

EL PASO COUNTY



COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Planning Commission
 Brian Risley, Chair**

**FROM: Ryan Howser, AICP Planner II
 Gilbert LaForce, PE Engineer III
 Craig Dossey, Executive Director**

**RE: Project File #: SF-20-001
 Project Name: Mountain's Edge
 Parcel No.: 32000-00-740**

OWNER:	REPRESENTATIVE:
OGC RE2, LLC PO Box 1385 Colorado Springs, CO, 80901	Land Development Consultants, Inc. 3898 Maizeland Road Colorado Springs, CO, 80909

Commissioner District: 2

Planning Commission Hearing Date:	3/17/2022
Board of County Commissioners Hearing Date	4/5/2022

EXECUTIVE SUMMARY

A request by OGC RE2, LLC, for approval of a final plat to create five (5) single-family residential lots. The 31.39-acre property is zoned RR-5 (Residential Rural) and is located on the east side of McClelland Road, approximately one and one-half (1.5) miles south of US Highway 24 and one-half (1/2) mile west of North Ellicott Highway, and is within Section 13, Township 12 South, Range 63 West of the 6th P.M.



A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by OGC RE2, LLC, for approval of a final plat to create five (5) single-family residential lots.

Waiver(s)/Deviation(s): There are no waivers or deviations associated with the final plat request.

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

B. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

C. APPROVAL CRITERIA

In approving a final plat, the BoCC shall find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2019):

- The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is in substantial conformance with the approved preliminary plan;
- 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;
- 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 that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)];
- 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;
- 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;
- Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;
- The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this 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;
- 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.]

D. LOCATION

North: A-35 (Agricultural)	Single-family residential
South: A-35 (Agricultural)	Single-family residential
East: A-35 (Agricultural)	Single-family residential
West: A-35 (Agricultural)	Vacant

E. BACKGROUND

The property was zoned A-35 (Agricultural) on March 25, 1999, when zoning was first initiated for this portion of the County (BoCC Resolution No. 99-101). The Board of County Commissioners (BoCC) approved a request for a map amendment (rezoning) from A-35 to RR-5 (Residential Rural) on October 8, 2009 (BoCC Resolution No. 09-369, PCD File No. P-09-002). The BoCC approved the Mountain’s Edge preliminary plan on November 17, 2010, for five (5) single-family residential lots on 40 acres (PCD File No. SP-10-022). The BoCC approved the

Mountain's Edge final plat on January 13, 2011, for five (5) single-family residential lots on 40 acres (PCD File No. SF-10-002). The final plat was never recorded and has since expired.

The applicant participated in an Early Assistance (EA) meeting on March 14, 2008, to discuss requirements for reconsideration of an expired final plat. The applicant submitted an application for reconsideration of the final plat on September 28, 2018 (PCD File No. SF-18-026).

The property was illegally subdivided outside of the El Paso County subdivision process on June 3, 2019, by quit claim deed, reducing the size of the property from 40 acres to 31.39 acres (El Paso County Public Records, Reception No. 219060197). The property would have needed to have been created prior to July 17, 1972 or have been created legally through a subdivision action recognized by El Paso County pursuant to Section 7.2.1 of the Land Development Code and in conformance with C.R.S. Sections 30-28-133 through 139 in order to be considered legal lots. Therefore, the property does not meet the definition of a "Legal Lot" as discussed in detail in the Code Analysis section below.

Due to the illegal subdivision of the property, the previously approved final plat no longer qualified for reconsideration. As a result, the applicant was required to submit a new final plat application. The reconsideration request was cancelled on September 9, 2019, and the applicant submitted a new final plat application on February 3, 2020.

The applicant is requesting approval of a final plat to create five (5) single-family residential lots from the existing 31.39-acre parcel. The lots will range in size from 5.065 acres to 6.656 acres in size. Any proposed structures will require site plan review to ensure that all site improvements comply with the dimensional standards included in Chapter 5 as well as the Development Standards of Chapter 6 of the Code.

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 (2019).

2. Zoning Compliance

The subject parcel is zoned RR-5 (Rural Residential). 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.

Each lot is proposed to meet the minimum lot size requirement of five (5) acres; the smallest lot (Lot 5) is proposed to be 5.065 acres in size. Any proposed structures will require site plan review and approval to ensure that all site improvements comply with the dimensional standards of Chapter 5 and with the 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:

Policy 6.1.3 – Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use, and access.

Policy 6.1.11 – Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.

Policy 6.1.14 – Support development which compliments the unique environmental conditions and established land use character of each sub-area of the County.

The subject property is zoned RR-5 (Residential Rural) and is surrounded by A-35 zoned properties on all sides. All of the properties surrounding the subject property are unplatted and are greater than 35 acres. Properties located to the north, east, and south of the subject property are currently used for rural residential purposes; the property to the west of the subject property is vacant. To the northeast of the subject property is the Myland Subdivision, which consists of four (4) lots with a minimum lot size of 19 acres. Approximately one-half (1/2) mile east of the subject property is the Range View Estates subdivision, which consists of single-family residential lots with a minimum lot size of five (5) acres. In terms of density and land use, the proposed subdivision is consistent with existing development in the surrounding area. The proposed subdivision may be found to support the rural character of the surrounding area by retaining a minimum lot size over five (5) acres.

Staff recommends that a finding of general consistency with the Plan can be made.

4. Small Area Plan Analysis

The property is not located within the boundaries of a small area plan.

5. 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.

Goal 1.2 – Integrate water and land use planning.

Goal 5.4 – Promote the long-term use of renewable water.

Policy 6.0.1 – Continue to require documentation of the adequacy or sufficiency of water, as appropriate, for proposed development.

Policy 6.0.10 – Encourage land use proposals to expressly declare water source(s), quality, quantity, and sustainability in terms of years and number of single-family equivalents.

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 supply system. The following has been included for informational purposes only as it pertains to water demands and supplies in Region 4c for central water providers:

The property is located within Planning Region 4c of the Plan, which is an area anticipated to experience growth by 2040. The Region is identified as potentially having issues regarding long term sustainable draw from the Denver Basin aquifer. The Plan identifies the current demands for Region 4c to be 2,970 acre-feet per year (AFY) (Water Master Plan, Figure 5.1) with a current supply of 2,970 AFY (Figure 5.2). The projected demand in 2040 is at 3,967 AFY (Figure 5.1) with a projected supply in 2040 of 3,027 AFY (Figure 5.2). The projected demand at build-out in 2060 is at 4,826 AFY (Figure 5.1) with a projected supply in 2060 of 3,027 AFY (Figure 5.2). This means that by 2060 a deficiency of 1,799 AFY is anticipated for Region 4c.

Water sufficiency has been analyzed with the review of the proposed final plat. The augmentation decree for the property allows the subdivision to draw 13.3 acre-feet of water per year from the Arapahoe aquifer. The applicant's water resources report indicates an annual allocation of 4.42 AFY available over a 300-year period and a proposed demand of 2.28 AFY for the subdivision.

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. Please see the Water section below for a summary of the water findings and recommendations for the proposed minor subdivision.

Section 1.10.5 of the Land Development Code states the following:

“Any project or action for which a complete application was submitted to the County before the effective date of this Code or any subsequent amendment to this Code may, at the applicant's option, will be reviewed under the regulations or ordinances in effect at the time of application. If

approved, the projects or actions may be carried out in accordance with said regulations or ordinances. Nothing in this subsection is intended to restrict otherwise applicable vested applicant rights.”

The Code in effect at the time of submittal of the minor subdivision application allowed for a presumption of water quality for minor subdivisions. Therefore, there is a presumption of sufficiency with regards to water quality.

6. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low 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 valley fill in the area of the subject parcel. 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 attached Park Advisory Board recommendations which include an analysis regarding conformance with The El Paso County Parks Master Plan (2013). Those recommendations include requiring fees in lieu of land dedication for regional park purposes in the amount of \$2,335.00 (Area 4). Urban park fees are not applicable at this time.

Please see the Transportation Section below for information regarding conformance with the El Paso County 2016 Major Transportation Corridors Plan Update (MTCP).

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified during the review of the final plat.

2. Wildlife

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

3. Floodplain

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0375G, which has an effective date of December 7, 2018, indicates the property is located within Zone X, areas outside of the 500-yr floodplain. A floodplain certification

letter was included with the final plat request since an unstudied FEMA 100-year floodplain (Zone A) is located within 300 feet of the easterly boundary of the site. The floodplain certification letter concluded that “based on field verified characteristics of the property, the property is reasonably safe from flooding and to the best of my knowledge if the 100-year floodplain were studied it would not enter the property in question.”

4. Drainage and Erosion

The property is within the Upper Bracket Creek (CHBR0600) drainage basin which is an unstudied basin and is not included in the El Paso County Drainage Basin Fee program. No drainage or bridge fees are due with the platting of the subdivision.

5. Transportation

The El Paso County 2016 Major Transportation Corridors Plan Update does not depict roadway improvement projects in the immediate vicinity of the development.

A traffic impact study was not required with this application since the average daily trips generated is less than 100 trips per day. The proposed internal road is planned to be a public road and will be dedicated to the County. This subdivision will result in the dedication of approximately 0.2 miles of developer constructed rural gravel local road.

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471, as amended). The applicant has not requested inclusion into the public improvement district; therefore, fees for each lot shall be paid in full at the time of building permit issuance.

H. SERVICES

1. Water

Sufficiency:

Quality: Sufficient

Quantity: Sufficient

Dependability: Sufficient

Attorney’s summary: The State Water Engineer’s Office has made a recommendation regarding a finding of adequacy and has stated water can be provided without causing injury to decreed water rights. The County Attorney’s Office recommends a finding of sufficiency with regard to water quantity and dependability. There is a presumption of sufficiency with regards to water quality.

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 Peyton Fire Protection District. The District was sent a referral and did not provide a response.

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 \$2,335.00 for regional fees (Area 4) will be due at the time of recording the final plat. No fees or land dedication are applicable for urban park purposes.

7. Schools

Fees in lieu of school land dedication in the amount of \$925.00 shall be paid to El Paso County for the benefit of Calhan School District No. RJ1 at the time of plat recording.

I. APPLICABLE RESOLUTIONS

Approval Page 19

Disapproval Page 20

J. STATUS OF MAJOR ISSUES

There are no major issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission 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 4) in the amount of \$2,335.00 shall be paid at the time of plat recordation. No fees or land dedication are applicable for urban park purposes.
11. Fees in lieu of school land dedication in the amount of \$925.00 shall be paid to El Paso County for the benefit of Calhan School District No. RJ1 at the time of plat recording.
12. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.

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 six (6) adjoining property owners on February 25, 2022, for the Planning Commission meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

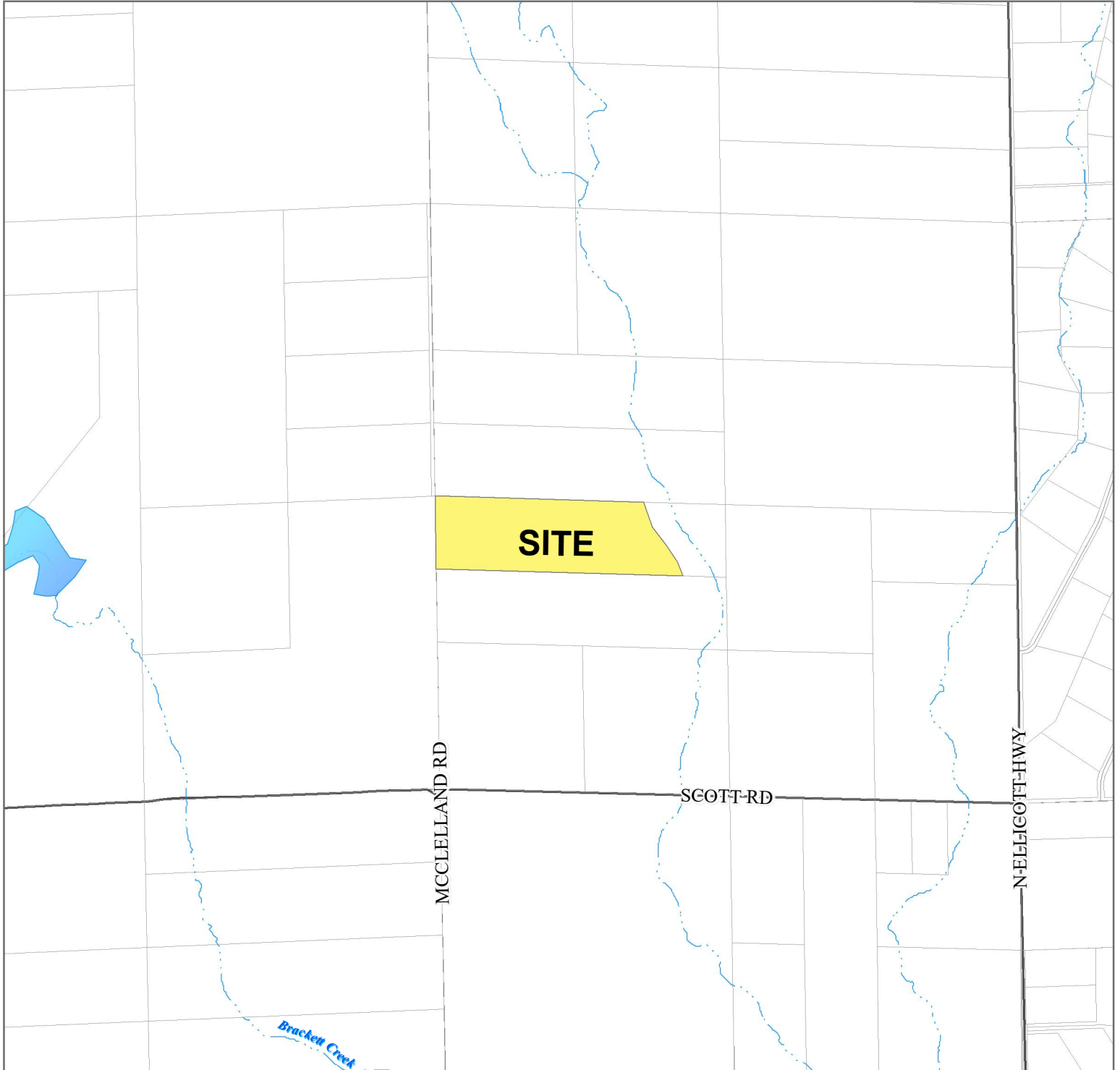
Vicinity Map
Letter of Intent
Plat Drawing
State Engineer's Letter
County Attorney's Letter
El Paso County Public Health Recommendation Letter
Parks Advisory Board Letter

El Paso County Parcel Information

File Name: SF-20-001

Zone Map No.: --

Date: February 25, 2022



Please report any parcel discrepancies to:
El Paso County Assessor
1675 W. Garden of the Gods Rd.
Colorado Springs, CO 80907
(739) 520-6600



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3898 Maizeland Road
Colorado Springs, CO 80909

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Surveying • Planning

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March 31, 2021

July 20, 2018

**El Paso County Development Services
2880 International Circle
Colorado Springs, CO 80910**

Attn: **Ryan Howser**

Re: **Mountains Edge (APN: 32000-00-740)
Minor Preliminary Plan and Minor Final Plat**

Owner: **OGC RE2, LLC**
Attn: Kevin O'Neil
**455 E. Pikes Peak Ave., Suit 102
Colorado Springs, CO 80903**

Consultant: **Land Development Consultants, Inc**
**3898 Maizeland Road
Colorado Springs, CO 80909**

LDC, Inc. is representing OGC RE2, LLC in this application for a Minor Final Plat of Parcel No. **3200000740** for a 5ac Lot Subdivision.

The site is **30.613** acres, located Northeast of the McClelland Road and Scott Road intersection, in the North One-Half of the North One-Half of the Southwest One-Quarter (N1/2 N1/2 SW1/4) of Section 13, Township 12 South, Range 63 West of the 6th P.M., situate in El Paso County. Currently the property is Zoned RR-5.

This property was previously owned by TKB Properties (California). We represented them in preparing a Preliminary and Final Plat for this property. The Final Plat (SF-10-002) was approved by the BOCC on January 13, 2011. However the economic climate at that time prevented the previous owners from recording the Final Plat. That BOCC approval has now expired, but the new owners are requesting re-approval for the Final plat and construction documents as originally approved.

LDC, Inc. is resubmitting all previously approved documents. The engineering documents have been reviewed by MVE, Inc. to assure their compliance with the current El Paso County Engineering Criteria Manual and design requirements.

Review criteria for the Final Plat is as follows:

- Conformance with County Master Plan;

This application meets the 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 (2016). Subdivisions are reviewed and approved in consideration of the review criteria found in the El Paso County Land Development Code. Each criteria is listed below followed by the appropriate justification.

1. *The subdivision is in conformance with the goals, objectives, and policies of the Master Plan.* The Master Plan is comprised of several elements. One of the elements is the El Paso County Policy Plan (1998), which does not include site-specific land use policies, but establishes

broad policies and goals which are intended to serve as a framework for decision-making regarding development of the County. The project satisfies the following policies from the Policy Plan as they specifically relate to this request:

Goal 6.4 – “Develop and maintain rural residential areas in a manner which protects their integrity, addresses the carrying capacity of the natural environment and provides for an adequate level of non-urban facilities and services.” and “Policy 6.1.3 - Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use and access.” The proposed Plat will not create the need for additional roadways or public facilities. The site will remain rural residential and is surrounded by existing rural residential development on the north, south, east, and west sides.; *Policy 6.1.14 – “Support development which compliments the unique environmental conditions and established land use character of each sub-area of the County.”;* This area of the County is conducive to rural residential development. The five acres lots in the area have lot impact on environmental conditions.

Goal 6.1 A – “Encourage patterns of growth and development which compliment the regions’ unique natural environments and which reinforce community character.” The existing community character is preserved with this plat. Density and land use are compatible with the surrounding area and the natural features of the site will remain preserved.

The proposed Subdivision is in compliance with the Parks Master Plan, which does not appear to call for trails or parks in the site vicinity. Any required Park Fees will be paid at the time of plating. The proposed subdivision is also in compliance with the 2040 Major Transportation Corridors Plan (MTCP) and 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.

- Conformance with approved preliminary plan:
The Preliminary Plan was approved in 2010 – SP-10-002. This plan is consistent with that preliminary plan, as this Final Plat has the same road and lot configuration and the only difference is the elimination of the flood plain on the east side of this property. the flood plain is no longer part of this ownership and plat.
- Consistent with subdivision design standards and regulations and meets the requirements of the County for supporting materials:
This subdivision was approved by the BOCC in 2010. The only difference is the Flood plain on the east side of this property is no longer part of the plat or property ownership.
This subdivision is platting Farmhouse Court as a public 80 feet wide right of way public road, designed to El Paso County standards for a rural residential gravel road.
- Water Supply:
We have submitted all of the required documents verifying compliance with the terms of Quantity, Quality and dependability of the proposed water supply, which has been adjudicated by the State Water Courts.
- Wastewater disposal:
We have submitted the OWTS report showing the feasibility of utilizing individual sewage disposal systems.

- Soil and Topographical conditions:
We have submitted a Soils and Geology Report prepared by Entech Engineering showing their areas of concern and that the subdivision is compatible with such conditions. The main areas of concern are possible high groundwater and shallow bedrock. These conditions, as addressed in the report can be mitigated by proper engineering design.
- Adequate drainage improvements:
We have submitted a Drainage plan and report and design drawings addressing the existing drainage conditions complying with the state and County requirements.
- Legal and physical access:
Access is provided by the proposed public road, Farmhouse Court, which will be built to El Paso County standards for a rural residential gravel road and maintained by the County.
- Necessary services:
Fire protection is provided by Peyton Fire Protection District; police protection is provided by El Paso County S. O.; Electric services are provided by MVEA. There is no natural gas service in this area. Propane gas is available from several private propane companies.
- Fire Protection:
We have provided a commitment for fire protection from Peyton Fire Protection District.
- Off-site impacts were researched and none found to need to be addressed.
- Public and private facilities will be constructed or financially guaranteed through the SIA. These facilities consist of a public gravel road and a cistern for fire fighting water storage.
- This subdivision meets the applicable sections of Chapter 6 and 8.
- There are no known commercial mining deposits in this subdivision.

Thank you for your consideration of our request.

Respectfully:

Daniel L. Kupferer, PLS
President, Land Development Consultants, Inc.

MOUNTAIN'S EDGE

THE NORTH HALF OF THE NORTH HALF
OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 12 SOUTH,
RANGE 63 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO

NOTES:

- This survey does not constitute a title search by LDC, Inc. to determine ownership or easements of record. For all information regarding easements, rights-of-way and title of record, LDC, Inc. relied upon a Title Report for Title Insurance, prepared by COMMONWEALTH LAND TITLE INSURANCE COMPANY, Title Report No. H0540225-710-CTO-SSC dated July 14, 2018 at 6:00 P.M.
- Basis of Bearings: All bearings are based upon the North line of the Southwest Quarter of Section 13, Township 12 South, Range 63 West of the 6th P.M., monumented as shown and assumed to bear S87°49'24"E, a distance of 2602.49 feet.
- 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.
- 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.
- 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 Aquifer is evaluated based on a 300-year aquifer life. Applicants, the Home Owners Association 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 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.

- Geologic Hazard Note-Final Plat:** The following lots have been found to be impacted by geologic hazards. Mitigation measures and a map of the hazard area can be found in the revised report "Soil, Geology and Geologic Hazard Evaluation Mountains Edge Subdivision" by Entech Engineering, Inc. dated March 19, 2021 in PCD file S201 available at the El Paso County Planning and Community Development Department:
 - Flooding, Bank Erosion and Sedimentation: Portions of Lot No.s 2 and 3.
 - Accelerated Erosion: Portions of Lot 3.
 - Seasonal Shallow Groundwater areas: Lots No.s 2 and 3.
 - Man Made Fill: Northern portion of lot 2. (Previously mentioned fill on lots 4 and 5 are no longer part of these lots and are within the drainage easement east of these lots.)
 - Shallow Bedrock: Lot 1 and the western portion of Lot 2.
 - Lot specific soil testing is needed to provide proper construction, foundation, and on-site wastewater recommendations.
 - Lot 1 will require an engineered owt, and the remaining lots will likely be suitable for conventional systems provided shallow bedrock, restrictive clay soils, or groundwater are not encountered in the soil treatment areas.

- Due to the potential for shallow groundwater in the area, all below grade construction such as basements and crawl spaces should be provided with an underdrain system. Requirements for a foundation underdrain system should be determined based on site-specific geotechnical engineering studies performed for the individual structures once the building location has been selected.
- Seasonally shallow groundwater may be present in areas of this site. Appropriate subsurface drainage should be established for utility lines and subsurface construction expected within 5 feet of the seasonally high groundwater table.

- The following reports have been submitted in association with the Preliminary Plan or Final Plat for this subdivision and are on file at the County Planning and Community Development Department (SF201): Transportation Impact Letter; Drainage Report; Water Resources Report; Wastewater Disposal Report; Geology and Soils Report; Fire Protection Report; Natural Features Report.
- 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. Structures, fences, materials or landscaping that could impede the flow of runoff shall not be placed in drainage easements.
- There shall be no direct lot access to McClelland Road.
- Individual lot purchasers are responsible for constructing driveways, including necessary drainage culverts from Farmhouse Court per Land Development Code Section 6.3.3.C.2 and 6.3.3.C.3. Due to their length, some of the driveways will need to be specifically approved by the Peyton Fire Protection District.
- 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.
- (19339) - Indicates property address. 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.
- No structures are permitted within designated "No-Build" AREA(S). NO-BUILD AREAS are defined in the Soils and Geology report described in Note 6, above.

SURVEYOR'S CERTIFICATION:

I Daniel L. Kupferer, a duly registered Professional Land Surveyor in the State of Colorado, do hereby certify that this plat correctly represents the results of a survey made on date of survey, by me or under my direct supervision and accurately shows the subdivision thereof and that all monuments exist as shown hereon; that mathematical closure errors are less than 1:10,000; and that said plat has been prepared in full compliance with all applicable provisions of the El Paso County Land Development Code, and that the requirements of Title 38 of the Colorado Revised Statutes, 1973 have been met to the best of my professional knowledge, belief and opinion.

Daniel L. Kupferer
Colorado Professional Land Surveyor No. 18465
For and on behalf of LDC, Inc

NOTES(continued):

- Federal Emergency Management Agency, Flood Insurance Rate Map Number 08041C0585 G, effective date December 7, 2018, indicates the area in the vicinity of this parcel of land to be a Zone X (area determined to be out of the 500 year flood plain).
- At the time of approval of this project, this property is located within the Peyton Fire Protection District, which has adopted codes requiring fire mitigation requirements depending upon the level of fire risk associated with the property and structures.

The Peyton Fire Protection District Cistern Easement is for the District's use in operating and maintaining fire fighting facilities (30,000 gallon cistern). The Cistern shall be installed per the District's specifications. The easement and facilities shall be maintained by the District.

The Developer shall install a 30,000 gallon cistern in the Peyton Fire Protection District Cistern Easement shown hereon in Lot 1 in accordance with Peyton Fire Protection District specifications. The Developer shall be responsible for filling the cistern the first time. Once inspected and accepted the Cistern shall be kept filled, owned and maintained by the Fire District.

- 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.
- A design-level subsurface geotechnical investigation should be conducted at each building site prior to building. Foundation and septic designs may require mitigation based on the findings of this investigation.
- A site-specific investigation should be conducted prior to building to determine design criteria, including depth to seasonal groundwater and percolation rates. Engineered septic systems will be required for lot 1. Engineered foundation design will be required for lots 1, 2 & 3.
- No lot or interest therein, shall be sold, conveyed, or transferred whether by deed or by contract, nor shall building permits be issued until and unless either the required public and common development improvements have been constructed and completed and preliminarily accepted in accordance with the Subdivision Improvements Agreement between the applicant/owner and El Paso County as recorded under Reception Number _____ in the Office of the Clerk and Recorder of El Paso County, Colorado or, in the alternative, other collateral is provided to make provision for the completion of said improvements in accordance with the El Paso County Land Development Code and Engineering Criteria Manual. Any such alternative collateral must be approved by the Board of County Commissioners or, if permitted by the Subdivision Improvements Agreement, by the Planning and Community Development Department Director and meet the policy and procedure requirements of El Paso County prior to the release by the County of any lots for sale, conveyance or transfer. This plat restriction may be removed or rescinded by the Board of County Commissioners or, if permitted by the Subdivision Improvements Agreement, by the Development Services Department Director upon either approval of an alternative form of collateral or completion and preliminary acceptance by the El Paso County Board of County Commissioners of all improvements required to be constructed and completed in accordance with said Subdivision Improvements Agreement. The partial release of lots for sale, conveyance or transfer may only be granted in accordance with any planned partial release of lots authorized by the Subdivision Improvements Agreement.
- Water wells will be supplied from the Arapahoe Aquifer, and must be constructed with the Determination of Water Rights No., 1484-BD. Each well owner shall submit annual diversion records to the UBS District.
- Well spacing within the subdivision must comply with UBS District rule/regulation 14.
- The existing Denver Aquifer well will be abandoned, and the UBS District copied on the abandonment report.
- Onsite Wastewater Systems (OWS)/Individual septic systems shall be designed and utilized consisting of membrane and evaporative drain field technology as required by the Upper Black Squirrel Groundwater Management District, constructed with an impermeable liner to prevent sewage effluent from entering underlying soils and groundwater. Evapotranspiration fields shall be located in an area of unobstructed sunshine. Monitoring and maintenance of OWS must be per manufacturer/designer recommendation, with records submitted to the UBS District.
- Additional chemical analysis shall be required at time of individual well drilling meeting all EPCH standards.

APPROVALS:

BOARD OF COUNTY COMMISSIONERS CERTIFICATE:

This plat of MOUNTAIN'S EDGE 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 for streets and easements are accepted, but the 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 _____

Executive Director, El Paso County Planning and Community Development Department _____ Date _____

RECORDING:

STATE OF COLORADO }
COUNTY OF EL PASO } SS

I hereby certify that this instrument was filed in my office on this ____ day of _____, 20____, and was recorded at Reception Number _____ of the records of El Paso County, Colorado

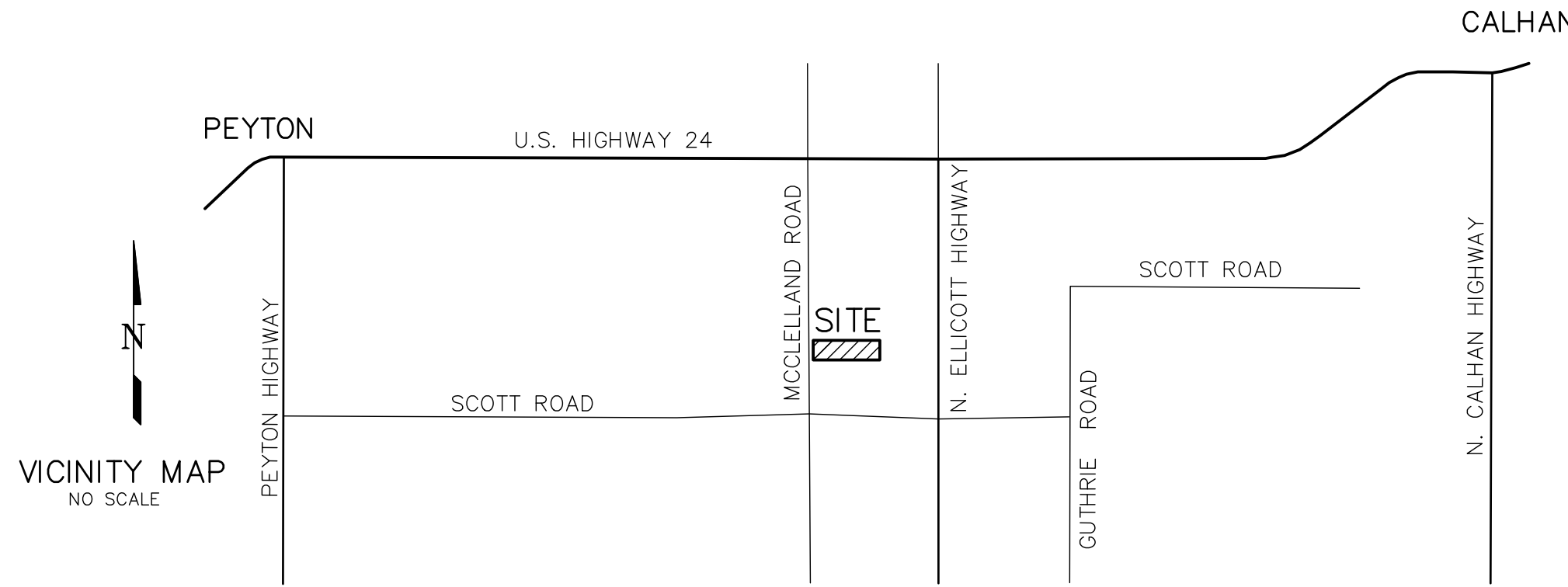
CHUCK BROERMAN
CLERK AND RECORDER

By: _____
Deputy

FEES:

Park Fee: _____ Drainage Fee: _____
School Fee: _____ Bridge Fee: _____

PCD File No. SF201



KNOW ALL MEN BY THESE PRESENTS:

That OGC RE2, LLC, a Colorado Limited Liability Company, being the owner of the following described tract of land to wit:

A part of the North Half of the North Half of the Southwest Quarter (N1/2 N1/2 SW1/4) of Section 13, Township 12 South, Range 63 West of the 6th P.M., situate in El Paso County, Colorado, more particularly described as follows:

Beginning at the West Quarter Corner of said Section 13;
thence S87°49'24"E along the North line of said N1/2 N1/2 SW1/4, 1868.48 feet;
thence S17°31'18"E, 104.90 feet;
thence S20°22'39"E, 138.52 feet;
thence S36°14'11"E, 202.46 feet;
thence S33°20'14"E, 179.89 feet;
thence S21°49'13"E, 136.76 feet to a point on the South line of said N1/2 N1/2 SW1/4;
thence N87°48'59"W along the South line of said N1/2 N1/2 SW1/4, 2179.90 feet to the Southwest corner of said N1/2 N1/2 SW1/4;
thence N00°15'44"W along the West line of said N1/2 N1/2 SW1/4, 656.91 feet to the Point of Beginning;

Containing 30.613 acres, more or less.

OWNER CERTIFICATION:

The undersigned, being all the owners, mortgagees, beneficiaries of deeds of trust and holders of other interests in the land described herein, have laid out, subdivided, and platted said lands into lots, road rights-of-way and easements as shown hereon under the name and subdivision of MOUNTAIN'S EDGE. The road rights-of-way are hereby dedicated to El Paso County for public use. All public improvements easements so platted are hereby dedicated to public use and said owner does hereby covenant and agree that the public improvements will be constructed to El Paso County standards and that proper drainage and erosion control for same will be provided at said owner's expense, all to the satisfaction of the Board of County Commissioners of El Paso County, Colorado. Upon acceptance by resolution, all public improvements so constructed will become matters of maintenance by El Paso County, Colorado. The utility easements shown hereon are hereby dedicated for public utilities and communication systems and other purposes as shown hereon. The entities responsible for providing the services for which the easements are established are hereby granted the perpetual right to use said easements for ingress and egress from and to adjacent properties for installation, maintenance, and replacement of utility lines and related facilities.

IN WITNESS WHEREOF:

The aforementioned, OGC RE2, LLC, a Colorado Limited Liability Company, has executed this instrument this ____ day of _____, 20____A.D.

OGC RE2, LLC, a Colorado Limited Liability Company

By: _____
_____, Manager

NOTARIAL:

STATE OF _____ }
COUNTY OF _____ } SS

Acknowledged before me this ____ day of _____, 20____ A.D.,

by _____, Manager of OGC RE2, LLC, a Colorado Limited Liability Company.

Witness my hand and seal _____

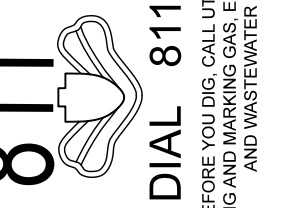
My commission expires _____

TRAFFIC IMPACT FEE NOTE:

The subdivider agrees on behalf of himself and any development or builder successors and assigns, shall be required to pay traffic impact fees in accordance with the countywide transportation improvement fee resolution (Resolution 19-471), as amended, at or prior to building permit submittals. The fee obligation, if not paid at final plat recordation, 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.

The road impact fee is based on the established rate at the time of building permit application and will be paid by the applicant at that time. No Public Improvement District (PID) is requested.

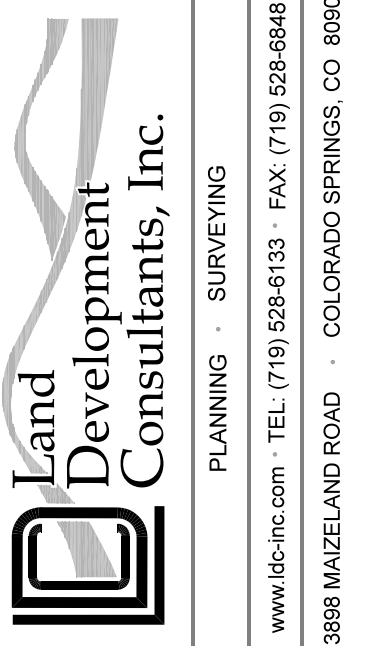
CALL BEFORE YOU DIG . . .



DIAL 811
48 HOURS BEFORE YOU DIG. CALL UTILITY LOCATORS FOR LOCATING AND MARKING GAS, ELECTRIC, WATER AND WASTEWATER.

No.	Date	By	Description
1	06/24/10	RDG	COUNTY COMMENTS
2	08/03/10	RDG	COUNTY COMMENTS
3	08/26/10	JAR	COUNTY COMMENTS
4	09/29/10	DLK	REVISED OWNER'S NAME
5	07/31/18	DLK	COUNTY COMMENTS
6	06/17/21	DLK	COUNTY COMMENTS
7	01-11-2022	DLK	COUNTY COMMENTS

H Scale: 1" = 100'
V Scale: N/A
Designed By: N/A
Drawn By: KLWRD/G
Checked By:
Date: 01/09/09



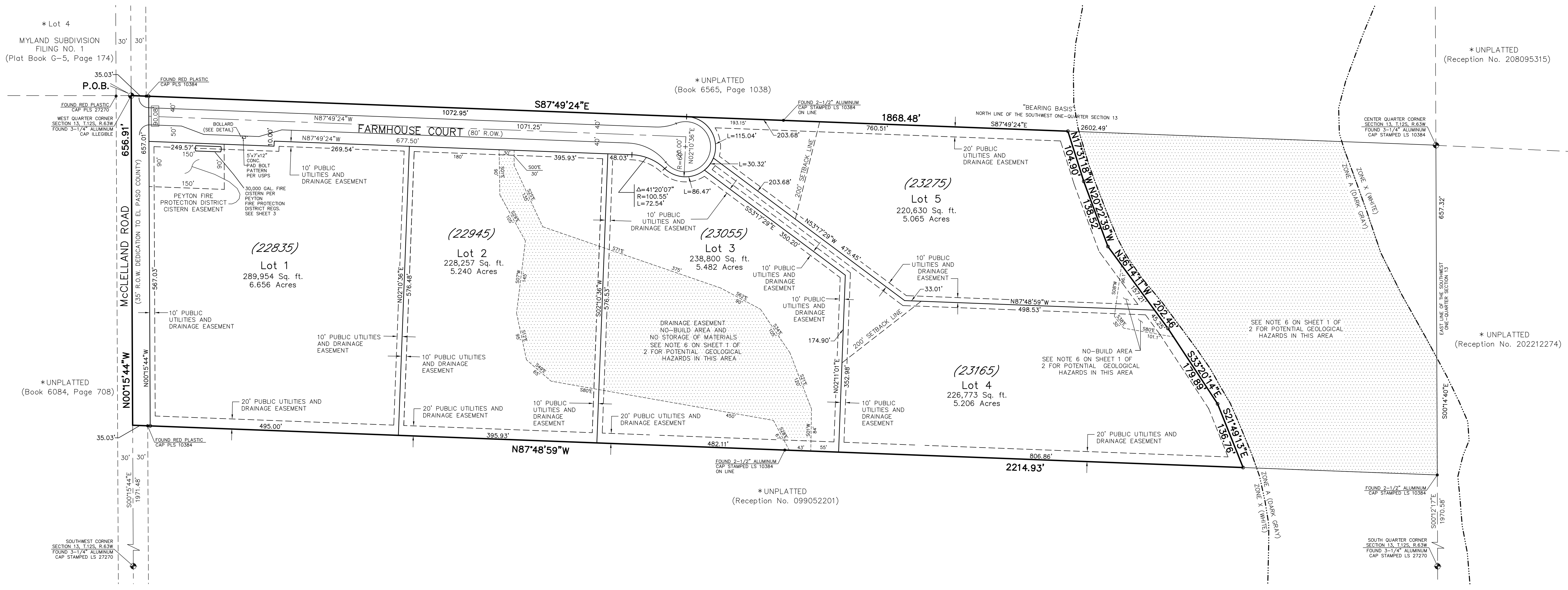
FINAL PLAT
MOUNTAIN'S EDGE

Project No.: 08019

Sheet: 1 of 2

MOUNTAIN'S EDGE

THE NORTH HALF OF THE NORTH HALF
OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 12 SOUTH,
RANGE 63 WEST OF THE 6TH P.M., EL PASO COUNTY, COLORADO



*Lot 4
MYLAND SUBDIVISION
FILING NO. 1
(Plat Book G-5, Page 174)

*UNPLATTED
(Book 6084, Page 708)

*UNPLATTED
(Book 6565, Page 1038)

*UNPLATTED
(Reception No. 208095315)

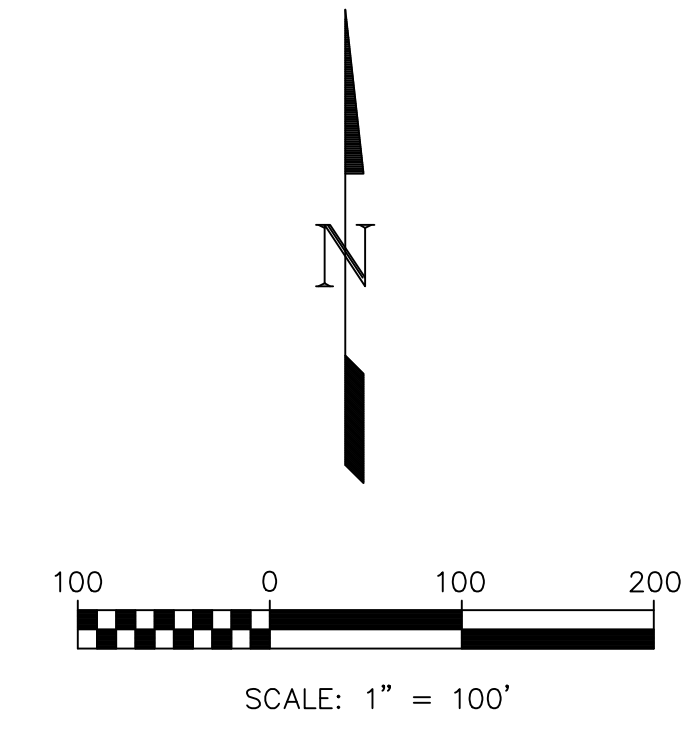
*UNPLATTED
(Reception No. 202212274)

*UNPLATTED
(Reception No. 099052201)

LEGEND:

- - Indicates survey monument set with a #4 rebar with Surveyor's Cap, PLS #20681.
- - Indicates recovered survey monument as noted.
- * - Indicates not a part of this subdivision.
- - Indicates FEMA flood hazard delineation line
- ▨ - Indicates NO-BUILD area
- - Indicates STREET ADDRESS

	GROSS AREA	NO BUILD AREA	FLAG STEM AREA	NET AREA
LOT 1	6.656 AC			6.656 AC
LOT 2	5.240 AC	1.220 AC		4.020 AC
LOT 3	5.482 AC	2.265 AC		3.217 AC
LOT 4	5.446 AC		0.240 AC	5.206 AC
LOT 5	5.065 AC			5.065 AC



CALL BEFORE YOU DIG . . .

811
DIAL 811

48 HOURS BEFORE YOU DIG, CALL UTILITY LOCATORS FOR LOCATING AND MARKING GAS, ELECTRIC, WATER AND FIBER OPTIC

No.	Date	By	Description
1	06/03/10	RJD	COUNTY COMMENTS
2	8/26/10	JAR	REV. EBBY AND LOTS
3	6/12/19	DLK	COUNTY COMMENTS
4	3/10/21	TLC	COUNTY COMMENTS

H Scale: 1" = 100'
V Scale: N/A
Designed By: N/A
Drawn By: KLWRD
Checked By: DLK
Date: 01/09/09

Land Development Consultants, Inc.
PLANNING · SURVEYING

www ldc-inc.com · TEL: (719) 528-6133 · FAX: (719) 528-8848
3888 MAZELAND ROAD · COLORADO SPRINGS, CO 80909

FINAL PLAT MOUNTAIN'S EDGE

Project No.: **08019**
Sheet: **2 of 2**

PCD File No. SF201



January 31, 2022

Ryan Howser
El Paso County Development Services Department
DSDcomments@elpasoco.com

RE: Mountains Edge Subdivision, Final Plat
Section 13, T12S, R63W, 6th P.M.
Water Division 2, Water District 10
Upper Black Squirrel Creek Designated Basin

Dear Ryan Howser:

We have reviewed your January 11, 2021 submittal concerning the above referenced proposal for the subdivision of 30.613 acres into 5 residential lots. We previously commented on this development by letters dated April 26, 2010, September 30, 2010, October 12, 2018, February 25, 2020 and November 21, 2021. At the time of our prior reviews the proposal was to divide 40 acres into 5 residential lots, however 9.387 acres has been removed from the land to be subdivided. According to information provided by the County the remaining 9.387 acre parcel is not part of this subdivision, is not a legal tract of land and will not become a legal tract of land as a result of this subdivision.

Water Supply Demand

According to the Mountains Edge Filing 1 subdivision Water Resources Report dated May 12, 2021 and revised December 8, 2021 (“Water Resources Report”) provided with the submittal, the estimated water requirements total 2.28 acre-feet annually (0.456 acre-feet/year per lot), for in house use; a maximum of 3,000 square feet of landscape/irrigation of lawn and gardens; and watering of 2 domestic animals per lot.

Source of Water Supply

The proposed source of water supply is individual on-lot wells producing from the nontributary Arapahoe aquifer pursuant to Determination of Water Right No. 1484-BD.

Determination of Water Right no. 1484-BD was issued by the Ground Water Commission (“Commission”) on March 12, 2008 for an allowed average annual amount of withdrawal of groundwater of 13.3 acre-feet from the Arapahoe Aquifer (based on an aquifer life of 100 years) to be used on 40 acres generally described as the N1/2 of the N1/2 of the SW1/4, Section 13, Township 12 South, Range 63 West, 6th P.M. (Overlying Land). The 30.613 acres that are the subject of this referral are within the 40 acres of Overlying Land.

According to the Water Resources Report, the 13.3 acre-feet of allowed annual withdrawal allocated in 1484-BD is available for use by this proposed subdivision. The Water Resource Report further states that no water allocated under Determination of Water Right No. 1484-BD was transferred to the owner of the 9.387 acre parcel described above.

The proposed source of water for this development is a bedrock aquifer allocation from the Denver Basin. The State Engineer’s Office does not have evidence regarding the length of time for which the bedrock aquifer sources will be a physically and economically viable source of



water. According to 37-90-107(7)(a), C.R.S., “Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years.” Based on this allocation approach, the annual amounts of water determined in Determination of Water Right No. 1484-BD is equal to one percent of the total amount, as determined by rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1. 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 the bedrock aquifer sources 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 13.3 acre-feet per year from the Arapahoe aquifer would be reduced to one third of the allocation, or 4.43 acre-feet per year. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years, and is sufficient to meet the proposed on lot demands.

According to the Water Resource Report, well 225983 lies within the property boundaries of the proposed Mountains Edge subdivision but will not be used as a water supply source for the proposed Mountains Edge subdivision. The Applicant will plug and abandon the well.

Applications for on lot well permits, submitted by an entity other than the Determination of Water Right applicant (TKB Properties, LLC), 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)(I), it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights, **as long as well 225983 is plugged and abandoned prior to subdivision approval.**

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 on the subdivided land is greater than the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision.

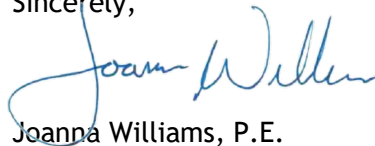
Our opinion is qualified by the following:

The Ground Water Commission 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.

If you, or the applicant, have any questions, please contact me at 303-866-3581 ext. 8265 or Joanna.Williams@state.co.us.

Sincerely,

A handwritten signature in blue ink that reads "Joanna Williams". The signature is fluid and cursive, with the first name "Joanna" written in a larger, more prominent script than the last name "Williams".

Joanna Williams, P.E.
Water Resources Engineer

Ec: Upper Black Squirrel Creek GWMD
Well permit no. 225983
SEO Subdivision referral no. 22285

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

Diana K. May, County Attorney

Assistant County Attorneys

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

February 18, 2022

SF-20-1 Mountain's Edge subdivision
Final Plat

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

FINDINGS AND CONCLUSIONS:

1. This is a proposal by OGC RE2, LLC ("Applicant") for a 5-lot subdivision on a parcel of approximately 30.613 +/- acres of land (the "Property"). This is a reapproval of a previous application approved by the Board of County Commissioners on January 13, 2011. The Board's approval expired before the previous owners were able to record the final plat. 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 0.26 acre-feet for each lot for household use, plus an additional 0.85 acre-feet total for irrigation, and 0.13 acre-feet total for stock watering for a total demand of 2.28 acre-feet/year for the subdivision (0.456 acre-feet/year for each of the 5 lots). Based on this total demand, Applicant must be able to provide a supply of 684 acre-feet of water (2.28 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 nontributary Arapahoe aquifer as provided in Colorado Ground Water Commission Findings and Order Determination No. 1484-BD ("Determination"). The Determination was issued on March 12, 2008, to TKB Properties, LLC. The water rights were later deeded to Steven Cook on April 21, 2011, and then were deeded to OGC RE2, LLC on April 2, 2018.

The Determination adjudicated 1,326 acre-feet of Arapahoe aquifer water underlying the 40-acre property.¹ Based on that amount, “the maximum allowed average annual amount of ground water in the aquifer that may be allocated for withdrawal ... is 13.3 acre-feet” for a period of 100 years, which equates to 4.43 acre-feet/year for 300 years. The Determination provides that “use of ground water from this allocation shall be limited to the following beneficial uses: domestic, commercial, industrial, irrigation, stock watering and replacement supply. The place of use shall be limited to the above described 40 acre land area.”

State Engineer's Office Opinion

4. In a letter dated January 31, 2022, the State Engineer stated that the “estimated water requirements are “(0.456 acre-feet/year per lot), for in-house use; a maximum of 3,000 square feet of landscape/irrigation of lawn and gardens; and watering of 2 domestic animals per lot” for total subdivision water demand of 2.28 acre-feet per year. The State Engineer identified the water supply as “producing from the nontributary Arapahoe aquifer pursuant to Determination of Water Right No. 1484-BD.” And further, the Determination provides for an “allowed average annual amount of withdrawal of groundwater of 13.3 acre-feet from the Arapahoe Aquifer” for a period of 100 years. The State Engineer notes that, to meet El Paso County's requirements, “the annual amount of withdrawal of 13.3 acre-feet per year from the Arapahoe aquifer would be reduced to one third of the allocation, or 4.43 acre-feet/year. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years, and is sufficient to meet the proposed on lot demands.”

Finally, the State Engineer provided their opinion that “pursuant to Section 30-28-136(1)(h)(I), it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights, ... [o]ur 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.”

The State Engineer identified an existing well on the property (Permit No. 225983) which will not be utilized by the Applicant; therefore, it needs to be plugged and abandoned prior to subdivision approval.

Recommended Findings

5. Quantity and Dependability. Applicant's water demand for the Mountain's Edge Subdivision is 2.28 acre-feet per year for a total demand of 684 acre-feet for the subdivision for 300 years. Determination No. 1484-BD permits withdrawal of 4.43 acre-feet/year (1,326 acre-feet total) of Arapahoe aquifer water for a period of 300 years.

Based on the water demand of 2.28 acre-feet/year for the Mountain's Edge Subdivision and Determination of Water Right No. 1484-BD permitting withdrawals in excess of that

¹ Note: 9.387 acres has been removed from the tract and is no longer part of this subdivision; however, no water allocated for the 9.387-acre portion was transferred to the new owner of that tract.

amount, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the Mountain's Edge 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.**

7. **Basis.** The County Attorney's Office reviewed the following documents in preparing this review: The Water Supply Information Summary provided on July 22, 2021, the Water Resources Report dated December 8, 2021, the State Engineer's Office Opinion dated January 31, 2022, and Commission Determination of Water Right No. 1484-BD dated March 12, 2008. 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, its successors and assigns, shall comply with all requirements of Determination No. 1484-BD, specifically, that water use shall not exceed 4.43 acre-feet annually for the 5-lot subdivision for a period of 300 years.

B. Because there are no water augmentation or replacement plan obligations associated with the water supply for this subdivision, the County Attorney's Office recommends that Applicant not be required to create a homeowners' association but simply required to create and record restrictive covenants upon and running with the property. The Covenants shall advise and obligate future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of Determination No. 1484-BD, including the requirements regarding the location and construction of wells. The Covenants shall address responsibility for any metering and data collecting that may be required regarding water withdrawals from wells pursuant to the Determination and shall protect the viability of the water supply by placing limitations in the Covenants as to amendments and termination as applied to said water supply.

The Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 684 total acre-feet of nontributary Arapahoe aquifer water, reserving 136.8 acre-feet per lot, pursuant to Determination No. 1484-BD to satisfy El Paso County's 300-year water supply requirement for the 5 lots of the Mountain's Edge Subdivision.

2) 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 Determination No. 1484-BD 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.”

3) 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 Arapahoe aquifer.

4) 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 Mountain’s Edge Subdivision pursuant to Determination No. 1484-BD. 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 a Determination from the Colorado Ground Water Commission 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.”

5) The Covenants shall address termination using the following or similar language:

“These Covenants shall not terminate unless the requirements of Determination No. 1484-BD are also terminated by the Colorado Ground Water Commission and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

C. Applicant and its successors and assigns shall reserve in the Covenants and in any deeds of the Property the determined amount of at least 2.28 acre-feet annually for the subdivision (0.456 acre-feet annually per lot) from the Arapahoe aquifer for a period of 300 years for a total of 684 acre-feet (136.8 acre-feet per lot) for the 5-lot subdivision. 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. Applicant shall convey by recorded warranty deed the reserved Arapahoe aquifer water rights to the individual lot owners. Applicant shall provide copies of said Covenants or other such reservation and conveyance instruments that shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney’s Office prior to recording the minor subdivision plat.

Any and all conveyance instruments shall recite as follows:

For the water rights conveyed for the Arapahoe aquifer: "These water rights conveyed are intended to provide a 300-year supply for each of the 5 lots of the Mountain's Edge Subdivision. The water rights so conveyed 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."

D. Applicant and its successors and assigns, at the time of lot sales, shall convey by warranty deed to individual lot owners sufficient water rights in the Arapahoe aquifer, pursuant to Determination No. 1484-BD underlying the respective lots to satisfy El Paso County's 300-year water supply requirement. Arapahoe aquifer requirements are 136.8 acre-feet (0.456 acre-feet/year x 300 years). Said conveyance instruments shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for the primary supply during pumping for the respective lots. Applicant shall provide form deeds for such conveyances that shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney's Office prior to recording the minor subdivision plat.

E. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions, and Restrictions 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 Determination No. 1484-BD and shall identify the obligations of the individual lot owners thereunder.

F. Applicant and its successors and assigns shall record all applicable documents, including, but not limited to, Determination No. 1484-BD, 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.

G. Pursuant to Determination No. 1484-BD, a condition of a well permit requires that two percent of the water pumped from the Arapahoe wells be relinquished to shallow soils beneath the property.

H. The State Engineer's Office cited the existence of a Denver aquifer well (No. 225983) on the property. The well must be plugged and abandoned prior to recording the final plat.

I. 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: Ryan Howser, Project Manager, Planner II

Mountains Edge, SF-20-1

Please accept the following comments from El Paso County Public Health (EPCPH) regarding the 5-residential lot, 30.613-acre development project referenced above:

- The proposed 5-lot, 30.613-acre residential development will be provided water by individual private wells and wastewater services by onsite wastewater treatment systems (OWTS's).
- There is a finding for sufficiency in terms of water quality based on review of the Accutest Laboratories 13Jan2010 water sample results. All water quality enforceable parameters were satisfactory. The sampling parameters completed for these tests from 2010 are sufficient for the current determination.
- The 14Nov2008, Kumar and Associates, Inc., Geology and Soils Study for the Mountains Edge Development Report, El Paso County, Colorado, was reviewed with results supporting the feasibility of using OWTS's for wastewater treatment. The report indicated the high probability of OWTS's requiring professional engineer design. If the development is approved, then each individual lot is required by regulation to have a soil test pit excavation performed in the area of the primary and secondary soil treatment areas.
- Earthmoving activity in excess of one acre, but less than twenty-five acres, requires a local Construction Activity Permit from El Paso County Public Health. Go to <https://www.elpasocountyhealth.org/service/air-quality/construction-activity-application> for more information.
- Radon resistant construction building techniques/practices are encouraged in this area. The EPA has determined that Colorado, and specifically the El Paso County area, have higher radon levels than other areas of the country.
- El Paso County Public Health encourages planned walkability of residential communities. Please consider appropriate connections to other areas using sidewalks, and/or other established trails in the surrounding area. Walk-ability features help in the effort to reduce obesity and associated heart diseases.
- Any stormwater water quality basin must have mosquito control responsibilities included as a part of the construction design and

maintenance plan to help control mosquito breeding habitat and minimize the potential for West Nile Virus.

**Mike McCarthy
El Paso County Public Health
Environmental Health Division
719.575.8602
mikemccarthy@elpasoco.com
30March2020**



COLORADO

COMMISSINERS:
MARK WALLER (CHAIR)
LONGINOS GONZALEZ, JR. (VICE CHAIR)

HOLLY WILLIAMS
STAN VANDERWERF
CAMI BREMER

COMMUNITY SERVICES DEPARTMENT

PARK OPERATIONS ~ PLANNING ~ CSU EXTENSION ~ COMMUNITY OUTREACH
ENVIRONMENTAL SERVICES ~ VETERANS SERVICES ~ RECREATION/CULTURAL SERVICES

February 19, 2020

Gabe Sevigny
Project Manager
El Paso County Development Services Department
2880 International Circle
Colorado Springs, CO 80910

Subject: Mountain's Edge Minor Final Plat (SF201)

Hello Gabe,

The Planning Division of the Community Services Department has reviewed the development application for Mountain's Edge Minor Final Plat, and is providing the following final comments on behalf of El Paso County Parks:

Mountain's Edge Minor Subdivision consists of 5 residential lots totaling 39.2 acres. The property is on McClelland Road, 1.5 miles south of Hwy 24 between Peyton and Calhan.

The 2013 El Paso County Parks Master Plan shows no parks, trails/routes, or open space directly impacted by the proposed subdivision. The proposed extension of the Rock Island Primary Regional Trail is located 1.6 miles north of the project site. The subject property is not located within any Candidate Open Space, although the Judge Orr Road Candidate Open Space is located approximately 3.5 miles southwest of the property.

As no park lands or trail easement dedications are necessary for this filing, El Paso County Parks staff recommends fees in lieu of land for regional park purposes.

The Park Advisory Board has elected not to review and endorse minor subdivision applications, so these comments are being provided administratively.



Staff Recommendation:

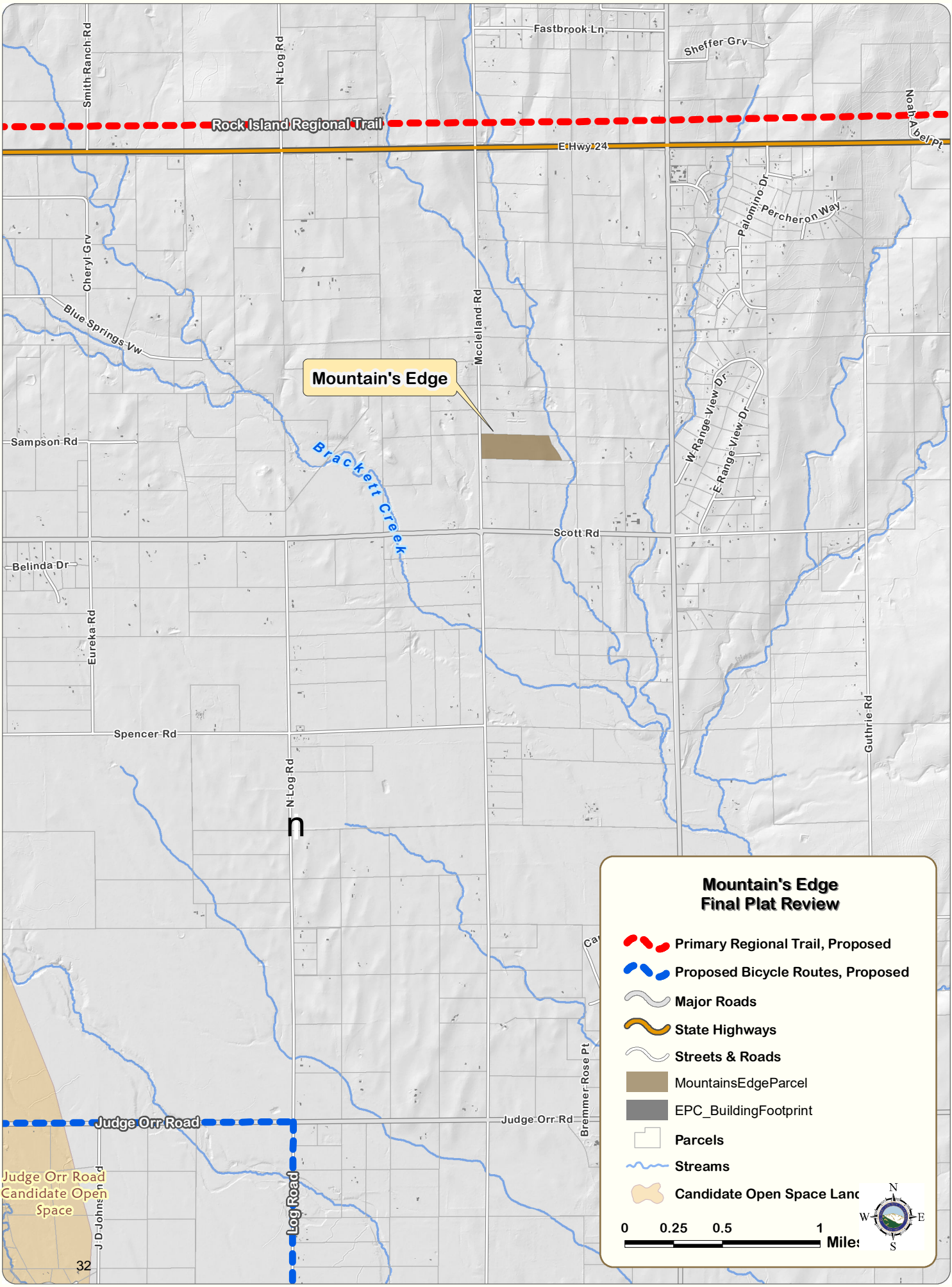
Recommend to the Planning Commission and Board of County Commissioners that approval of the Mountains Edge Minor Subdivision Final Plat include the following condition: require fees in lieu of land dedication for regional park purposes in the amount of \$2,335.

Please let me know if you have any questions or concerns.

Sincerely,

Greg Stachon
Landscape Architect
Community Services Department
GregStachon@elpasoco.com





Rock Island Regional Trail

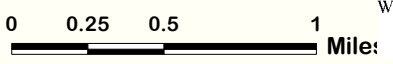
EtHwy24

Mountain's Edge

Brackett Creek

Mountain's Edge Final Plat Review

-  Primary Regional Trail, Proposed
-  Proposed Bicycle Routes, Proposed
-  Major Roads
-  State Highways
-  Streets & Roads
-  MountainsEdgeParcel
-  EPC_BuildingFootprint
-  Parcels
-  Streams
-  Candidate Open Space Land



Judge Orr Road
Candidate Open
Space

**Development
Application
Permit
Review**



COMMUNITY SERVICES DEPARTMENT
 Park Operations - Community Outreach - Environmental Services
 Veterans Services - Recreation / Cultural Services

February 19, 2020

Subdivision requirements referenced in Section 8.5.2 of the El Paso County Land Development Code. Fees are based on average land values within designated areas. See El Paso County Board of County Commissioners (BoCC) Resolution for fees established on an annual basis. The Park Advisory Board meets the second Wednesday of each month, 1:30 p.m., BoCC Auditorium, second floor of Centennial Hall, 200 South Cascade Avenue, Colorado Springs.

Name:	Mountain's Edge Final Plat	Application Type:	Final Plat
PCD Reference #:	SF-201	Total Acreage:	39.23
Applicant / Owner:	Owner's Representative:	Total # of Dwelling Units:	5
OGC RE2 LLC	Land Development Consultants, Inc.	Dwelling Units Per 2.5 Acres:	0.32
Kevin O'Neil	Daniel Kupferer	Regional Park Area:	4
455 Pikes Peak Ave Suite 102	3898 Maizeland Road	Urban Park Area:	5
Colorado Springs, CO 80903	Colorado Springs, CO 80909	Existing Zoning Code:	RR-5
		Proposed Zoning Code:	RR-5

REGIONAL AND URBAN PARK DEDICATION AND FEE REQUIREMENTS

Regional Park land dedication shall be 7.76 acres of park land per 1,000 projected residents, while Urban Park land dedication shall be 4 acres of park land per 1,000 projected residents. The number of projected residents shall be based on 2.5 residents per dwelling unit.

The EPC Land Development Code defines urban density as land development of higher density and intensity which is characteristically provided with services of an urban nature. This category of development includes residential uses with densities of more than one dwelling unit per 2.5 acres.

LAND REQUIREMENTS

Urban Density (>= 1 Dwelling Unit Per 2.5 Acres): **NO**

Regional Park Area: 4

Urban Park Area: 5

0.0194 Acres x 5 Dwelling Units = 0.097
Total Regional Park Acres: 0.097

Neighborhood:	0.00375 Acres x 5 Dwelling Units =	0.00
Community:	0.00625 Acres x 5 Dwelling Units =	0.00
	Total Urban Park Acres:	0.00

FEE REQUIREMENTS

Regional Park Area: 4

Urban Park Area: 5

\$467 / Dwelling Unit x 5 Dwelling Units = \$2,335
Total Regional Park Fees: \$2,335

Neighborhood:	\$116 / Dwelling Unit x 5 Dwelling Units =	\$0
Community:	\$179 / Dwelling Unit x 5 Dwelling Units =	\$0
	Total Urban Park Fees:	\$0

ADDITIONAL RECOMMENDATIONS

Staff Recommendation: Recommend to the Planning Commission and Board of County Commissioners that approval of the Mountains Edge Minor Subdivision Final Plat include the following condition: require fees in lieu of land dedication for regional park purposes in the amount of \$2,335.

No PAB Endorsement Necessary