of CCNRs were signed by the developer's representatives and recorded in Nov 2018. In the CCNRs, he referenced page 44 (Exhibit D attached), "Section 10.8 Maximum Number of Lots." His understanding when he purchased his property was that there would not be more than 283 lots in the community. Upon further research, page 4 defines "Community Area". Page 1 defines Exhibits A (81 parcels of filing No. 1) and Exhibit B (all additional property). The phrase, "Notwithstanding any other provision of this Declaration," created ambiguity. This entire request for this sketch plan should be dismissed/denied because the developer created ambiguity. He and his neighbors agreed that they would probably not have bought into their community had they known the developer could come back and make changes to the existing subdivision.

Mr. Bailey requested that Mr. Shecter focus on the criteria being reviewed today.

Mr. Shecter asked if adding 39-42 acres to their subdivision is acceptable and able to be used in this sketch plan? He stated the ambiguity should also result in dismissal. He stated the Cherokee Metro District has no ability to meet the requirements that the developer is seeking. The last time the water available in the aquifer was measured was 35 years ago. Population has increased by 87% since that time. How could it be determined that there is even a potential ability to provide water when no one has an idea of how much water remains in the aquifer? He read an article that each aquifer is being reduced by a certain percentage each year, he thinks the Dawson Aquifer was 5% reduction each year. How can the developer determine adequate usage for the next 300 years? Water is part of sketch plan determination.

Ms. Phillips wanted to address a claim made earlier that "everybody bends the rules". There is a variety of development types in Black Forest. Some have been grandfathered in, but everything since the Black Forest Preservation Plan was enacted has met the minimum of 5 acres. Regarding the reason behind 1 unit per 5 acres, lower density development keeps the drainage surface permeable. When the surface is covered by roadways, driveways, clubhouses, residences, a hotel, etc., those surfaces are no longer permeable and no longer being returned to the land. This will change the nature of the environment. Addressing Ms. Brittain Jack's earlier comment that there is a hotel in the existing community of Flying Horse, that area is adjacent to a more urban development, is west of Hwy 83, and is not within the Black Forest Preservation Plan area. A hotel may have been okay for Flying Horse west of Hwy 83, but this proposed hotel is in the middle of residential.

Ms. Shecter stated that the applicant is trying to sell the main point of tourism. The main concern current residents have is the hotel. The current residents did not intend to buy in an area that was going to be a tourist attraction. Regarding its placement, the golf course is only open 5 months a year. The nearest skiing is 2-2.5 hours away. There's no great lake or fishing. Using this hotel as a tourist drive doesn't make sense. You could sit in a hotel and watch TV in a denser area like Broadmoor or Breckenridge. Current residents bought into this area to get away from that. They were sold 2.5-5 acres and a certain number of lots. Not a hotel of this size.

Ms. Merriam is no longer present due to a scheduling conflict. There are now 8 voting members.

Mr. Stuepfert stated he wanted to keep the rebuttal short and address the concerns that also referenced the review criteria. Out of the 11 review criteria, he feels strongly that they meet 10. They will meet County Codes. The project is compatible. When you look at their proposed sketch plan, there is good land-use planning. The smaller lots are in the center and lot sizes get larger, up to 5-acre lots where it meets the surrounding area. Water: They provided information that they meet the water requirements at this stage. Services: There are letters that show those services are in place and will be provided. Geo-tech: soils are suitable for development. The only soils that are not were made open space. They are not interfering with mineral extraction. They meet most approval criteria. The one in question is the Master Plan. He stated they meet a lot of the elements in that document. He stated, "Are there some we don't meet? Absolutely. Those have been pointed out today. But we meet the intent of that Master Plan. We meet many of those items."

Mr. Balsick with Flying Horse Development stated he believes the plan is compatible. He stated the 2.5 and 5-acre lots are placed to be compatible. They are placed to keep separation. The higher density areas are interior. The hotel is in the center of the project. As central water and sewer is brought to the area, it is responsible growth. It's a sustainable plan. All ambiguities can be explained.

Ms. Fuller thanked Mr. Stauch for his presentation and it's address of the review criteria. She stated she would not be in favor of the project due to its placement in large-lot residential. It does not meet criteria to have a big hotel there. The currently approved PUD is compatible with 2.5-acre lots and makes sense. This seems disingenuous to have a developer say, "but we gave up 675 houses..." when you had only been approved 280+. She doesn't like the argument of what they gave back because what they're asking for is more use of the property than what the neighbors have. She doesn't think it's compatible with the Master Plan that it's large-lot residential or an area of limited change.

Mr. Trowbridge agreed with Ms. Fuller. He doesn't think the proposal is in conformance with the Master Plan. Even though it is a guiding document, one should follow that guidance to the maximum extent possible. As far as the review criteria, this is not in general conformance with the goals, objectives, or intent. The placetype is large-lot residential and is clear in the Plan. That means 2.5-acre plus lots with parks, open space, and *limited* commercial. A 275-key hotel does not fit. The applicant misidentified the area of change; this is meant to be a minimal change undeveloped area. This is not minimal change. There is a PUD in place that *is* in conformance with the Master Plan, but this proposal is not. This is a forested area. Specifically, the Black Forest is a key area that we want to protect. The nature of that area should be preserved. Criteria number 3 – it's not compatible with the existing land uses in that area. Even though water is not necessarily on the table, the supply is still questionable. Without the intention of disrespect, Cherokee Metro District has a history of not being able to do some things or satisfy their customers. To have that much commercial in this area is questionable. This area is in a recharge area for several aquifers. Removing the ability of the soils to absorb moisture seems like a bad idea. Criteria number 11 – this subdivision is not appropriate based on the area we're talking about.

Mr. Carlson agreed with both Ms. Fuller and Mr. Trowbridge. He added that the review criteria items A and C are the keystones, and the other criteria seems to follow. It's obvious that things are going to be done by the code, there's going to have to be water, services will need to be provided, geology must be good, etc. The important things are A and C. He doesn't think this project meets those. The hotel is problematic and doesn't fit in the neighborhood at all. Density: one of the objectives of the development criteria is that denser housing should occur in suburban residential, urban residential, rural, and other placetypes, but not in this one. The Master Plan specifically mentions Black Forest and the characteristics and how that area should be upheld. It's been said that the Master Plan is a guide, but it's our job to stick up for it. When people come in and want to do things other than that Master Plan, we need to fight for it. This development is too far from those criteria to accept. He is not in favor.

Mr. Bailey respectfully disagreed. He stated he believes the Master Plan anticipates something like this and gives enough reason to support a sketch plan that pursues this kind of development. He stated that it seemed to him most of what was heard is from people who don't live in this area. He thanked Mr. Shecter for representing views of people within Flying Horse. There were 300+ emails received but only 85 lots there right now, so most of the audience is coming from the outside. He stated none of the people from the outside use Stagecoach Rd. They can go around. He stated the developer has come up with a concept to use his property in a certain way. His understanding of the process is that they look at the Master Plan to ask, is this in general conformance with the majority of the elements? He says yes. He stated most of the disagreements heard were from the outside, and he said his opinion is that "If you don't like it, don't go through it". He stated that the developer, the landowner, has a right to use or pursue the use of his land the best way he sees fit, just as everyone else has the right to buy a house wherever they want. He believes the Master Plan set in place the conditions for any property owner in the County to make the best use of his/her land. He is in favor of this proposal.

Mr. Schuettpelz added to Mr. Bailey's comment that he is in favor of this application. The part he struggled with was the hotel, but it's in the middle. Regarding the Master Plan: If there had been a Master Plan in the 1970's, Academy Blvd was large-lot and Powers wasn't thought of. A Master Plan is a guide of what is thought to be projected in the future, but things change. The Master Plan was recently done because it didn't conform to anything. He stated the population has grown so much that growth is needed to the east, north, and south (can't go west). Development happens. The Master Plan is a guide but changes over time. He stated we need the lots. He likes the transition area and that the developer has created that progression within their own development. He is in favor of this project.

Mr. Moraes stated he was looking at the Master Plan and the implementation section has an entire section about guidance for evaluating land-use applications. There are 12 bullets that should be considered by PC and BOCC as they evaluate applications. While the Master Plan is not set in stone and it's not required that every single objective be met (the review criteria says general conformance), he stated that he finds this application does not meet a lot of the listed questions. He referenced the presentation and letter of intent, and he sees several things that are problematic. When the applicant used Monument as an example, Monument is right along the highway. They used Flying Horse, but that has a Powers extension. The examples they used as suburban residential areas close to their proposal all have major throughfares. If this were to be approved, the County would then have a suburban area in the middle of the Black Forest that other developments could then use as the criteria to establish more suburban residential. This project is what starts the Black Forest area becoming a suburban residential area. When considering the large-lot residential priority development area, the criteria in the Master Plan states we are to maintain and expand large-lot residential. He stated that this is exactly the opposite. The limited commercial should be limited to be a service to those in that area but putting a hotel in this area is not *that* scale of commercial. It was pointed out that the hotel is about tourism, but the forested area is not defined as a tourism land-use. He stated in looking at the Master

Plan's area of change (Minimal Change: Undeveloped area), this development proposal seems more like "New Development". His last concern regards the review criteria's list of 11 "musts", which he said he should be able to go down the list and check "yes" to each. Page 42, the Flying Horse North letter of intent, it is stated they meet a majority of the criteria. They say right there, in black and white, that they do not meet all the County's criteria. He is against this proposal.

Ms. Brittain Jack stated that if there were no more comments, she would like to make a motion. She stated this is a sketch plan, a concept plan, and that there will be a lot of work ahead of the developer in the community. She stated that in her experience with the developer, they will continue to work with the community. She stated there will be more about this coming to the PC. She thanked Mr. Bailey for articulating how she feels.

PC ACTION: BRITTAIN JACK MOVED / BAILEY SECONDED FOR APPROVAL OF REGULAR ITEM NUMBER 4C, SKP-22-003 FOR APPROVAL OF SKETCH PLAN, FLYING HORSE NORTH, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION FAILED (4-4).

IN FAVOR: BAILEY, BRITTAIN JACK, SCHUETTPELZ, RISLEY
IN OPPOSITION: CARLSON, FULLER, MORAES, TROWBRIDGE
COMMENT: No further comment made by those who voted no.

THIS ITEM WILL BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS WITH NO RECOMMENDATION FROM THE PLANNING COMMISSION.

5. Non-Action Items

Mr. Mastin thanked those members of the public who spoke for their professionalism.

MEETING ADJOURNED at 2:47 p.m.

Minutes Prepared By: Miranda Benson

FINAL PLAT (RECOMMEND APPROVAL)

Trowbridge 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, 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.

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.

Merriam seconded the adoption of the foregoing Resolution.

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

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

The Resolution was adopted by a vote of 8-0 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.

RESOLUTION NO. 22-

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.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

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.