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PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Thomas Bailey, Chair

FROM: Joseph Letke, Planner
Bret Dilts, PE, Senior Engineer
Meggan Herington, AICP, Executive Director

RE: Project File Number: MS243
Project Name: McLean-Hodgen Subdivision
Parcel Number: 6128100014

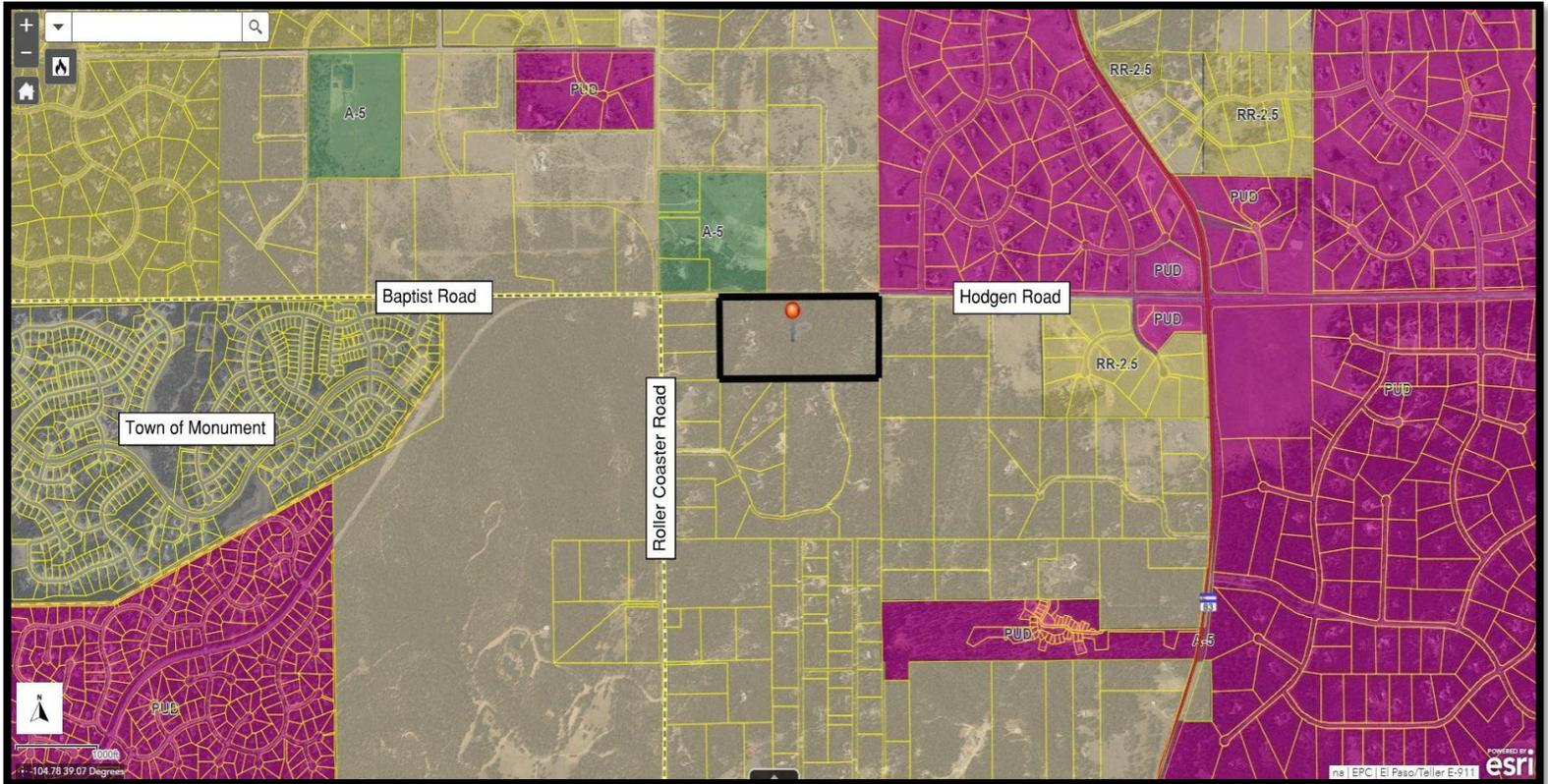
OWNER:	REPRESENTATIVE:
Susan Carson McLean 2415 Hodgen Road Colorado Springs, CO 80921	Vertex Consulting Services C/O Nina Ruiz 455 E Pikes Peak Ave STE 455 Colorado Springs, CO 80903

Commissioner District: 1

Planning Commission Hearing Date:	8/1/2024
Board of County Commissioners Hearing Date:	8/22/2024

EXECUTIVE SUMMARY

A request by Susan Carson McLean for approval of a Minor Subdivision to create two (2) single-family residential lots. The 38.68-acre property is zoned RR-5 (Residential Rural), which permits 5-acre lots. The created lots will be 20.25-acres and 18.41-acres in size. The property is located on the south side of Hodgen Road, approximately one tenth of a mile east of the intersection of Roller Coaster Road and Baptist Road.



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A. WAIVERS AND AUTHORIZATION

Waiver(s): There are no waivers associated with this request.

Authorization to Sign: There are no items requiring signature associated with this request.

B. APPROVAL CRITERIA

In approving a Minor Subdivision / 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 (As Amended):

- 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 this Code;
- 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;
- 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 (this finding may not be deferred to final plat if the applicant intends to seek administrative final plat approval);
- 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;
- 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 this Code and the ECM are provided by the design;

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- 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 in compliance with this 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 therefore, 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 this Code; and
- 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;
- 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 subdivision meets other applicable sections of Chapter 6 and 8; and
- The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.]

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C. LOCATION

North:	RR-5 (Residential Rural)	Residential
North:	PUD (Planned Unit Development)	Residential
North:	A-5 (Agricultural)	Agricultural
South:	RR-5 (Residential Rural)	Residential
East:	RR-5 (Residential Rural)	Residential
West:	RR-5 (Residential Rural)	Residential

D. BACKGROUND

This property was initially zoned January 3rd, 1955, when zoning was first initiated for this portion of El Paso County.

The property is a 38.68 unplatted parcel. The existing dwelling was constructed in 2000. All existing structures are proposed to remain on proposed Lot 1. The existing dwelling and accessory structures comply with all setbacks, lot coverage, and height standards of the RR-5 (Rural Residential) district for proposed Lot 1 of the subdivision.

E. ANALYSIS

1. Land Development Code and Zoning Analysis

The Minor Subdivision 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 (As Amended).

F. MASTER PLAN COMPLIANCE

1. Your El Paso County Master Plan

a. Placetype Character: Large-Lot Residential

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

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

Recommended Land Uses:

Primary

- *Single-Family Detached Residential (typically 2.5-acre lots or larger)*

Supporting

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

Analysis:

The property is located within the Large-Lot Residential Placetype. The subdivision proposal includes two new lots, 20 acres in size and 18 acres in size. Relevant goals and objectives are as follows:

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

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

Goal 2.4 - *Support aging-in-place housing options to meet residents' needs through all stages of life.*

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 an denser neighborhood could redevelop to a less intense suburban scale. Regardless of the development that may occur, if these areas evolve to a new development pattern of differing intensity, their overall character can be maintained.

Analysis:

The property is located in the Minimal Change: Developed area of change designation. This area of change includes isolated pockets of underutilized land which may see increased development.

c. Key Area Influences: Tri-Lakes Area

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

Analysis:

The property is located in the Tri-Lakes Area key area designation and is point one miles from the town limits of the Town of Monument.

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

2. Water Master Plan Analysis

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

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 2 of the Plan. The following information pertains to water demands and supplies in Region 2 for central water providers:

The Plan identifies the current demand for Region 2 to be 7,532 acre-feet per year (AFY) (Figure 5.1) with a current supply of 13,607 AFY (Figure 5.2). The projected demand in 2040 for Region 2 is at 11,713 AFY (Figure 5.1) with a projected supply of 20,516 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region is 2 is at 13,254 AFY (Figure 5.1) with a projected supply of 20,756 AFY (Figure 5.2) in 2060. This means that by 2060 a surplus of 7,502 AFY is anticipated for Region 2.

See the Water section below for a summary of the water findings and recommendations for the proposed subdivision.

3. Other Master Plan Elements

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

The Master Plan for Mineral Extraction (1996) identifies no significant resources 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.

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G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

Geologic hazards were identified during the review of the Minor Subdivision. The geologic hazard areas are depicted as no-build areas on the plat. The Colorado Geological Survey was sent a referral and has no outstanding comments.

2. Floodplain

The property is not located within a defined floodplain as determined by FEMA Flood insurance Rate Map panel number 08041C0285G which has an effective date of December 7, 2018.

3. Drainage and Erosion

The site generally drains from northeast to southwest through the Holley Subdivision and conveyed via the roadside swale of Roller Coaster Road where it outfalls to Smith Creek, approximately one mile south of the property. There is no requirement for detention on this site. The site is in the Smith Creek Drainage Basin (FOMO4000) which is a part of the El Paso County Drainage Basin Fee program. Drainage fees will be due at the time of Plat recording.

4. Transportation

A traffic study was not required as the proposed Minor Subdivision is not expected to generate 100 or more daily vehicle trips. The parcel obtains access from Hodgen Road West, which is owned and maintained by the County.

The El Paso County 2016 Major Transportation Corridors Plan (MTCP) Update depicts Hodgen Road West as a Major Collector roadway. The MTCP identifies Hodgen Road West as part of the 2040 roadway improvement plan. No County public improvements were determined to be required for Hodgen Road West with this application.

Access to Hodgen Road West will remain at the current location serving Lot 1, with an access easement to serve Lot 2. Lot 2 will not have direct access to Hodgen Road West. The property is subject to the El Paso County Road Impact Fee per Resolution 19-471. Driveway access permits are required for any new access points.

H. SERVICES

1. Water

Water will be provided by individual onsite wells. Water sufficiency has been analyzed with the review of the proposed subdivision. The applicant has shown a sufficient

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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 there is an adequate water supply in terms of quality.

2. Sanitation

Wastewater is provided by on-site wastewater treatment systems.

3. Emergency Services

The property is within and served by the Donald Wescott Fire Protection District Tri-Lakes Monument Fire District. The fire district will require access roads and driveways to meet or exceed the standards in the 2015 IFC and local amendments when development occurs.

4. Utilities

Electric service is provided by Mountain View Electric. Natural gas is provided by Black Hills Energy.

5. Metropolitan Districts

The property is not located in a metropolitan district.

6. Parks/Trails

Fees in lieu of park land dedication in the amount of \$920.00 for regional 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 \$616.00 shall be paid to El Paso County for the benefit of Lewis-Palmer School District 38 at the time of plat recording.

I. APPLICABLE RESOLUTIONS

See attached resolution.

J. STATUS OF MAJOR ISSUES

No major issues.

K. 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 (As Amended) 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 appropriate El Paso County staff.
7. 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

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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.

8. Drainage fees in the amount of \$19,134.36 and bridge fees in the amount of \$2,566.62 shall be paid to the Smith Creek drainage basin at the time of plat recordation.
9. Park fees in lieu of land dedication for regional parks in the amount of \$920.00 shall be paid at the time of plat recordation.
10. Fees in lieu of school land dedication in the amount of \$616.00. shall be paid to El Paso County for the benefit of Lewis-Palmer School District 38 at the time of plat recording.
11. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated July 15, 2024, as provided by the County Attorney's Office.

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.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified eighteen (18) adjoining property owners on July 17, 2024, for the Planning Commission and Board of County Commissioner meetings. Responses will be provided at the hearing.

M. ATTACHMENTS

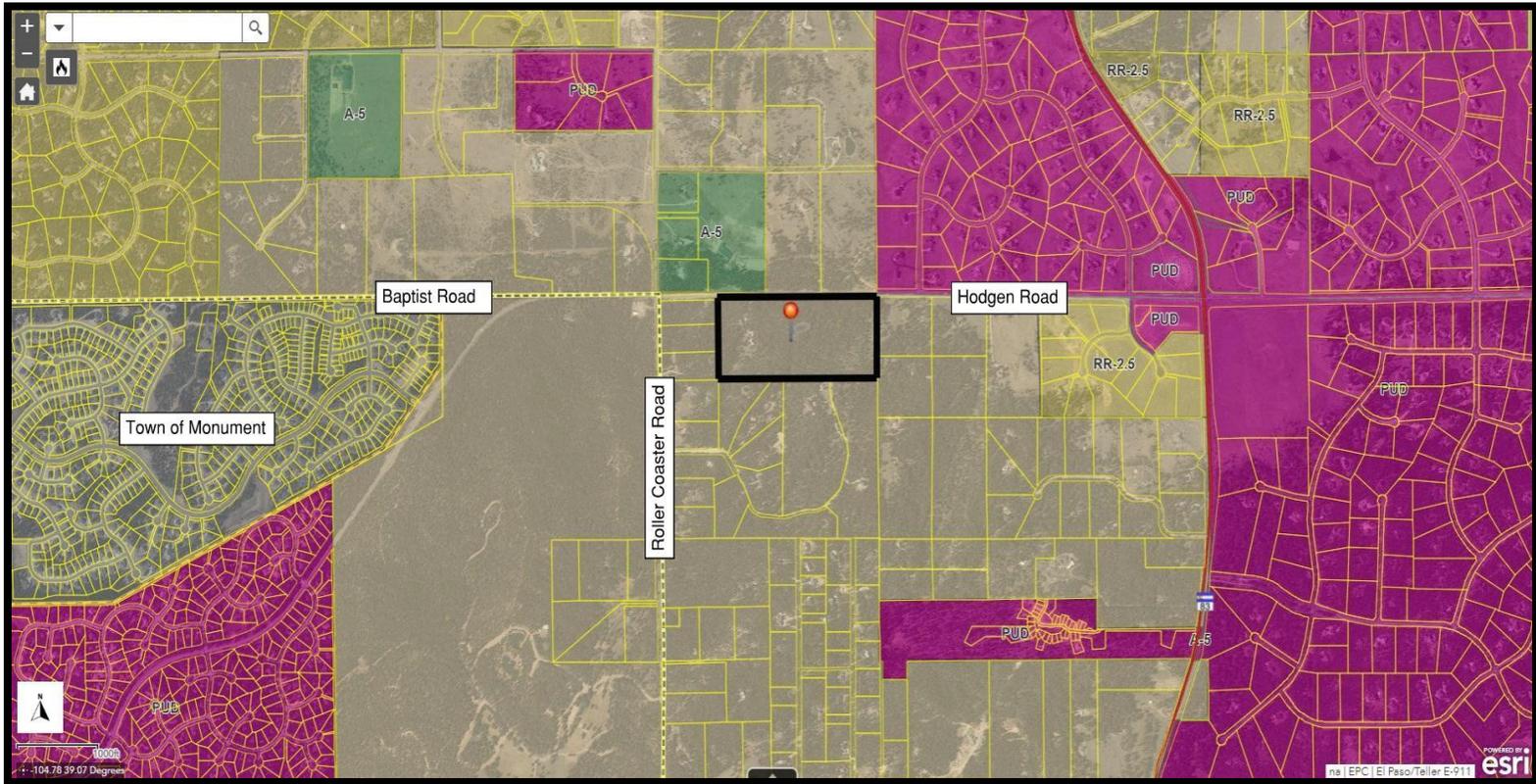
Map Series
Letter of Intent
Plat Drawing
County Attorney's Letter
Draft Resolution

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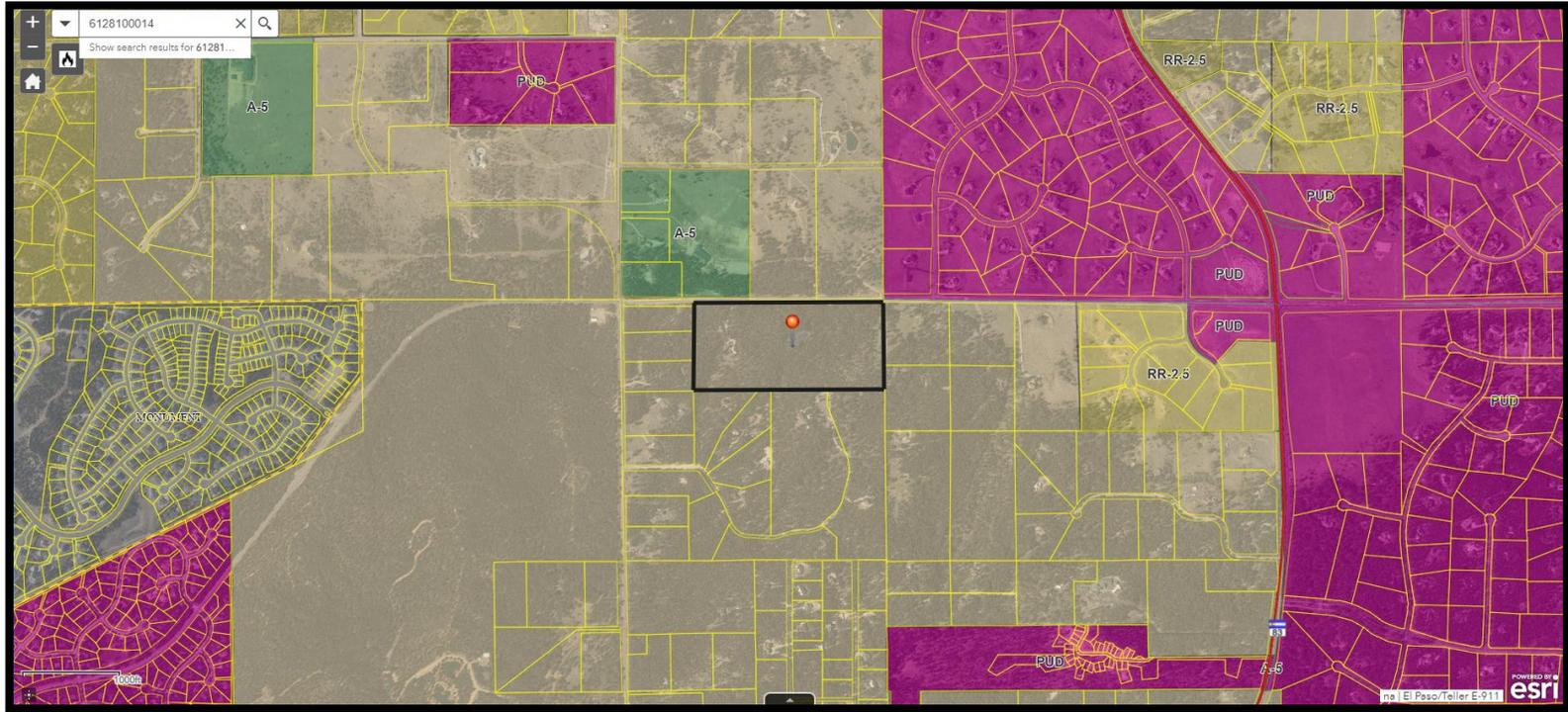


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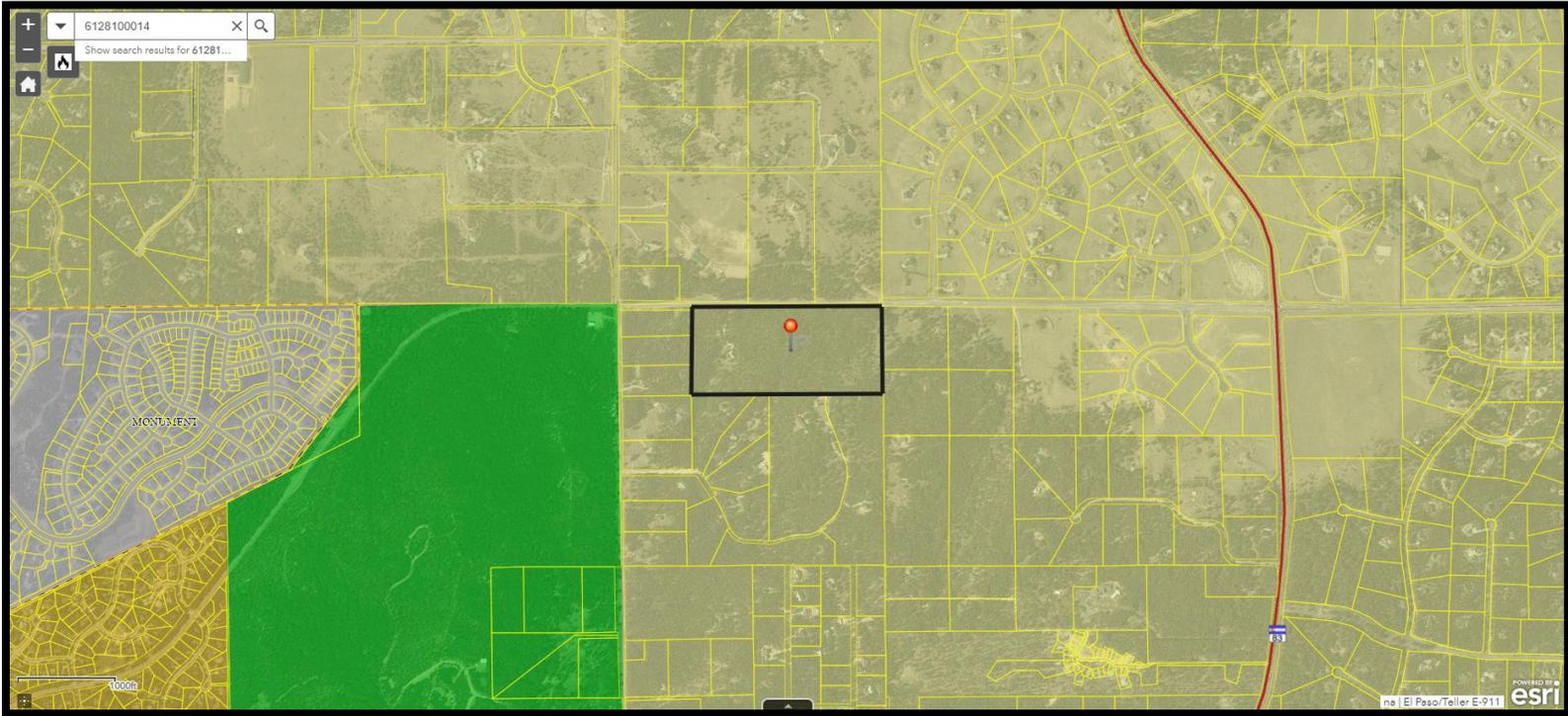
Map Exhibit #1: Aerial



Map Exhibit #2: Zoning

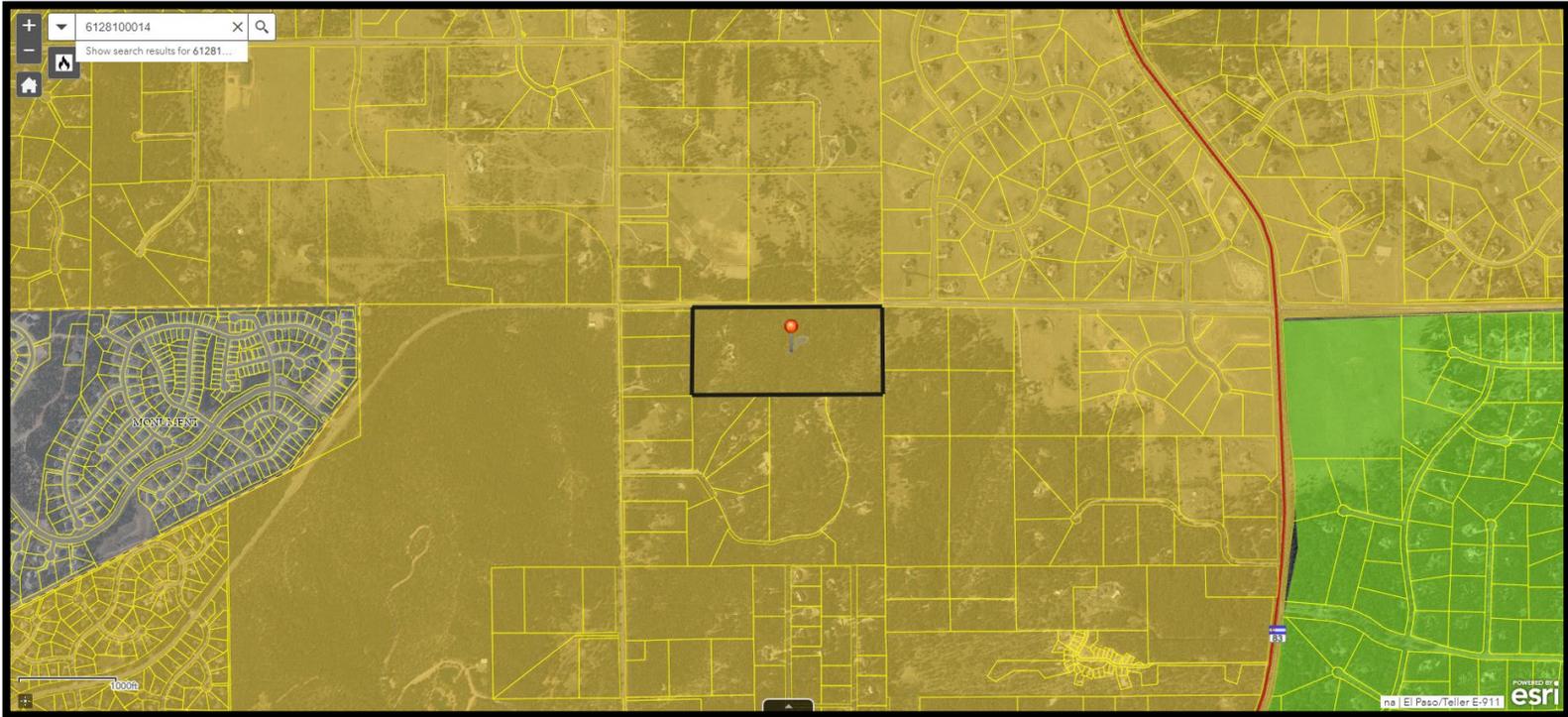


Map Exhibit #3: Placetype



- ### Legend
- Rural
 - Large-Lot Residential
 - Suburban Residential
 - Urban Residential
 - Rural Center
 - Regional Center

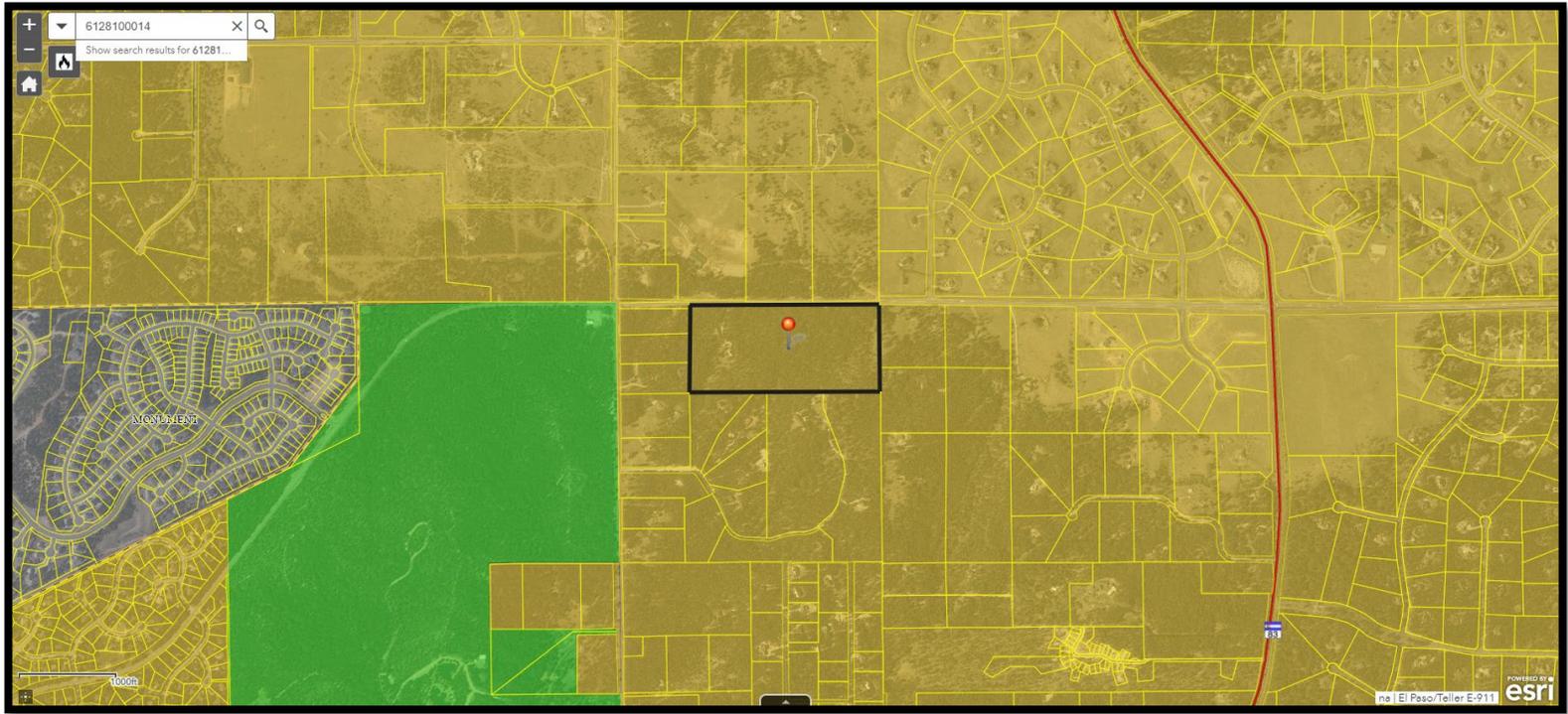
Map Exhibit #4: Key Areas Of Influence



Legend

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

Map Exhibit #5: Area of Change



Legend

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



Vertex Consulting Services, LLC
455 Pikes Peak Avenue, Suite 101
Colorado Springs, CO 80903-3672
719-733-8605

**McLean Subdivision
Letter of Intent**

February 22, 2024

PCD File # MS243

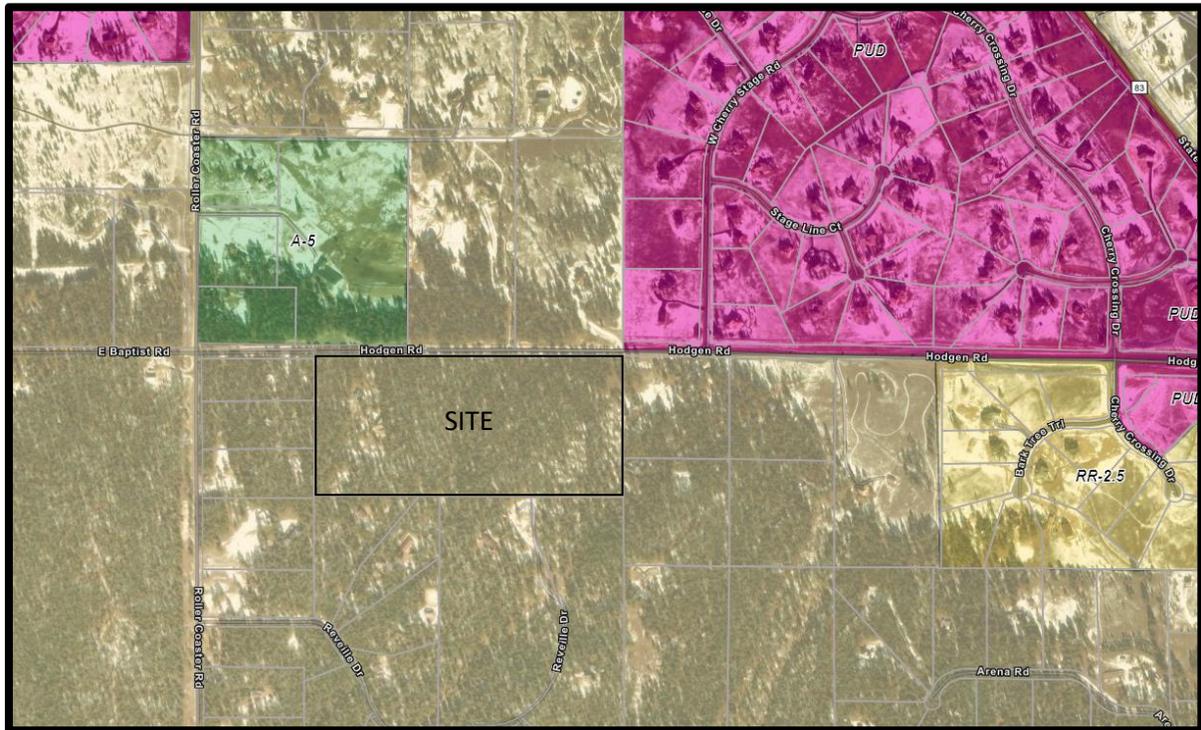
Susan Carson McLean
2415 Hodgen Road
Colorado Springs, CO 80921

Planner: Vertex Consulting Services, LLC, Nina Ruiz
455 E Pikes Peak Avenue, Suite 101
Colorado Springs, CO 80903
719-733-8605
Nina.ruiz@vertexcos.com

Tax Schedule No: 6128100014
Acreage: 38.68 Acres
Zoning: RR-5 (Residential Rural)

Site Location, Size, Zoning:

Vertex Consulting Services, LLC, on behalf of Susan McLean, is respectfully submitting an application for a 2-lot subdivision within the RR-5 zoning district. The proposed subdivision is compatible with the surrounding planned and existing developments and is consistent with the Your El Paso Master Plan.



Utilities

Mountain View Electric Association (MVEA) provides electric service and Black Hills Energy provides natural gas service to the area and have provided commitment to serve the lots within the subdivision. The new dwelling will be served by an individual onsite wastewater treatment system and individual well. The Onsite Wastewater Treatment System (OWTS) Report prepared by Entech Engineering Inc. demonstrates the soils are suitable for OWTS design and construction. The Water Resources Report prepared by Monson, Cummins, Shohet & Farr, LLC identifies there is adequate water in terms of quantity, quality, and dependability to support the BoCC making a finding of sufficiency.

Request:

A request for approval of a 2-lot minor subdivision within the RR-5 zoning district.

Justification:

The pages that follow address each one of the criteria included within Section 7.2.1 (minor subdivision) of the El Paso County Land Development Code.

Minor Subdivision (Preliminary Plan & Final Plat Criteria)

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

Please review the Master Plan analysis below.

The subdivision is consistent with the purposes of the Land Development Code (“Code”).

Section 1.4 of the Land Development Code identifies the purpose of the Code. Below is the Code citation with the italic wording indicating how the proposed subdivision furthers the intended purpose.

“This Code is adopted for the purpose of preserving and improving the public health, safety and general welfare of the citizens and businesses of El Paso County. More specifically, it is the purpose of this Code to:

- Implement the Master Plan and related elements.
See the Master Plan section below for an analysis of how the proposed subdivision conforms to the Master Plan.
- Promote predictability, consistency and efficiency in the land development process for residents, neighborhoods, businesses, agricultural and development interests.
The application has been submitted and reviewed in compliance with the Land Development Requirements and applicable procedures.
- Ensure appropriate opportunities for participation and involvement in the development process by all affected parties.
Adjacent property owners were notified of the request. No responses have been received to date.
- Be fair to all by ensuring due consideration is given to protecting private property rights, the rights of individuals and the rights of the community as a whole.
The requested subdivision will not infringe upon the rights of the surrounding properties.
- Guide the future growth and development of the County in accordance with the Master Plan.
See the Master Plan section below for an analysis of how the proposed subdivision conforms to the Master Plan
- Guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other

public requirements and facilities.

The proposed subdivision will result in an additional 10 ADT, which the surrounding roadway network can handle. The two proposed lots will share one access point. The water and wastewater reports submitted with the subdivision application demonstrate sufficient water and that wastewater can be treated with an onsite wastewater treatment system. Park and school fees will be paid at the time of plat recordation.

- Establish reasonable standards of design and procedures for subdivision and resubdivision in order to further the orderly layout and use of land and to ensure proper legal descriptions and monumenting of subdivided land.

All standards are being met.

- Ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision, and, in so doing, ensure that current residents will be required to bear no more than their fair share of the cost of providing the facilities and services by requiring the developer to pay fees, furnish land, or establish mitigation measures to cover the development's fair share of the capital facilities needs generated by the development.

Commitment letters have been submitted for fire protection, electric service, and natural gas service. The road impact fee will be paid at the time of building permit for any new dwelling proposed.

- Prevent the pollution of air, streams, and ponds; assure the adequacy of drainage facilities; and encourage the wise use and management of natural and biological resources throughout the County in order to preserve the integrity, stability, and beauty of the community and the value of the land.”

There are no significant natural features within the subdivision that should be preserved. The drainage report identifies that the existing natural drainage onsite will not be significantly impacted by the proposed subdivision and that no additional improvements are required. The potentially seasonally wet areas are identified as no-build on the plat drawing.

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.

All design considerations listed in Section 8.4.1 of the Land Development Code have been met. Seasonally wet areas have been found on the lots, which have been depicted as a no-build area on the plat.

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.

The water resources report prepared by James Tilton recommends sufficient water in terms of water quantity, quality, and dependability.

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.

An onsite wastewater treatment system report prepared by Entech Engineering Inc. has been submitted and identifies the proposed lots may be served by individual septic systems.

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)].

Seasonally wet areas have been found on the lots, which have been depicted as a no-build area on the plat.

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 drainage report prepared by HR Green identifies no drainage improvements are required for the proposed subdivision.

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.

Due to the size and scale of the subdivision, impacts related to the proposed subdivision will be negligible, therefore, no public improvements are required.

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.

Legal physical access is being provided to each lot through a shared driveway. The dedication of open space is not required for this 2-lot subdivision. Potentially seasonally wet areas have been found, which have been depicted as a no-build area on the plat.

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 Monument Fire Protection District has provided a commitment letter. Commitment letters have also been provided by Mountain View Electric Association as well as Black Hills Energy. The existing County roadway network is capable of handling the anticipated additional 10 Average Daily Trips.

The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.

The Fire Protection Report meets all requirements of Section 6.3.3, Fire Protection and Wildfire Mitigation. Each lot will comply with the wildland fire and hazard mitigation plan submitted in support of this application.

The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.

The proposed subdivision meets all applicable sections of Chapters 6 and 8 of the Code including drainage, fire protection and wildfire mitigation, transportation systems, water supply, wastewater disposal, and geology and soils standards.

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.

The only anticipated off-site impact is additional traffic, however, the one additional dwelling will not generate a significant amount of traffic and the existing roadway network can easily handle the additional traffic.

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 proposed subdivision will be served by a shared driveway and will not require any public infrastructure improvements.

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

The mineral rights have not been severed from the land.

Master Plan Elements

Below is an analysis of the various El Paso County Master Plan elements.

Your El Paso County Master Plan Analysis

Chapter 1 of Your El Paso Master Plan (2021) states that the Plan is “general in nature-it cannot tackle every issue in sufficient detail to determine every type of necessary action.” In addition, Chapter 1 goes on to state that the Plan “is intended to provide clearer and more coordinated policy, resulting in a document that effectively communicates County goals and identifies specific actions to achieve both County-wide and local area objectives.” When taken together, these two statements suggest to the reader that the Plan may only address certain issues at a cursory level and that specific steps or actions for addressing such issues may not be offered within the Plan. That conclusion is certainly the case in numerous instances and with regard to a variety of topical areas. However, where that is not the case is with respect to the requested subdivision, as identified below.

Key Area Analysis

The subject property is identified in the Plan as being within the Tri Lakes Key Area. The Plan further describes the Key Areas as:

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

The property is zoned RR-5 and is surrounded by the RR-5 zoning district to the west, south, and east. To the north is a mix of A-5, RR-5 and PUD. The property owner is requesting a 2-lot minor subdivision to create one 20.25-acre lot and one 18.41-acre lot. The surrounding parcels range in size from 4.5 acres to 23 acres. The proposed lot size aligns with the rural character of the surrounding development.

Area of Change Analysis

The subject property is identified in the Areas of Change map within the Plan as being within the

“Minimal Change: Developed” area of change.

Page 21 of the Plan characterizes areas of “Minimal Change: Developed” by stating:

“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.” (Emphasis added)

The subject property is currently developed with a single-family residence and is surrounded by other residential properties and with lot sizes of 4.5 acres or greater. The Master Plan anticipates some redevelopment as long as the character can be maintained. As discussed above, the proposed subdivision is in conformance with the existing densities of the surrounding properties.

Placetype Analysis

The subject property is shown on the Placetypes map of Your El Paso Master Plan as being within the Large-Lot Residential Placetype.

Page 26 of the Plan identifies the following land uses as being Primary Land Uses within the Large-Lot Residential Placetype:

- Single-Family Detached Residential (typically 2.5 acre lots or larger)

In addition, the Placetype includes the following Supporting Land Uses:

- Parks/Open Space
- Commercial Retail
- Commercial Service
- Agriculture

The Large-Lot Residential Placetype is described further on page 26 as follows:

“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 wastewater 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.” (emphasis added)

The placetype specifically identifies lot sizes of 2.5 acres or greater as being supported within the placetype. The proposed lots significantly exceed the 2.5 acre limitation.

El Paso County Water Master Plan

The Executive Summary from the Water Master Plan (2018) states that “The Plan Water Master Plan (WMP) was developed for the Board of County Commissioners, El Paso County officials and staff, developers, citizens, and water providers within the County for the purpose of identifying and addressing water supply issues earlier in the land use entitlement process.” A water sufficiency finding is being requested with subdivision. It should be noted that the Water Master Plan only contemplates centralized providers and did not provide an analysis for individual well, as is proposed here.

The subject property is located within Planning Region 2 of the Water Master Plan, pursuant to Figure 3-1 on page 25. The Plan identifies the current supply and demand forecasts at full build out (year 2060) for each of the Planning Regions. The Table indicates that the current water supplies for Region 2 amounts to 13,607 AF of water per year with 2060 being 20,756 AF of water per year; therefore, there is projected to be a surplus supply of water for central water providers in this region of the County.

A Water Resources Report has been submitted with the subdivision application. The report identifies there is sufficient water in terms of water quantity, quality, and dependability for the lots included in the subdivision.

El Paso County Parks Master Plan

The El Paso County Parks Master Plan (2022) depicts Fox Run Trail along Hodgen Road. An additional easement and/or right-of-way have not been requested or required. Fees in lieu of dedication will be provided with the subdivision.

2016 Major Transportation Corridors Plan (MTCP)

The 2016 MTCP depicts Hodgen Road as a Major Collector roadway with an ultimate right-of-way width of 100 feet. A traffic impact study is not required pursuant to ECM Appendix B, ECM Chapters 1.6 and 1.16 as the proposed subdivision will not result in traffic in excess of 100 ADT or 10 trips at the peak hour, there are no additional minor or major roadways being proposed, there will be no change in the type of traffic to be generated, the subdivision will not result in a change to the LOS for Hodgen Road, and there is no proposed access onto a State Highway. The subdivision is anticipated to result in an average of 10 additional trips per day.

Other Topical Elements of the County Master Plan

The proposed subdivision is in compliance with the other topical elements of the County Master Plan, including the Master Plan for Mineral Extraction, and the El Paso County Wildlife Habitat Maps and Descriptors.

MCLEAN SUBDIVISION

BEING A PART OF THE NORTHEAST QUARTER OF SECTION 28,
TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF EL PASO, STATE OF COLORADO.

PARCEL DETAILS

Address: 2415 Hickets Road, Colorado Springs, Colorado, 80921-1601
APN/Parcel ID: B78100014
Owner of Record: Susan Carson McLean, Phone: 301-502-0791

OWNER'S CERTIFICATION AND DEDICATION

The undersigned, being all the owners, mortgagees, beneficiaries of deeds of trust and holders of the land described herein, have laid out, subdivided, and platted said land into Lots and easements as shown hereon unto the name and style of MCLEAN SUBDIVISION.

Susan Carson McLean, Owner _____ Date _____

State of Colorado)
County of El Paso) ss

The foregoing plat was Acknowledged before me on this _____ day
of _____, 20____, A.D. by Amy Berisford and Chris Berisford,
owners.

Witness my hand and official seal

Notary Public _____

My Commission Expires: _____

BOARD OF COUNTY COMMISSIONERS CERTIFICATE:

This plat of MCLEAN SUBDIVISION was approved for filing by the El Paso County, Colorado Board of County Commissioners on this _____ 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, tracts, 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.

Chair, Board of County Commissioners _____ Date _____

Planning and Community Development Director _____

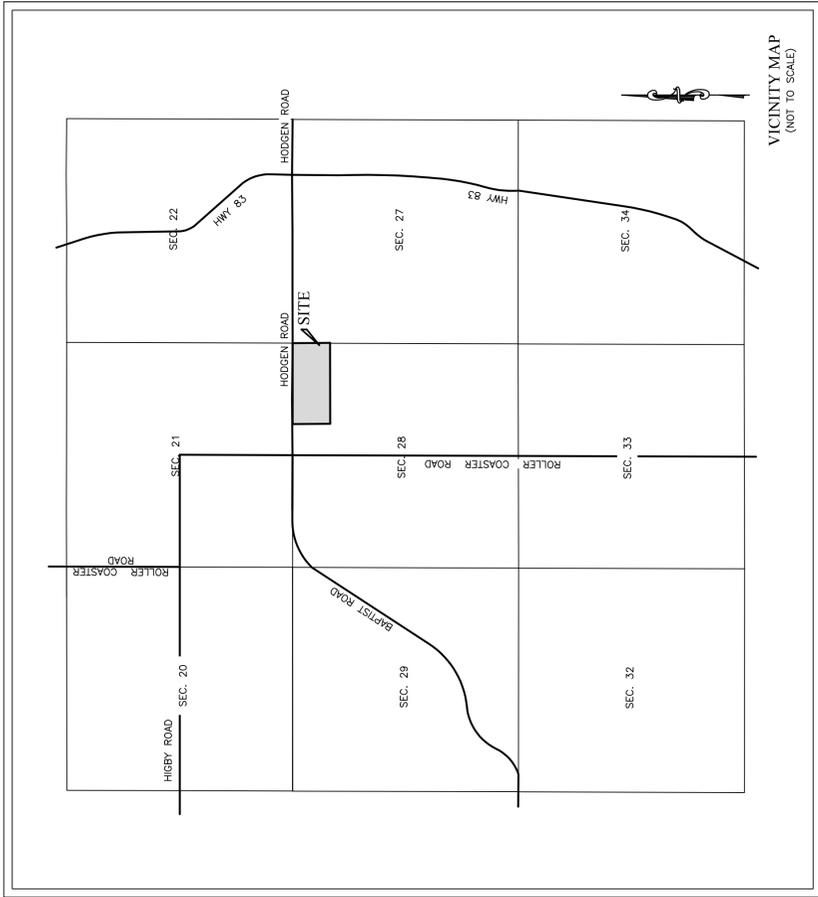
FEES:

Drainage Fee: _____

School Fee: _____

Bridge Fee: _____

Park Fee: _____



LEGAL DESCRIPTION

That portion of the Northeast quarter of Section 28, Township 11 South, Range 66 West Beginning at the Northeast corner of said Section 28; thence Westerly on the Northern line thereof 1909.71 feet to the Northeast corner of a tract of land described in Book 204206079 of the Eastern line of said Section 28; thence South 89°26'03" Easterly, parallel with the Northern line of said Section 28; 1911.62 feet to intersect a point on the Eastern line of said Section; thence angle 90°3'09" Northerly to a point on the Eastern line of said Section; thence South 89°26'03" Easterly, parallel with the right-of-way for access and utility purposes lying Easterly and Southerly and adjoining the Eastern and Southerly lines of said recorded tract, recorded in Book 1121 at Page 163 of Reception No. 204206079.

County of El Paso, State of Colorado.

(Per Warranty deed by reception No. 212093277 per Commonwealth Land Title Insurance Company title report No. 596-H50825084-416

AREAS OF CONCERN

(AOC#1): Portion of rock landscaping encroaches westerly onto subject parcel, as graphically depicted on this Subdivision Plat, causing an area of concern.
(AOC#2): Portion of westerly adjacent monuments falls westerly of subject parcel boundary, as graphically depicted on this Subdivision Plat, and falling short of projected boundary line. The monuments are located on the Eastern and Southern lines of said lying Easterly and Southerly and adjoining the Eastern and Southerly lines of said recorded tract, recorded in Book 1121 at Page 163, causing an area of concern.

PLAT NOTES

- 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. The easement shall be subject to the same terms and conditions as the easements is hereby vested with the individual property owners.
- The addresses exhibited on this plat are for informational purposes only. They are not the legal description and are subject to change.
- No driveway shall be established unless an access permit has been granted by El Paso County.
- Mailboxes shall be installed in accordance with all El Paso County and United States Postal Service regulations.
- Sewage treatment is the responsibility of each individual property owner. The El Paso County Health Department may require an engineer designed system prior to permit approval. These systems may cost more to design, install, and maintain.
- 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.
- Ingress and egress to Hodgen road with current driveway serving lot 1, with Access Easement to serve Lot 2 access to Hodgen road. Lot 2 shall not have direct access to Hodgen Road.
- The Federal Emergency Management Agency, Flood Insurance Rate Map No. 0804100285C, effective date of December 07, 2016, indicates this parcel of land to be located in Zone X (Areas of minimal flood hazard).
- The Parcel is currently Zoned RR-5.
- The following reports have been submitted in association with the Final Plat for this subdivision and are available for review with the El Paso County Planning and Development Department; Transportation Impact Study; Drainage Report; Water Resources Report; Wastewater Disposal Report; Geology and Soils Report; Fire Protection Report; Wildfire Hazard Report; Natural Features Report.
- All Property owners are responsible for maintaining proper storm water drainage in and through their property. Public drainage easements are specifically noted on the plat and shall be maintained by the individual lot owners unless otherwise indicated. Structures, fences, materials or landscaping that could impeded the flow of runoff shall not be placed in drainage easements.
- Developer shall comply with federal and state laws regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including but not limited to the State Department of Natural Resources, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act.
- Individual lot purchasers are responsible for constructing driveways, including necessary permits for construction, and for obtaining all necessary permits for construction and 6.333.C3. Due to their length, some of the driveways will need to be specifically approved by the Monument Fire District.
- Due to wildlife concerns, homeowners are encouraged to incorporate wildlife fuel break provisions available through the State Forest Service, LDC 6.3.3.
- The following lots have been found to be impacted by geologic hazards. Mitigation Report by Entech Engineering Inc. dated January 26, 2024 in file MS243 available at the El Paso County Planning and Community Development Department: Potentially Seasonally High Groundwater: Lots 1 and 2.
- Individual investigations for new building sites and septic systems will be required prior to construction.

SURVEYOR'S CERTIFICATE

I, Danny Rodic, a duly registered Professional Land Surveyor in the State of Colorado, do hereby certify that this plat truly and correctly represents the results of a survey made on the date of survey, by me and my duly licensed assistants and that all survey lines are shown in accordance with the applicable laws of the State of Colorado, and that said plat 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.

I attest the above on this _____ day of _____, 20____.

Surveyor's Name, (Signature) _____ Date _____
Colorado Registered PLS #53759

CLERK AND RECORDER:

State of Colorado)
County of El Paso) ss

I certify that this instrument was filed for record in my office at _____ O'Clock
_____M., this _____ day of _____, 20____ A.D.
and is duly recorded in plat book _____ at page number _____
under Reception No. _____ of the records of El Paso County,
Colorado.

Fee: _____

By: _____
El Paso County Clerk and Recorder

PDC File No: MS243

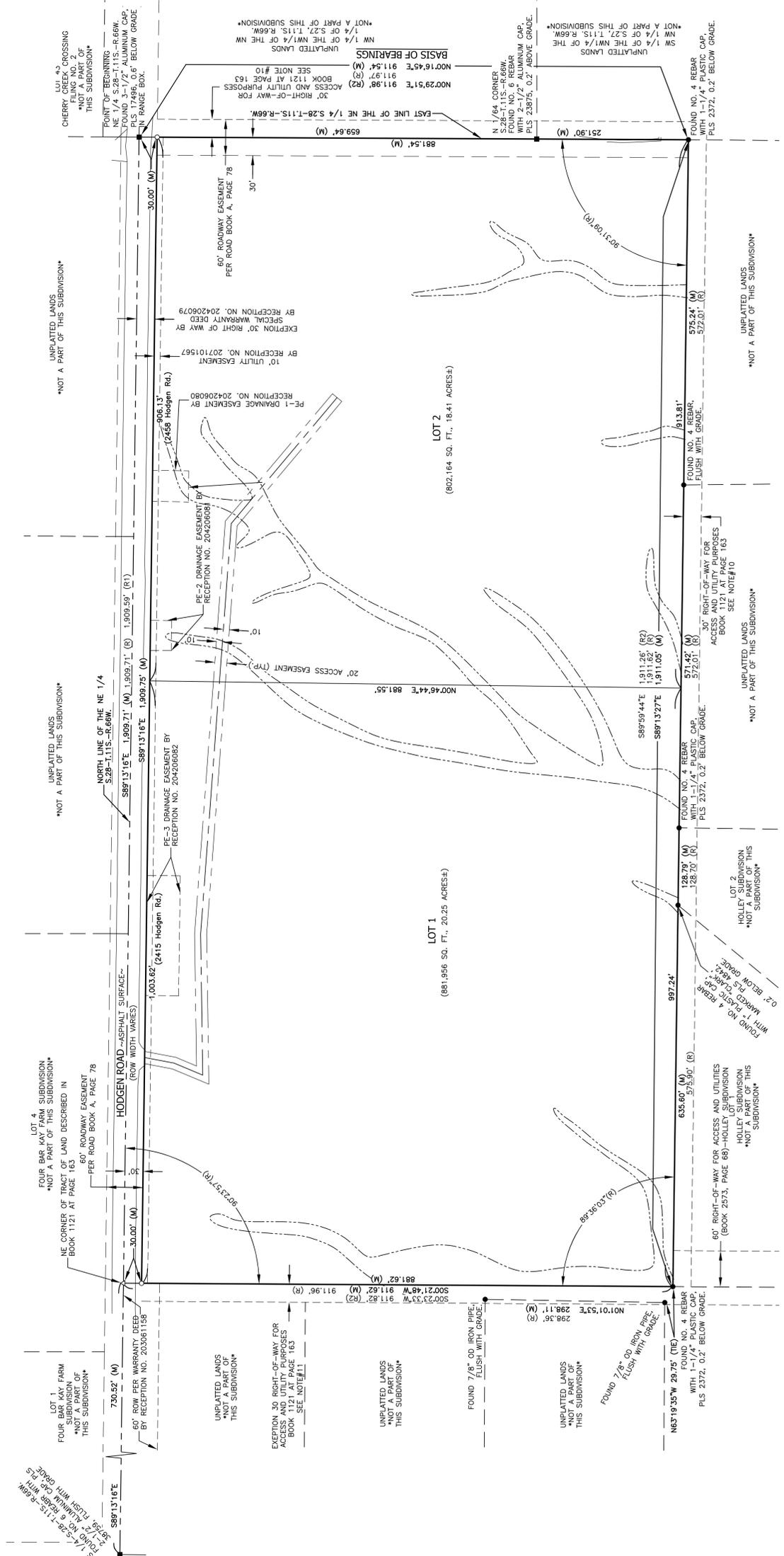
DATE:	APRIL 12, 2024	REVISIONS	REMARKS	BY	
No.	1.		County comments dated 04-09-2024	DDR	
Field:	TJM	Drawn:	TJM/DDR	Checked:	DDR

APEX
LAND SURVEYING AND MAPPING, LLC

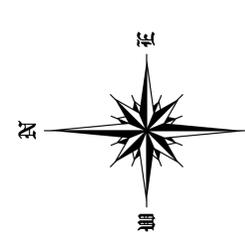
5855 Lehman Drive, Suite 102
Colorado Springs, CO 80918
Phone: 719-318-0377
E-mail: info@apexsurveyor.com
Website: www.apexsurveyor.com

MCLEAN SUBDIVISION

BEING A PART OF THE NORTHEAST QUARTER OF SECTION 28,
TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF EL PASO, STATE OF COLORADO.



- LEGEND**
- PLS MONUMENT FOUND AS NOTED
 - MONUMENT FOUND AS NOTED
 - USGS BENCHMARK NO. 4295 RESET
 - ▲ FOUND 1/2" ALUMINUM ROD
 - FOUND NO. 5 REBAR WITH 1-1/4" PLASTIC CAP, PLS 2372, 0.2' BELOW GRADE.
 - FOUND NO. 4 REBAR WITH 1-1/4" PLASTIC CAP, PLS 2372, 0.2' BELOW GRADE.
 - (R) RECORD VALUE
 - (M) MEASURED VALUE
 - AREA OF CONCERN
 - BREAK SYMBOL
 - NO BUILD AREAS



DATE	REVISIONS	REVISIONS	By
April 12, 2024			DDR
1.	County comments dated 04-09-2024	04-19-2024	DDR

Drawn: TJM/DDR Checked: DDR
Field: TJM

PDC File No: MS243
APEX Land Surveying and Mapping LLC
5855 Lehman Drive, Suite 102
Colorado Springs, CO 80918
Phone: 719-318-0377
E-mail: info@apexsurveyor.com
Website: www.apexsurveyor.com
PROJECT No.: 23077
SHEET 2 OF 2

County Attorney

Kenneth R. Hodges, County Attorney
719-520-6485
Centennial Hall
200 S. Cascade, Suite 150
Colorado Springs, CO 80903
www.ElPasoCo.com

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

July 15, 2024

MS-24-3 McLean Minor Subdivision

Reviewed by: Lori L. Seago, Senior Assistant County Attorney
April Willie, Lead Paralegal

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a proposal for approval of McLean Minor Subdivision, an application by Susan McLean (“Applicant”) to subdivide a parcel of 38.68 acres of land (the “property”) into two single-family residential lots. 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 1.76 acre-feet/year. The estimated uses are not delineated in the WSIS. Based on this total demand, Applicant must be able to provide a supply of 528 acre-feet of water (1.76 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 the not-nontributary Dawson aquifer as provided in the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 2023CW3041 (“Decree”). The groundwater decreed underlying the property includes 2,980 acre-feet of water in the Dawson aquifer. The Decree approved the pumping of up to 2.28 acre-feet per year for a maximum of 300 years for up to three (3) new wells and 1.0 acre-feet per year for a maximum of 300 years for an existing exempt well.

There is an exempt domestic well currently located on the Applicant’s property under Well Permit No. 223432. This well will continue to be used on one of the subdivided lots and will not be included in the augmentation plan based on the Decree. 300 acre-feet of the Dawson aquifer water

ASSISTANT COUNTY ATTORNEYS

NATHAN J. WHITNEY
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PC Report Packet

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TERRY A. SAMPLE

LORI L. SEAGO
ERIKA KEECH

BRYAN E. SCHMID
STEVEN W. MARTYN

MERI GERINGER
DOREY L. SPOTTS

underlying the property should be reserved for use by this permitted well which may pump up to 1.0 acre-feet per year.

The approved augmentation plan has a term of 300 years and requires that non-evaporative septic system return flows be used for augmentation during the pumping period for the approved well yet to be constructed.¹ Applicant must reserve 1,100 acre-feet of its water rights in the Laramie-Fox Hills aquifer which shall be used for replacement of post-pumping depletions. The well yet to be constructed in the Dawson aquifer may pump up to 0.76 acre-feet per year.

State Engineer's Office Opinion

4. In a letter dated June 26, 2024, the State Engineer broke down the estimated annual water requirement totals, including Lot 1, which has an existing well under permit no. 223432 allowing withdrawal from the Dawson aquifer in the amount of 1.0 acre-feet annually for household use, irrigation of lawn and gardens, watering of domestic animals and stock and fire protection, and Lot 2 utilizing 0.76 acre-feet for household use, lawn and garden irrigation, and livestock watering. The State Engineer noted that the wells will produce from the not-nontributary Dawson aquifer pursuant to the augmentation plan decreed in Case No. 2023CW3041.

Finally, the State Engineer provided their opinion, “. . . 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.”

Recommended Findings

5. Quantity and Dependability. Applicant's water demand for the McLean Minor Subdivision is 1.76 acre-feet per year for a total demand of 528 acre-feet for the subdivision for 300 years. The Decree allows for the permitted well to withdraw 1.0 acre-feet from the Dawson aquifer for a total of 300 acre-feet over 300 years and the Augmentation Plan allows for up to three additional (3) wells to withdraw water from the Dawson aquifer for a maximum withdrawal of 2.28 acre-feet per year (0.76 acre-feet per lot), for a total of 684 additional acre-feet over 300 years.

Based on the water demand of 1.76 acre-feet/year for McLean Minor Subdivision and the Decree's allowable amount of 1.0 acre-feet per year for the permitted well on Lot 1 and up to 0.76 acre-feet per year for the additional well for Lot 2, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for McLean Minor Subdivision.

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.**

¹ The augmentation plan does not apply to the permitted well #223432.

7. **Basis.** The County Attorney's Office reviewed the following documents in preparing this review: a *Water Resources Report* dated December 2023, the Water Supply Information Summary, the State Engineer's Office Opinion dated February 9, 2024, and Findings of Fact, Conclusions of Law, Ruling of the Referee and Judgment and Decree in Division 2 Case No. 2023CW3041 entered on April 6, 2023. 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 Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 2023CW3041, specifically, that water withdrawn from the Dawson aquifer by the not yet constructed well shall not exceed 0.76 annual acre-feet, and the exempt well under permit no. 223432 shall not withdraw in excess of 1.0 annual acre-feet based on a total combined annual withdrawal of 1.76 acre-feet. Depletions during pumping for the not yet constructed well shall be replaced by individual on-lot non-evaporative septic systems.

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, when only one well is subject to the augmentation plan, 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, their successors and assigns, regarding all applicable requirements of the Findings of Fact, Conclusions of Law, Ruling of the Referee and Judgment and Decree in Division 2 Case No. 2023CW3041.

Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve at least 528 acre-feet of Dawson aquifer water and 1,100 acre-feet of Laramie-Fox Hills aquifer water pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 2023CW3041 to satisfy El Paso County's 300-year water supply requirement for the 2 lots of the McLean Minor Subdivision. The Covenants shall further identify that 300 acre-feet of Dawson aquifer water is allocated to Lot 1, and that 228 acre-feet (0.76 acre-feet/year) of Dawson aquifer water and 366.66 acre-feet of Laramie-Fox Hills aquifer water is allocated to Lot 2, in accordance with the Augmentation Plan. Said reservations shall not be separated from transfer of title to the property and shall be used exclusively for primary water supply and augmentation.

2) Advise of responsibility for costs. The Covenants shall advise the lot owners and their successors and assigns of their obligations regarding the costs of operating the plan for augmentation, which include pumping of the Dawson well on Lot 2 in a manner to replace depletions during pumping and the cost of drilling a Laramie-Fox Hills aquifer well 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 the owner of Lot 2 to use a non-evaporative septic system to ensure that return flows from such systems are made to the stream system to replace actual 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 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 Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 23CW3041 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 the 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 existing and future wells in the Dawson an/or Laramie-Fox Hills aquifers.

6) Require well permits. The Covenants shall require that well permits be obtained pursuant to the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 23CW3041 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 McLean Minor Subdivision pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 23CW3041. 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 2 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 determination.”

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 Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 23CW3041 are also terminated by the Division 2 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 528 acre-feet. 300 acre-feet (1.0 acre-feet per year) for Lot 1 and 228 acre-feet (0.76 acre-feet per year) for Lot 2 as well as 1,100 acre-feet of Laramie-Fox Hills aquifer water (366.66 acre-feet per year per lot for up to 3 lots). 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 these reserved Dawson aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Dawson and/or Laramie-Fox Hills aquifers underlying the respective lots 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 McLean Minor Subdivision. 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 Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 2 Case No. 2023CW3041 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 agreements, assignments, 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: Joe Letke, Project Manager, Planner

FINAL PLAT (RECOMMEND APPROVAL)

_____ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. MS243
MCLEAN-HODGEN SUBDIVISION

WHEREAS, Susan Carson McLean did file an application with the El Paso County Planning and Community Development Department for approval of a Minor Subdivision Final Plat for the McLean-Hodgen Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A and depicted in Exhibit B, attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on August 1, 2024; 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 Minor Subdivision Final Plat is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, when approving a Minor Subdivision Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the following criteria outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code ("Code") (as amended):

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 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 systems, 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 Code.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Susan Carson McLean for a Minor Subdivision Final Plat for the McLean-Hodgen Subdivision be approved by the Board of County Commissioners 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 appropriate El Paso County staff.
7. 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.

8. Drainage fees in the amount of \$19,134.36 and bridge fees in the amount of \$2,566.62 shall be paid for the Minor Subdivision at the time of plat recordation.
9. Park fees in lieu of land dedication for regional parks in the amount of \$920.00 shall be paid at the time of plat recordation.
10. Fees in lieu of school land dedication in the amount of \$616.00. shall be paid to El Paso County for the benefit of Lewis-Palmer School District 38 at the time of plat recording.
11. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated July 15, 2024, as provided by the County Attorney's Office.

NOTATIONS

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

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

_____ seconded the adoption of the foregoing Resolution.

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

Thomas Bailey	aye / no / non-voting / recused / absent
Sarah Brittain Jack	aye / no / non-voting / recused / absent
Jim Byers	aye / no / non-voting / recused / absent
Jay Carlson	aye / no / non-voting / recused / absent
Becky Fuller	aye / no / non-voting / recused / absent
Jeffrey Markewich	aye / no / non-voting / recused / absent
Brandy Merriam	aye / no / non-voting / recused / absent
Bryce Schuettpelz	aye / no / non-voting / recused / absent
Wayne Smith	aye / no / non-voting / recused / absent
Tim Trowbridge	aye / no / non-voting / recused / absent
Christopher Whitney	aye / no / non-voting / recused / absent

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

DONE THIS 1st day of August 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
Chair

EXHIBIT A

LEGAL DESCRIPTION

That portion of the Northeast quarter of Section 28, Township 11 South, Range 66 West of the 6th Principal Meridian, El Paso County, Colorado, described as follows: Beginning at the Northeast corner of said Section 28; thence Westerly on the Northerly line thereof 1909.71 feet to the Northeast corner of a tract of land described in Book 1121 at Page 163 in the records of El Paso County, Colorado; thence angle 90°23'57" Southerly along the Easterly line of said recorded tract 911.96 feet to a point; thence angle 89°36'03" Easterly, parallel with the Northerly line of said Section 28, 1911.62 feet to intersect a point on the Easterly line of said Section; thence angle 90°31'09" Northerly on said Easterly line 911.97 feet to the point of beginning; Together with a 30 foot right-of-way for access and utility purposes lying Easterly and Southerly and adjoining the Easterly and Southerly lines of said recorded tract, recorded in Book 1121 at Page 163 of said County records, El Paso County, Colorado. Except that portion conveyed by Special Warranty Deed recorded December 17, 2004 at Reception No. 204206079.

County of El Paso, State of Colorado.

(Per Warranty deed by reception No. 212093277 per Commonwealth Land Title Insurance Company title report No. 596-HS0825084-416

