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El Paso County Planning & Community Development
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 Colorado Springs, CO 80910

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

TO: El Paso County Planning Commission
Brian Risley, Chair

FROM: Kylie Bagley, Planner II
Lupe Packman, PE Engineer I
Kevin Mastin, Interim Director

RE: Project File #: MS-21-004
Project Name: Warner Minor Subdivision
Parcel No.: 51230-00-037

OWNER:	REPRESENTATIVE:
Brian Warner 17350 W Goshawk Road Colorado Springs, CO 80908	Forsgren Associates, LLC. 56 Inverness Drive East, Suite 112 Englewood, CO 80112

Commissioner District: 1

Planning Commission Hearing Date:	5/19/2022
Board of County Commissioners Hearing Date	6/7/2022

EXECUTIVE SUMMARY

A request by Brian Warner for approval of a minor subdivision to create four (4) single-family residential lots. The 40-acre property is zoned RR-5 (Residential Rural) and is located along the north side of Goshawk Road, approximately 3/4 mile north of the Hodgen Road, and is within Section 23, Township 11 South, Range 65 West of the 6th P.M.

1. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Brian Warner for approval of a minor subdivision to create a four (4) single-family residential lots.

Waiver(s)/Deviation(s): The following waiver of the El Paso County Land Development Code (2021) (LDC) is requested with the proposed minor subdivision.

1. A waiver of Section 8.4.3 (B), which requires that lots have a minimum of 30 feet of frontage on and have access from a public road. The applicants are proposing a common access easement along the southern property lines of Lots 1 and 2 giving Lots 2 and 3 access to Roller Coaster Road. The property owners will be responsible for maintenance of the proposed driveway as outlined in the maintenance agreement.

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

2. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

3. 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 (2021):

- 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;

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- 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.]

4. LOCATION

North: RR-5 (Residential Rural)	Residential
South: RR-5 (Residential Rural)	Residential
East: RR-5 (Residential Rural)	Residential

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West: RR-5 (Residential Rural)

Residential

5. BACKGROUND

The 40-acre parcel was legally created by deed on November 1, 1977 (Bk. 2980, Pg. 347). The parcel was zoned A-4 (Agricultural) when zoning was first initiated for this area of unincorporated El Paso County on September 20, 1965, (BoCC Resolution No. 434870). Due to nomenclature changes to the Code, the A-4 zoning district was renamed as the RR-5 (Rural Residential) zoning district. The subject property is developed with a single-family dwelling and one outbuilding. The dwelling was constructed on the property in 1978 and the outbuilding in 1986.

6. 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 RR-5 (Residential Rural) zoning district density and dimensional standards are as follows:

- Minimum zoning district area: 5 acres
- Minimum front, side, and rear yard setback: 25 feet
- Maximum height: 30 feet

The existing dwelling and accessory structure meet the 25-foot setback from all proposed property lines, the maximum height, and lot coverage limitations as required in the RR-5 zoning district. Residential site plans will be required prior to building permit authorization to ensure each new dwelling on the proposed lots comply with the dimensional standards of the RR-5 zoning district.

1. Your El Paso Master Plan

a. Placetype: Large-Lot Residential

Placetype Character:

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

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

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

Recommended Land Uses:

Primary

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

Supporting

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



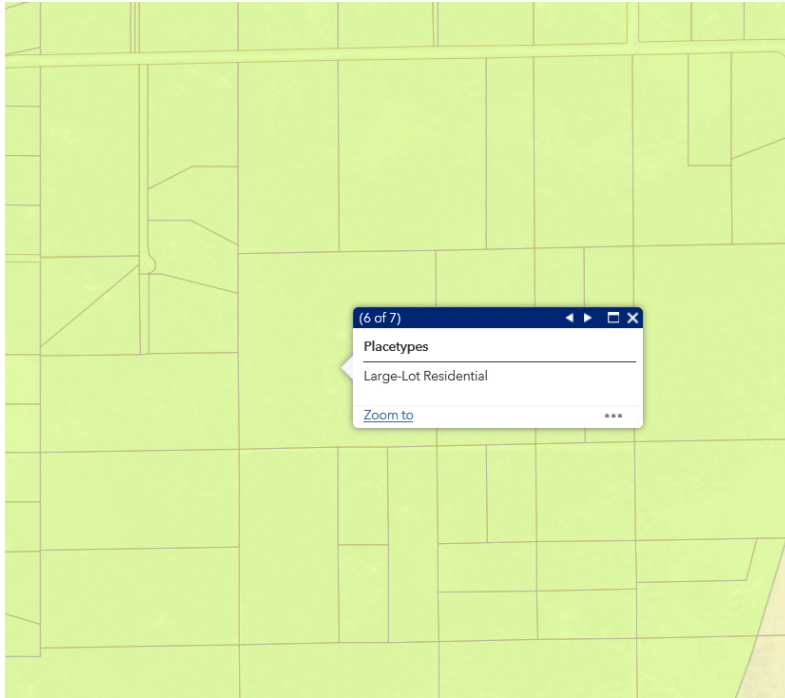


Figure G.1: Placetype Map

Analysis:

The property is located within the Large-Lot Residential placetype. The Large-Lot Residential placetype supports the rural character of the County while providing for unique and desirable neighborhoods. Relevant goals and objectives are as follows:

Goal LU1 – Ensure compatibility with established character and infrastructure capacity.

Objective HC1-5 – Focus detached housing development in Large-Lot Residential and Suburban Residential areas given the increasing infrastructure and environmental constraints associated with such development to help maintain the established character of rural communities.

Goal HC2 – Preserve the character of rural and environmentally sensitive areas.

The proposed subdivision would create four (4) single-family detached residential lot. The proposed use and lot size are consistent with the character and intent of the Large-Lot Residential placetype. Two of the proposed lots are five (5) acres in size, one lot is ten (10) acres in size, and one lot of 19.86 acres. By maintaining a 19 acre lot and a 10 acre lot, the proposed subdivision is working to preserve the rural character of the area, which primarily consists of properties which are larger than the recommended 2.5 acres identified as suitable within the Large-Lot Residential placetype.

b. Area of Change Designation: Minimal Change: Undeveloped

These areas have undergone development and have an established character. Developed areas of minimal change are largely built out but may include isolated pockets of vacant or underutilized land. These key sites are likely to see more intense infill development with a mix of uses and scale of redevelopment that will significantly impact the character of an area. For example, a large amount of vacant land in a suburban division adjacent to a more urban neighborhood may be developed and change to match the urban character and intensity so as to accommodate a greater population. The inverse is also possible where an undeveloped portion of a denser neighborhood could redevelop to a less intense suburban scale. Regardless of the development that may occur, if these areas evolve to a new development pattern of differing intensity, their overall character can be maintained.



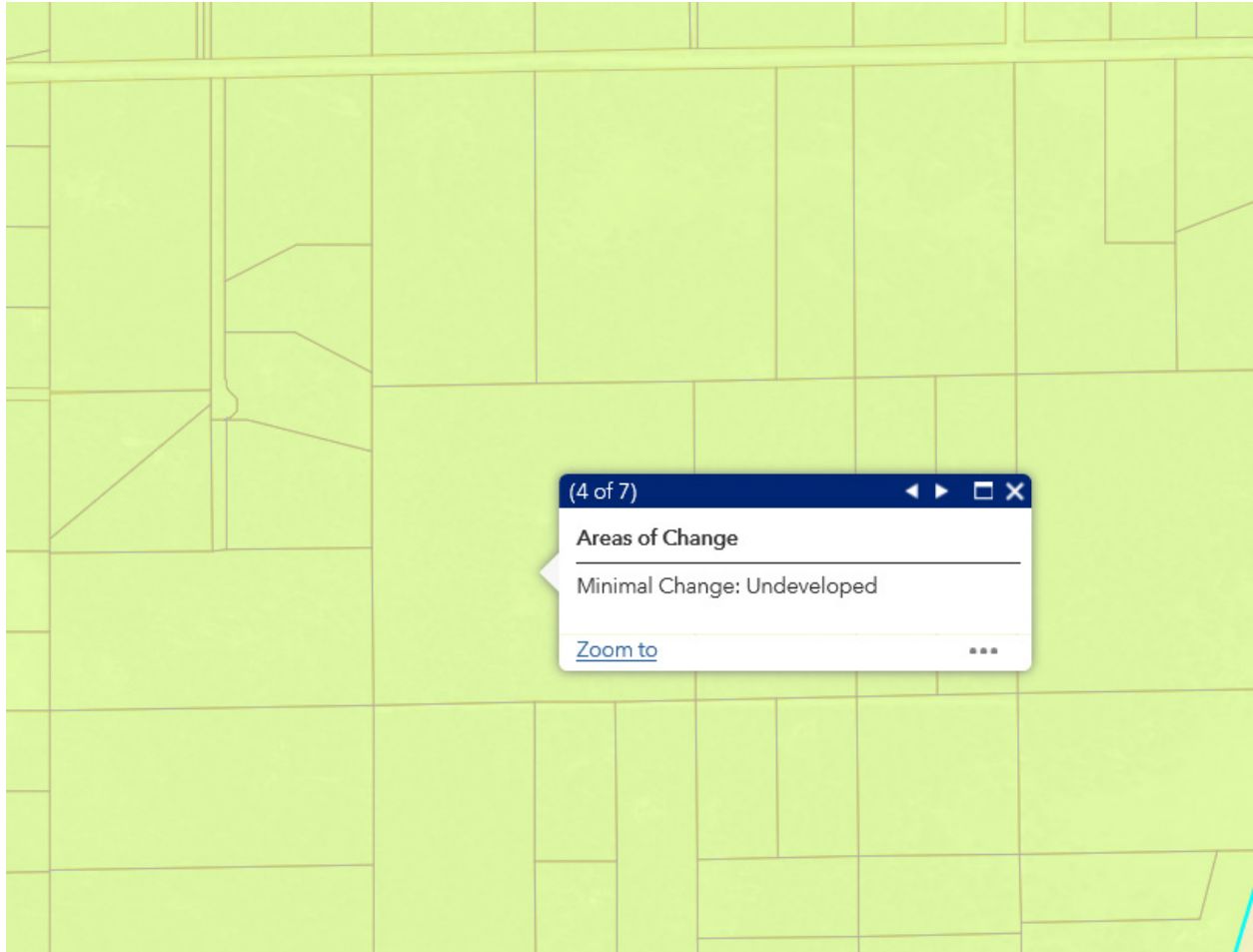


Figure G.2: Area of Change Map

Analysis:

The subject property is adjacent to other parcels within the RR-5 zoning district with similar densities as those being proposed. The current minor subdivision proposal is consistent with the area of change and with the current development pattern of the surrounding properties.

c. Key Area Influences

El Paso County represents a vast area composed of many distinct areas. These “Key Areas” have their own unique identities and are generally localized into smaller geographic areas with distinct characteristics that distinguish them from other areas of the County. The subject property is potentially influenced by the Forested Area.



Forested Area

This Key Area includes parts of the County where natural forests are the predominant feature such as Black Forest, areas north of Peyton, and areas along Highway 115 as well as lands within Pike National Forest. Pike National Forest is one of the County's largest natural amenities and tourist destinations. Continued coordination with the U.S. Forest Service is critical to ensuring future development in areas adjacent to the Forest do not negatively impact the natural environment. There are also many established communities within Pike National Forest particularly in Ute Pass and along Highway 115. New development and any redevelopment in these locations should be of a lower intensity to mitigate any impacts on the Forest, properly manage stormwater, provide safe access to major roads and state highways for the traveling public and emergency response vehicles and adhere to the strictest building codes to prevent any hazards such as fires and soil erosion related to poor planning, design, and construction.

Managed residential growth, along with supportive commercial uses, have helped the other forested areas preserve their natural amenities while supporting the daily needs of a thriving local community. The seamless connection between the natural environment and small-scale, low intensity development is critical to their identity. All new development and redevelopment in this Key Area should strictly adhere to the transportation and infrastructure, stormwater requirements, built form, and transition guidelines outlined in their appropriate placetypes. Each development proposal should also be reviewed on a case-by-case basis to determine its specific impact on the forested area and the established character of the individual community.



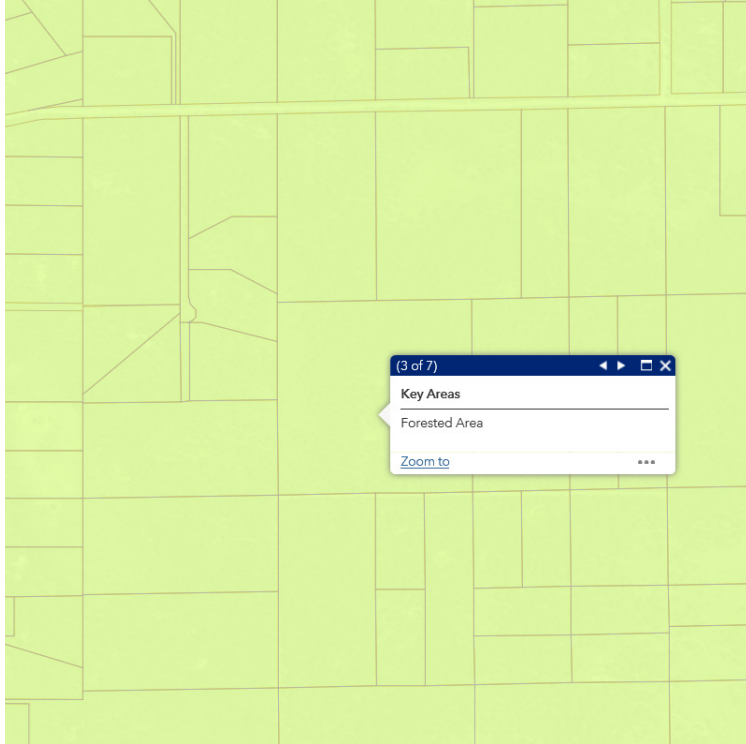


Figure G.3: Key Area Map

Analysis:

The proposed subdivision aligns with the existing character of the area and is therefore not likely to have a substantial impact on the Key Area.

3. 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 subject parcel is in Region 4A of the El Paso County Water Master Plan. Region 2 has a current water supply of 725-acre feet per year and a current demand of 725-acre feet per year. The 2040 water supply is projected to be 725-acre feet per year and the projected demand is 958-acre feet. The 2060 water supply is projected to be 725-acre feet per year, whereas the demand is anticipated to be 1,170-acre feet per year; therefore, there is projected to be a deficient supply of water for central water providers in this region of the County.

Water service for the parcels will be provided by an on-site well. Please review the recommendations from the State Engineer as well as the County Attorney in regards to sufficient water.

4. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a moderate wildlife impact potential. El Paso County Environmental Services was sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies stream terrace deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

Please see the Parks Section below for information regarding conformance with The El Paso County Parks Master Plan (2013).

Please see the Transportation Section below for information regarding conformance with the 2016 Major Transportation Corridor Plan (MTCP).

5. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified in the review of the minor subdivision that would impede development.



1. Wildlife

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

2. Floodplain

The property is not located within a defined floodplain as determined from review of the FEMA Flood insurance Rate Map panel number 08041C0310G, dated December 7, 2018.

3. Drainage and Erosion

The property is located within the West Kiowa Drainage Basin (KIKI0200) drainage basin, which is included in the El Paso County Drainage Basin Fee program.

Per the submitted drainage report, the site generally drains to the west and to the northeast of the site. Runoff will continue flowing to the same outfall as it does now, which is to the ditch in Goshawk Road and to the north onto another lot.

No public improvements are required for this project. Water quality and detention facilities are not required due to the nature and size of the lots.

4. Transportation

Access to Lot Nos. 1-4 will be provided along the frontage of Goshawk Road. Each lot will have its own driveway for exclusive use. A traffic study was not required as the proposed subdivision is not expected to generate 100 daily vehicle trips.

The El Paso County 2016 Major Transportation Corridors Plan Update does not depict roadway improvements in the immediate vicinity. The applicant and future lot owners will be required to apply for driveway permits to obtain access to Goshawk Road.

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471, as amended). Road impact fees shall be paid in full at the time of subsequent building permits if not paid at the time of final plat recordation.

5. SERVICES

Sufficiency:

Quality: Sufficient

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Quantity: Sufficient

Dependability: Sufficient

Attorney's summary: Water service to the subject property is provided by an onsite well. 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. El Paso County Public Health has made a recommendation regarding a finding of sufficiency for water quantity and dependability.

1. Sanitation

Wastewater is to be provided by onsite wastewater treatment systems (OWTS).

2. Emergency Services

The property is within the Falcon Fire Protection District.

3. Utilities

Electrical service is provided by Mountain View Electric Association, Inc., (MVEA) and natural gas is provided by use of propane. MVEA was sent a referral and has no outstanding comments.

4. Metropolitan Districts

The property is not within a metropolitan district.

5. Parks/Trails

Fees in lieu of park land dedication in the amount of \$1,840 for regional fees and no urban park fees will be due at the time of recording the final plat.

6. Schools

Fees in lieu of school land dedication in the amount of \$555.00 shall be paid to El Paso County for the benefit of Falcon School District No. 49 at the time of plat recording

6. APPLICABLE RESOLUTIONS

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Disapproval Page 20

7. STATUS OF MAJOR ISSUES

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There are no major issues.

8. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2019) staff recommends the following conditions and notations:

CONDITIONS

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



7. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
8. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.
9. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 18-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
10. Park fees in lieu of land dedication for regional parks (Area 2) in the amount of \$1,840.00 shall be paid at the time of plat recordation.
11. Fees in lieu of school land dedication in the amount of \$555.00 shall be paid to El Paso County for the benefit of Falcon School District No. 49 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.

9. PUBLIC COMMENT AND NOTICE

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The Planning and Community Development Department notified 11 adjoining property owners on May 5, 2022, for the Planning Commission meeting. Responses will be provided at the hearing.

10. ATTACHMENTS

Vicinity Map

Letter of Intent

Plat Drawing

State Engineer's Letter

County Attorney's Letter

El Paso County Public Health Recommendation Letter

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El Paso County Parcel Information

File Name: MS-21-004

PARCEL	NAME
5123000037	WARNER J BRIAN

Zone Map No.: --

ADDRESS	CITY	STATE
17350 W GOSHAWK RD	COLORADO SPRINGS	CO

ZIP	ZIPLUS
80908	1659

Date: May 2, 2022



Please report any parcel discrepancies to:
 El Paso County Assessor
 1675 W. Garden of the Gods Rd.
 Colorado Springs, CO 80907
 (719) 520-6600



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Forsgren Associates, LLC
56 Inverness Drive East, Ste 112
Englewood, CO 80112
720-214-5884

Warner 4-Lot Subdivision – Minor Subdivision
Letter of Intent

Site Location: 17350 W Goshawk RD
Colorado Springs, CO 80908

Site Data The 40-acre site, zoned RR-5, is located just northwest the intersection of Roller Coaster Rd and W Goshawk Rd in Colorado Springs.

Request/Justification To gain approval for platting the current lot at 17350 W Goshawk RD to include 4-lots. The center lot will be 20-acres, easterly lot shall be 10-acres, and each of the two westerly lots shall be 5-acres each, with one being a flag lot to provide each property owner individual access to their property. No site work is proposed at this time. However, upon development of each parcel, grading and erosion control measures shall be provided. Each individual owner and builder shall conduct their own due-diligence when developing each individual lot.

This application meets all requirements of a Minor Subdivision, as described in Section 7.2.1 of the El Paso County Land Development Code. The proposed use is for only 4-lots, which meets the standard of “4 or fewer lots”. In addition, the four lots are simply for residential use, on large acreage lots. This Minor Subdivision will not “discernibly impact surrounding properties, environmental resources or public facilities”.

The subdivision as shown on the Final Plat is in substantial conformance with the submitted Preliminary Plan. Direct coordination between the Engineer and Surveyor completing the Final Plat was conducted throughout the design process and consistency between all applicable, submitted documents was provided.

The proposed Minor Subdivision is in compliance with the applicable guidelines for the vision set forth in “Your El Paso Master Plan”. The subdivision is located in a forested, rural area and only single family detached homes are proposed. Since the homes are in heavily wooded areas away from major roadways, the character of the area shall not be impeded. The addition of 3 single family homes will not impede the capacity of nearby Hodgen Road and will not cause any other burdens to existing infrastructure. No new major roadways or infrastructure are proposed and driveways shall cause minimal impact to existing terrain.

The proposed Minor Subdivision is in compliance with the El Paso County Parks Master Plan. The Master Plan shows no open space, park facilities, or trails intersected by or within the project area. The site is located just outside the

Black Forest North candidate Open Space area. No land dedication or trail easements have been deemed necessary by this development.

The proposed Minor Subdivision is in compliance with the current El Paso County Water Master Plan. A Determination of Water Rights of the four underlying groundwater aquifers and replacement plan was conducted and the Water Court awarded the applicants a vested right to 3,840 acre feet of groundwater from the not-nontributary Dawson aquifer for the four lots. A replacement plan was put in place to ensure actual depletions from the Dawson aquifer are replaced via the septic returns.

The proposed Minor Subdivision is consistent with the subdivision design standards and regulations. It meets all applicable design standards and requires no public improvements.

The subdivision is consistent with its current RR-5 zoning designation and is consistent with the subdivision design standards, engineering and surveying requirements of the county all mapping, data, surveys, analyses, plans, reports and studies.

Sufficient water supply has been secured for the subdivision, and is summarized in the Colorado Ground Water Determination of Water Rights, as provided to the County. The anticipated water demand for the four lots is 1440 gallons/day. It was determined that the Dawson aquifer would be used for water supply and that there is 3,770 acre-feet of available groundwater underlying the property. Of this, 1,200 acre-feet of the total available amount will be used to provide the 300-year supply. The supply has been deemed sufficient in terms of quality, quantity and dependability. Individual wells shall provide each property with its water supply.

A Geology and Soils Report, as well as an Onsite Wastewater Treatment System Report, have been prepared and submitted to the County. The Owner shall comply with the recommendations of the report. A public sewage disposal system shall not be provided. Redoximorphic features were not identified by any of the test pits observed by RMG. Two of the test pits identified bedrock or limiting layers. Subsurface conditions shall be reevaluated upon development of each individual lot. A private, engineered onsite wastewater treatment system shall be designed by a Colorado Licensed Engineer and installed, per the reports submitted to the County. The proposed new lots are anticipated to be suitable for individual onsite wastewater treatment systems.

All areas of the proposed subdivision which involve soil or topographical conditions presenting hazards or requiring special precautions have been identified on the Preliminary Plan and Final Plat. No-build areas were not identified from preliminary evaluation. Steep slopes, areas of shallow groundwater, and other non-compatible site conditions were not identified on-site.

A Drainage Letter has been prepared and submitted to the County. It was determined that no drainage improvements shall be required for the four-lot subdivision, and all applicable fees shall be paid as provided in said Drainage Letter.

The property is within the Falcon Fire Protection District. A Fire Protection Report was provided to the County to summarize the District's capabilities. The District serves approximately 66,300 residents, covers 113 square miles, has on hand approximately 40 firefighters, EMTs and paramedics across 5 stations and is on call 24 hours a day. The District has agreed to continue to serve this area and any building permits submitted within the subdivision shall meet applicable District standards and requirements. This includes developing adequate defensible zones for all structures and removal of fuels adjacent to and surrounding any structures. Building permits shall be in accordance with the requirements of the District.

The property is located within Unincorporated El Paso County and is within the jurisdiction of the Colorado Springs Police Department, Falcon Command Division. It shall be served by this department.

Mountain View Electric Association, Inc. has provided an electric service commitment letter and has agreed to continue to serve the area.

Black Hills Energy has provided a natural gas commitment letter and has agreed to provide Natural Gas Distribution Service to the development.

Off-site impacts were evaluated and it was determined that no off-site improvements shall be required. Impacts of the four-lot subdivision shall be negligible. This Minor Subdivision shall not "discernibly impact surrounding properties, environmental resources or public facilities". The owner shall be responsible for any park, school drainage or traffic impact fees.

No public facilities or infrastructure shall be provided, as this is a Minor Subdivision expanding from one lot to four lots. Impacts of this subdivision shall be negligible.

It was determined that there are no existing mineral estate owners on the property. The extraction of any known commercial mining deposit shall not be impeded by this subdivision.

Existing/Proposed
Facilities, Structures
and Roads

The site has a single-family home with an access road located at the southerly edge of the property and is covered in native grasses, trees and shrubs. West Goshawk Road, a private roadway, runs east-west along the southern property boundary and shall remain undisturbed. Goshawk Road runs North to south from West Goshawk Road to Hodgen Road to the south. It is anticipated that driveways will be provided to each lot upon development and shall be

provided by each individual lot Owner. No shared access roads shall be provided, as all drives shall access each parcel individually.

Landscaping/Screening Currently, the site is covered in native grasses, trees and shrubs with abundant screening for each of the large size lots. Each individual owner shall provide landscaping/screening for their lots, if it is deemed necessary by El Paso County.

Grading/Erosion Control Each property owner will be responsible for property specific grading and erosion control. No site work is anticipated at this time to require grading/erosion control measures.

Traffic Control This project is an internal, private project with no disturbance to existing roadways. Only a maximum of 3 new homes shall be built in the future as a result of this major subdivision. This will not result in any substantial increase in traffic. As a result, no additional traffic control shall be provided.

Each lot shall gain access via Goshawk Road individually. Lots 1 and 2 shall gain access along the southern edge of Lot 2. Access currently exists for access to Lot 3. Lot 4 shall gain access along the southern edge of the lot.

Waiver Requests A waiver shall be requested for three additional accesses from the private roadway section of W Goshawk Rd. Based on the El Paso County Land Development Code, additional lots without frontage to a public roadway requires a waiver. At this juncture, no additional accesses would be allowed leading to new property owners being unable to access their property. A request for up to three additional access points is requested.

Waiver Approval Criteria

- ***The waiver does not have the effect of nullifying the intent and purpose of this Code;***
The Warner 4-Lot Subdivision and associated waiver does not have a nullifying effect on the intent and purpose of the code. Goshawk Road loops around and accesses Hodgen Road to the south. The private road is not at a dead end and additional lots shall not affect adjacent Owners.
- ***The waiver will not result in the need for additional subsequent waivers;***
No additional waivers are anticipated or needed to implement planned uses within the proposed subdivision.
- ***The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;***

Approval of the waiver will not be detrimental to the public health, safety, welfare, or have a negative impact to adjacent properties. The roadway has very little traffic, as it is a private roadway with only residential lots adjacent to it. Additional accesses are not anticipated to cause any traffic or health/safety issues.

- ***The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;***
The inability to gain access to ones land is not a common issue. The small stretch of private roadway at the corner of Goshawk Road is what is leading to this issue.
- ***A particular non-economical hardship to the owner would result from a strict application of this Code;***
Non-economic hardships to the owner and all future property owners in the subdivision include not being able to access each specific lot, as no accesses are allowed from this roadway per the code.
- ***The waiver will not in any manner vary the zoning provisions of this Code; and***
No zoning provisions of the Code are varied by this waiver.
- ***The proposed waiver is not contrary to any provision of the Master Plan.***
The proposed waivers are not contrary to any provision of the Master Plan.

For any questions regarding this letter of intent, please contact the Applicant/Engineer as listed below.

Owner: Warner 4-Lot Subdivision
Brian J Warner
17350 W Goshawk RD
Colorado Springs, CO 80908
719-244-8672

Applicant/Engineer: Forsgren Associates, Inc
Conner Burba
56 Inverness Drive East, Ste 112
Englewood, CO 80112
720-214-5884

WARNER 4 LOT SUBDIVISION

The Northeast Quarter of the Northwest Quarter of Section 23,
Township 11 South, Range 65 West of the 6th Principal
Meridian, County of El Paso, State of Colorado
Sheet 1 of 3

PROPERTY DESCRIPTION

The Northeast Quarter of the Northwest Quarter of Section 23,
Township 11 South, Range 65 West of the 6th Principal Meridian,
County of El Paso, State of Colorado.

OWNER'S CERTIFICATION and DEDICATION

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 land into lots and easements as shown hereon under the name and style of Warner 4 Lot Subdivision. 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 of ingress and egress from and to adjacent properties within this subdivision for installation, maintenance and replacement of utility lines and related facilities.

J. Brian Warner _____ Date _____

State of Colorado)
County of El Paso) ss

The foregoing plat was acknowledged before me by J. Brian Warner

this _____ day of _____, 20_____.

Witness My Hand and Seal _____

My commission expires _____

Notary Public _____

BOARD OF COUNTY COMMISSIONERS CERTIFICATE

This plat of Warner 4 Lot Subdivision 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 (Public Utility Easements) are accepted, but public improvements thereon will not become the maintenance responsibility of El Paso County until preliminary acceptance of the public improvements in accordance with the requirements of the Land Development Code and Engineering Criteria Manual, and the Subdivision Improvements Agreement.

Chair, Board of County Commissioners _____ Date _____

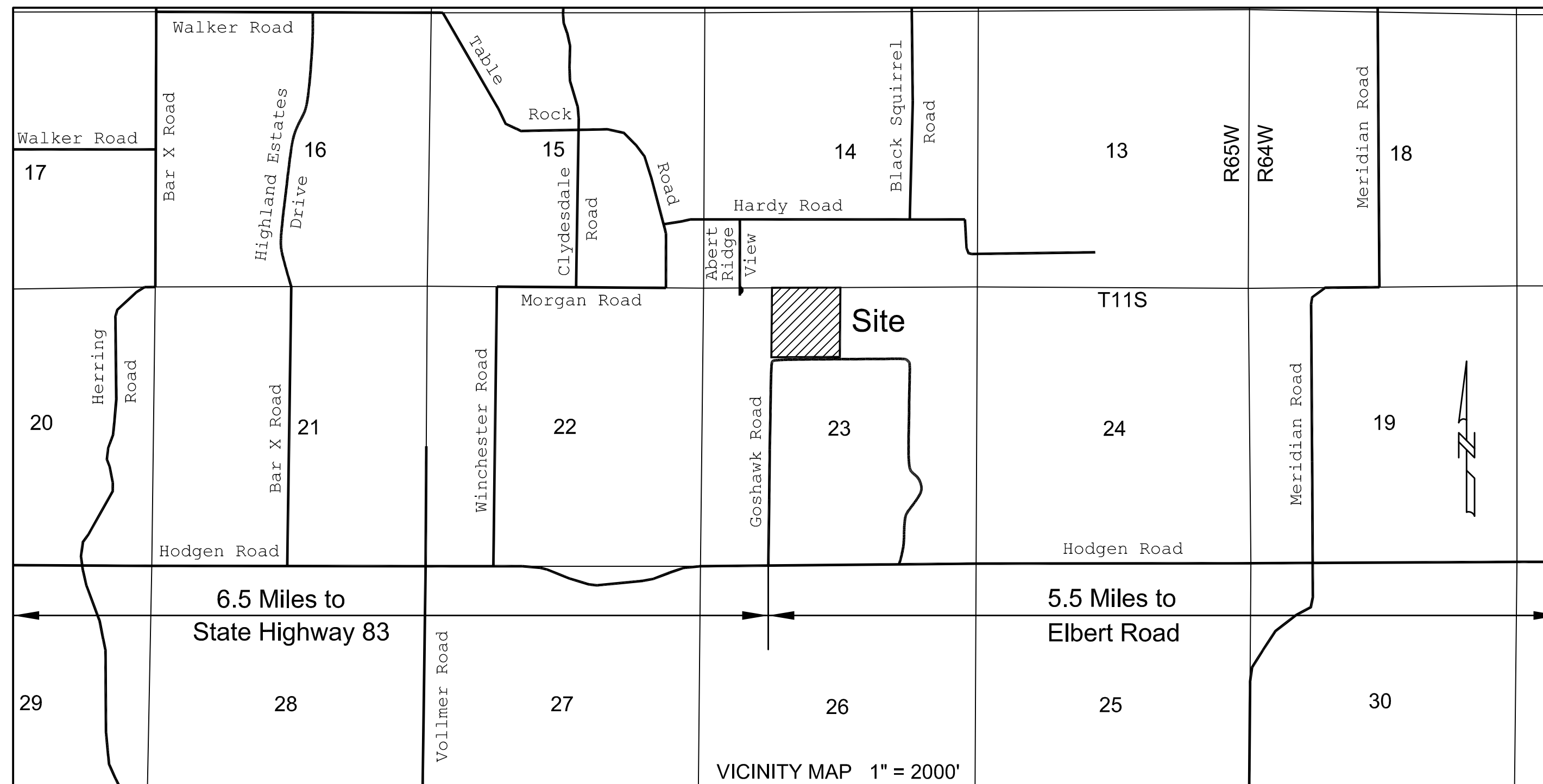
PLANNING AND COMMUNITY DEVELOPMENT APPROVAL

This plat for WARNER 4 LOT SUBDIVISION was approved for filing by the El Paso County, Colorado Planning and Community Development Department Director on the _____ day of _____, 20____, subject to any notes or conditions specified hereon.

Planning and Community Development Director _____

FEES

Drainage Fee: _____
School Fee: _____
Road and Bridge Fee: _____
Park Fee: _____



- 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.
- 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.
- No driveway shall be established unless an access permit has been granted by El Paso County Planning and Community Development Department.
- Mailboxes shall be installed in accordance with all El Paso County and United States Postal Service regulations.
- The subdivision has been found to be impacted by geologic constraints. Mitigation measures and explanation of constraints in the area can be found in the report Soils and Geology Report by Groundwater Investigations LLC April 16, 2021 in file PCD File No. MS-214, available at the El Paso County Planning and Community Development Department.
- Soils and Geology Conditions:
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 report "Soils and Geology Report for Warner Subdivision" by Julia M. Murphy , October 15,2021 in file Warner Minor Sub, MS214 available at the El Paso County Planning and Community Development Department:
Potentially Seasonally High Groundwater: Lots 1, 2, 3 and 4
In Areas of High Groundwater: Due to high groundwater in the area, all foundations shall incorporate an underground drainage system.
- Water Supply: Individual wells are the responsibility of each property owner. Permits for individual wells must be obtained from the State Engineer who by law has the authority to set conditions for the issuance of these permits. Water in the Denver Basin Aquifers is allocated based on a 100-year aquifer life; however, for El Paso County planning purposes, water in the Denver Basin Aquifers is evaluated based on a 300-year aquifer life. Applicants and all future owners 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. Water withdrawal and wells are subject to limitations, restrictions and augmentation requirements and responsibilities as found within the Covenants for this subdivision recorded in Reception No. _____, of the Office of the El Paso County Clerk and Recorder and the terms of the water court approved water augmentation plan.
- 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.
- The addresses exhibited on this plat are for informational purposes only. They are not the legal description and are subject to change.
- 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.
- Note Regarding Reports on File: 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: Drainage Report; Water Resources Report; Fire Protection Report; Wildfire Hazard Report; Geology and Soils Report; Wastewater Study.

GENERAL NOTES

- Statute of limitations disclosure required per 13-80-105, C.R.S.:
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.
- Statement of lineal units required per 38-51-106(1)(l), C.R.S.: Lineal unit of measure used in this survey is U.S. Survey Foot.
- The boundary lines shown on this survey represent a professional opinion by this surveyor as to where the boundary lines hereby retraced were originally laid out on the ground and relied upon by subsequent land owners. The discovery of additional evidence may result in a different opinion.
- Preservation of Boundary Monumentation: Any person who knowingly removes, alters or defaces ANY public land survey monument (defined by 38-53-103(18) C.R.S. as any land boundary monument established on the ground by a cadastral survey of the United States government and any mineral survey monument established by a United States mineral surveyor and made a part of the United States public land records) or ANY land survey corner (defined by 38-53-103(6) C.R.S. as any land survey corner the position of which controls the location of the boundaries of a tract or parcel of land), or a restoration of any such monument, even if said person has title to the land on which said monument is located, commits a class 2 misdemeanor punishable by a fine of up to \$1,000 and/or 1 year in jail unless, prior to such removal, said person has caused a Colorado professional land surveyor to establish at least two witness corners or reference marks for each such monument removed and has filed or caused to be filed a monument record pursuant to article 53 of title 38, C.R.S. (18-4-508, C.R.S.)
- Title Policy Reference: For all information regarding right to title and easements, rights-of-way or other title burdens affecting such right to title to this property, this survey relied upon title commitment issued by Fidelity National Title Insurance Company, order number F0523295-370-BBB, with an effective endorsement date of April 22, 2021. All users of this survey are hereby notified that this survey in no way constitutes a title search by Foresight West Surveying Inc. for determination of (a)right to title, (b)chain of title/abstract, (c)the historical compatibility of all descriptions of this property with all descriptions of adjoining properties, and (d)easements, rights-of-way and other instruments of record that may impact title to this property. Additionally, unwritten rights to this property may exist which are unknown to this firm. A reasonable effort was made to research the records for this property and the adjoining properties in accordance with the usual and customary standard of care for land surveyors practicing in Colorado.
- Basis of bearings statement required per 38-51-106(1)(e), C.R.S.:
Bearings are based upon the north line of the Northeast Quarter of the Northwest Quarter of Section 23, said line bearing North 88°51'50" East relative to the Colorado Coordinate System of 1983, Central Zone (Grid Bearings), as determined by post-processed GNSS observations. The monuments are described hereon.
- State Plane coordinates shown hereon were determined with a post-processed GNSS control network based on an NGS OPUS solution on point G10 and checked against OPUS solutions on points G1 and G9.
- Standard of Accuracy Statement required per 38-52-106, C.R.S.:
Standard of accuracy maintained in developing the State Plane coordinates shown hereon: Order C-2-I (1:50,000), as specified in "Geometric Geodetic Accuracy Standards and Specifications for Using GPS Relative Positioning Techniques", printed by the Federal Geodetic Control Committee Aug. 1, 1989.
- This parcel lies within Zone X, as shown on FEMA FIRM panel no. 08041C0310G, revised December 07, 2018. Zone X is described as "Areas determined to be outside the 0.2% annual chance floodplain".
- This parcel is currently zoned RR-5.
- Date of survey: August 06 through 20, 2019.

SURVEYOR'S CERTIFICATION

I, Lester J. Ludeman, 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 the survey shown hereon, by me or under my direct supervision and responsible charge, 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 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.

This certification is neither a warranty nor guarantee, either expressed or implied.

CLERK AND RECORDER

STATE OF COLORADO
COUNTY OF EL PASO

I hereby certify that this instrument was filed in my office on this _____ day of _____,

and was recorded at Reception Number _____ of the records of El Paso County.

El Paso County Clerk and Recorder

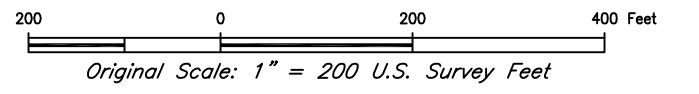
PCD File No. MS-21-004

Revisions

Warner Subdivision
Cover Sheet
Project No. 2019092
February 17, 2022
Sheet 1 of 3

WARNER 4 LOT SUBDIVISION

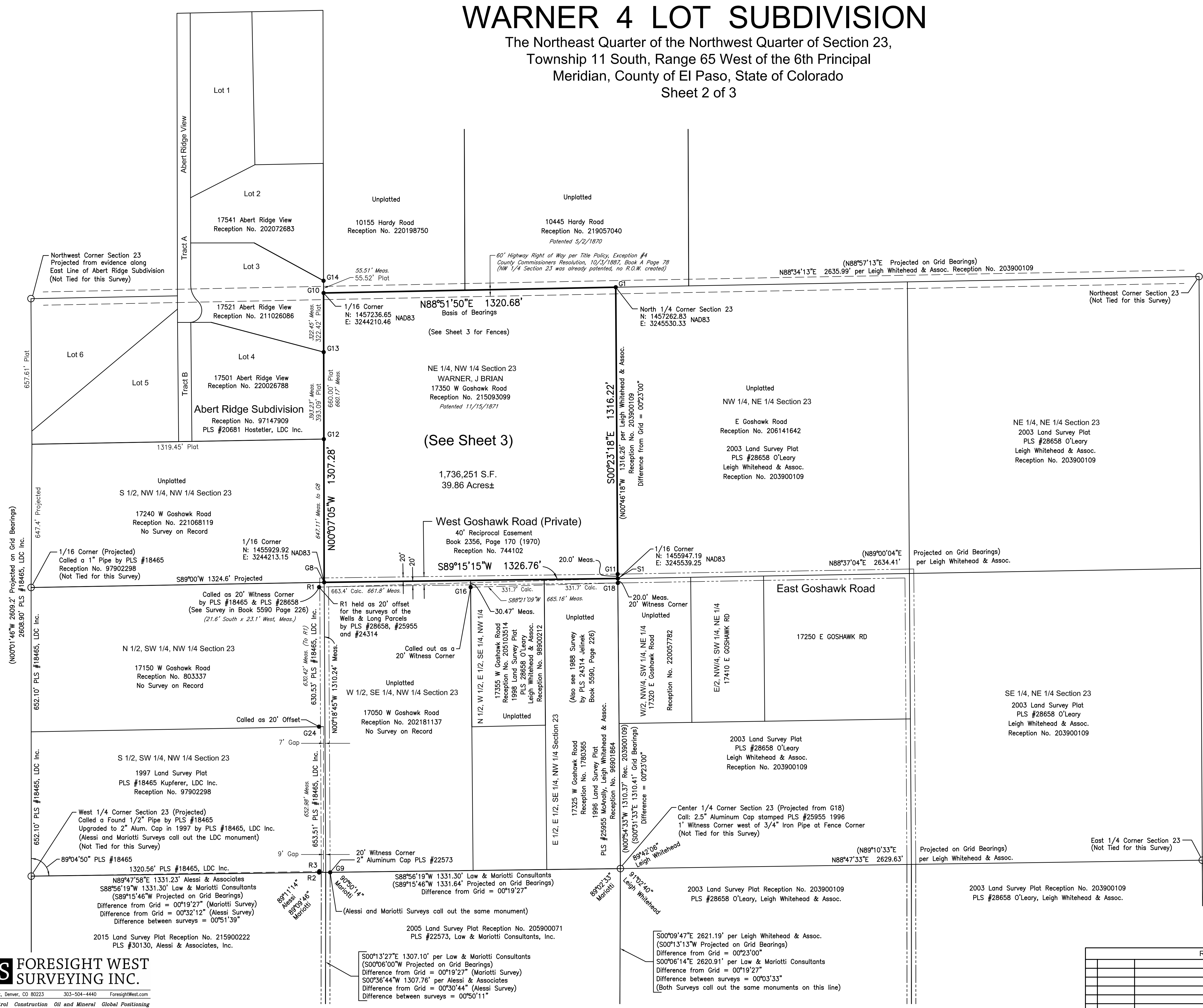
The Northeast Quarter of the Northwest Quarter of Section 23,
Township 11 South, Range 65 West of the 6th Principal
Meridian, County of El Paso, State of Colorado
Sheet 2 of 3



GB = Survey Monument. See Table on Sheet 3
Bearings are based upon the north line of the Northeast Quarter of the Northwest Quarter of Section 23, said line bearing North 88°51'50" East relative to the Colorado Coordinate System of 1983, Central Zone (Grid Bearings), as determined by post-processed GNSS observations. The monuments are described herein.

Northwest Corner Section 23
Projected from evidence along
East Line of Abert Ridge Subdivision
(Not Tied for this Survey)

Northeast Corner Section 23
(Not Tied for this Survey)



500°42'14"E 2636.92'
2003 Land Survey Plat
PLS #28658 O'Leary
Leigh Whitehead & Assoc.
Reception No. 203900109
(Based on Record Bearing from Old Plat)

500°19'14"W 2636.96'
2015 Right-of-Way Survey
PLS #37971 Hoos
American West Land Surveying
Reception No. 215900127
(State Plane Grid Bearing)

Bearing Difference from Grid = 00°23'00"
(Both Surveys describe the same monuments)

(N00°01'46"W 2609.2'
Projected on Grid Bearings)
2608.90' PLS #18465, LDC Inc.
647.4' Projected

(N89°00'04"E
Projected on Grid Bearings)
per Leigh Whitehead & Assoc.

652.10' PLS #18465, LDC Inc.
652.98' Meas.
653.51' PLS #18465, LDC Inc.

(N89°10'33"E
Projected on Grid Bearings)
per Leigh Whitehead & Assoc.

1997 Land Survey Plat
PLS #18465 Kupferer, LDC Inc.
Reception No. 97902298

2015 Land Survey Plat Reception No. 215900222
PLS #30130, Alessi & Associates, Inc.

2003 Land Survey Plat Reception No. 203900109
PLS #28658 O'Leary, Leigh Whitehead & Assoc.

FWS FORESIGHT WEST SURVEYING INC.

1309 S. Inco Street, Denver, CO 80223 303-504-4440 ForesightWest.com
Boundary Control Construction Oil and Mineral Global Positioning

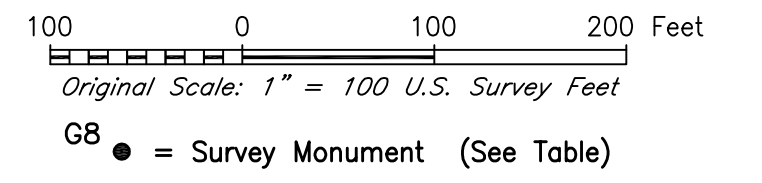
PCD File No. MS-21-004

Revisions	

Warner Subdivision
Boundary Solution
Project No. 2019092
February 17, 2022
Sheet 2 of 3

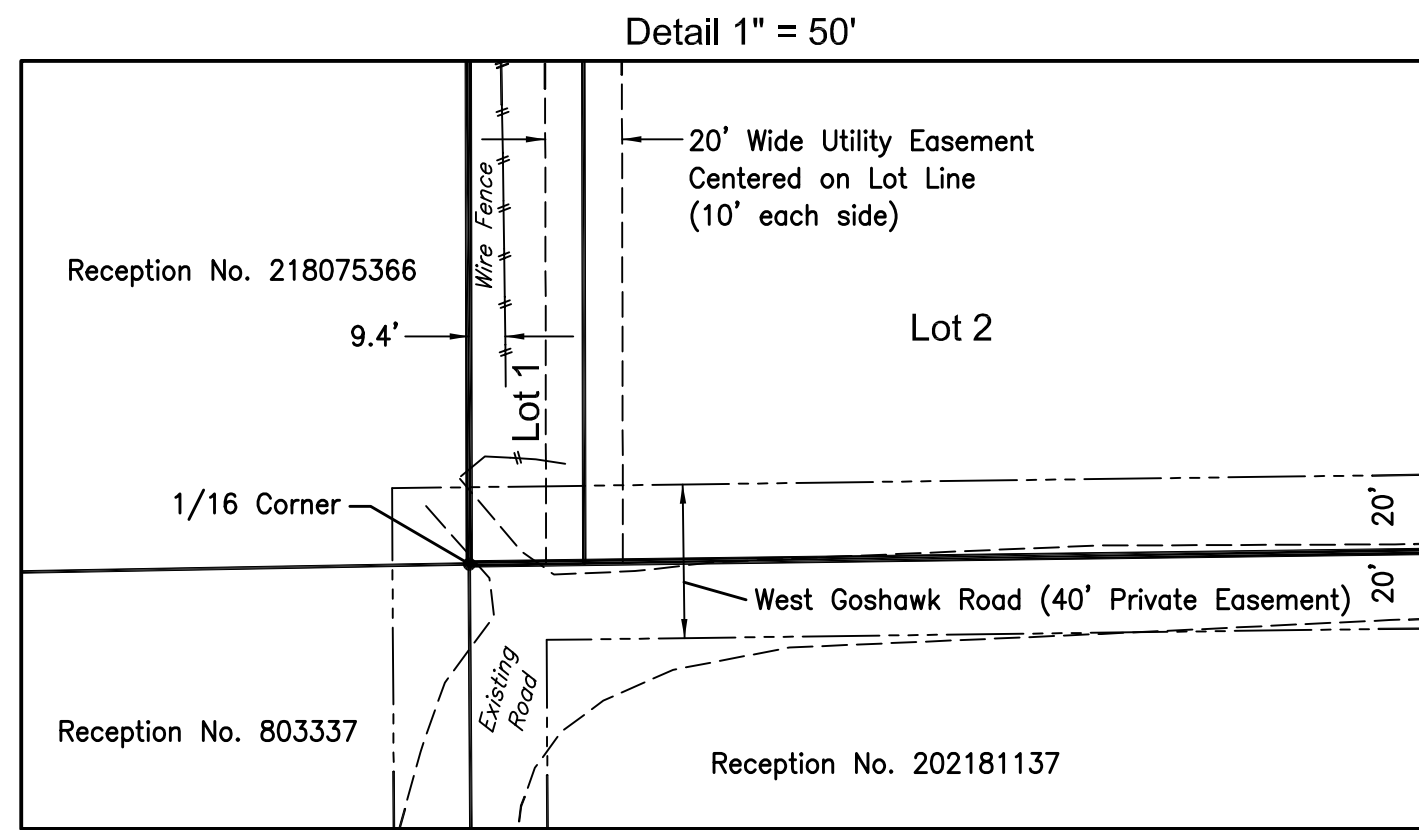
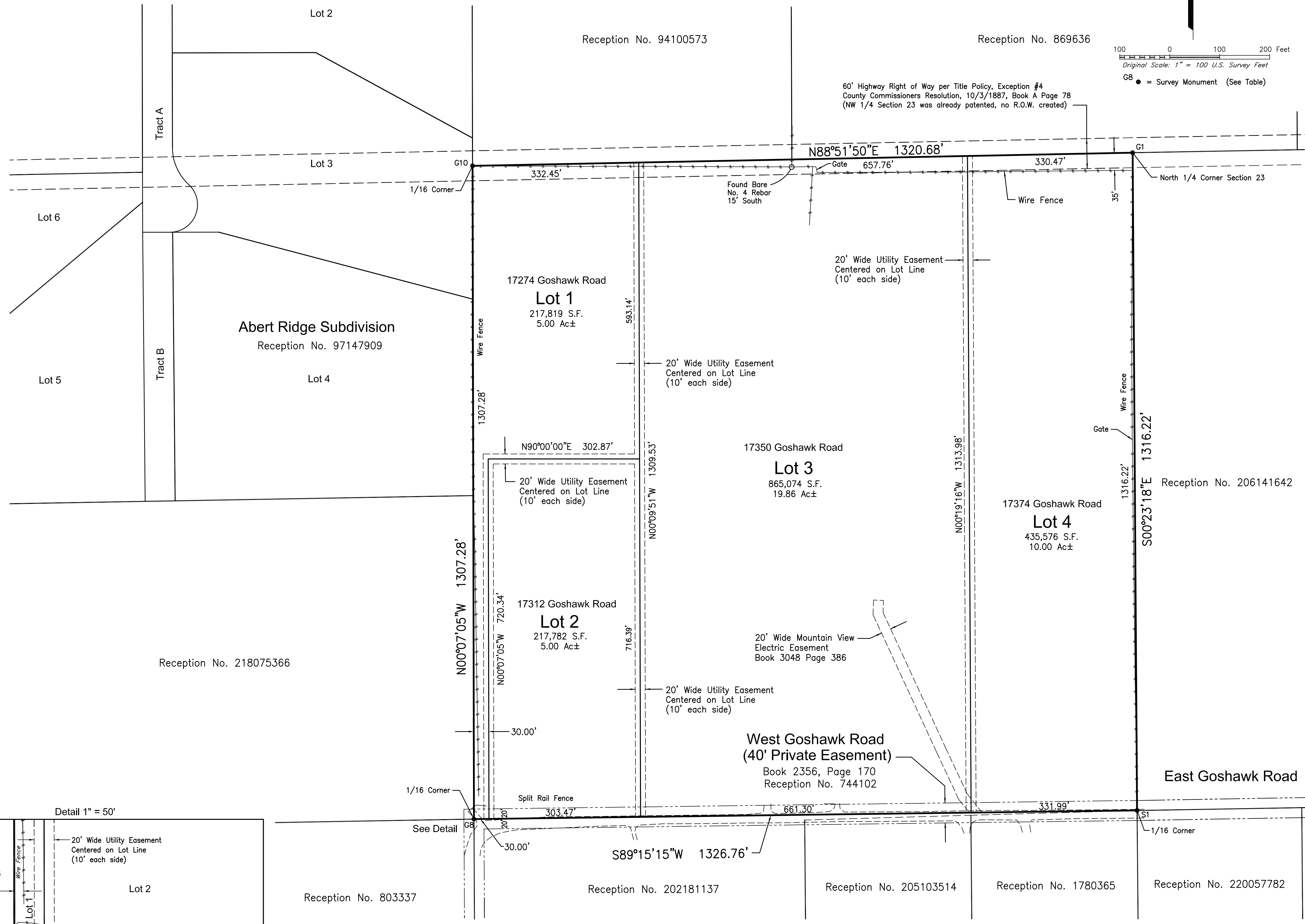
WARNER 4 LOT SUBDIVISION

The Northeast Quarter of the Northwest Quarter of Section 23,
Township 11 South, Range 65 West of the 6th Principal
Meridian, County of El Paso, State of Colorado
Sheet 3 of 3



MONUMENTATION TABLE - LOCAL COORDINATE SYSTEM (See Sheets 2 and 3)

Point ID	Northing	Eastings	Description
G1	40000.00	20000.00	North 1/4 Corner. Found 3.25" Aluminum Cap on #6 Rebar stamped PS INC PLS 12103 1994, as shown on monument record filed 1/06/95 and per Land Survey Plat at Reception No. 203900109
G8	38666.54	18682.27	Found 1" old, weathered Pink Plastic Cap on #4 Rebar stamped LDC INC PLS 20681 beside steel post. Fits east line of Abert Ridge Subdivision, set by the same surveyor. Accepted as 1/16 corner
G8			Note: The monument found at G8 fits the Quarter Section, the road and the fence fairly well. Upgraded the found monument with a Set 2.5" Aluminum Cap on #6 Rebar stamped PLS 25636
G9	37356.35	18709.42	West 1/16 Corner. Found 2" Aluminum Cap on #6 Rebar 0.2' below ground stamped Marotti PLS 22573 2005 (20' Witness Corner) as shown on Land Survey Plat at Reception No. 205900071
G9			Note: The monument found at G9 agrees with Land Survey Plat at Reception No. 215900222 by PLS #30130, but the monument shown on record filed 10/31/16 by PLS #30130 was not found
G10	39973.81	18679.58	West 1/16 Corner, Sections 14 & 23. Found 2" Aluminum Cap on #4 Rebar driven inside a 3/4" Pipe stamped LDC INC PLS 18465 1997 as shown on monument record filed 2/06/98
G11	38703.82	20008.69	Found 13/16" O.D. Galvanized Smooth Iron Pipe flush with ground beside metal T-post on north-south fence line extended southerly
G12	39313.65	18680.95	Southeast Corner, Abert Ridge Subdivision. Found 1" Yellow Plastic Cap on #4 Rebar stamped LDC INC PLS 20681
G13	39706.88	18680.11	Corner of Lots 3 and 4, Abert Ridge Subdivision. Found 1" Yellow Plastic Cap on #4 Rebar. Stamping is illegible
G14	40029.33	18679.46	Corner of Lots 2 and 3, Abert Ridge Subdivision. Found 1" Red Plastic Cap on #4 Rebar stamped LDC INC PLS 20681
G16	38644.68	19344.26	Found 1.5" Aluminum Cap on #5 Rebar stamped LWA PLS 28658 shown as a 20' Witness Corner on Land Survey Plats at Reception Nos. 203900109 and 96901864 (20' Witness Corner)
G24	38014.51	18658.87	Found 1" Yellow Plastic Cap on #3 Rebar stamped 24314 as shown on Land Survey Plats at Reception Nos. 203900109 and 96901864 (20' Witness Corner)
R1	38644.93	18659.20	Found 3/4" O.D. Threaded Iron Pipe with mushroomed top 0.4' below ground shown on Land Survey Plats at Reception Nos. 97902298 and 98900212 (Shown as a 1" Iron Pipe 20' Witness Corner)
R1			Note: This Iron Pipe is shown as being 20' west of the 1/16 corner by PLS 24314 in Book 5990, Page 226 (1988). That survey was relied upon by PLS 25955 in 1996 and PLS 28658 in 1998
R2	37355.68	18659.41	The easement deed for Goshawk Road (1970) predates the 1988 survey by PLS 24314. The 1988 survey is not tied to the west line of the NW 1/4 of Section 23 and does not fit the road
R3	37361.56	18660.45	Found 1.25" Yellow Plastic Cap on #4 Rebar flush with ground stamped Alessi PLS 30130 as shown on Land Survey Plat at Reception No. 215900222 (30' offset)
S1	38683.81	20008.92	Found 1" Yellow Plastic Cap on #3 Rebar 0.4' below ground bent northeast stamped LDC INC PLS 18465 as shown on Land Survey Plat at Reception No. 97902298 (Shown as 20' Offset)
S1			Set 2.5" Aluminum Cap on #6 Rebar stamped PLS 25636, 0.5' below gravel road surface



Revisions	

PCD File No. MS-21-004

Warner Subdivision
Lots and Easements
Project No. 2019092
February 17, 2022
Sheet 3 of 3



June 29, 2021

John Green, Project Manager
El Paso County Development Services Department
Transmitted via the EPC EDARP Portal: epcdevplanreview.com

Re: Warner Minor Subdivision
Case No. MS214
The NE ¼ NW ¼ of Sec. 23, T 11S, R 65W, 6th P.M.
Kiowa-Bijou Designated Basin
Water Division 1, Water District 1

Dear John Green:

We have reviewed the above-referenced proposal for a minor subdivision of 39.86 acres located at 17350 W Goshawk Rd, known as the NE ¼ NW ¼ of Sec. 23, T 11S, R 65W, 6th P.M. The property will be subdivided into 4 lots: Lot 1 (5 acres), Lot 2 (5 acres), Lot 3 (19.86 acres) and Lot 4 (10 acres). Lot 3 has an existing single-family residence and a well, presumably well permit no. 85771-F.

Water Supply Demand

According to the submitted material, the estimated water demand is 1.0 acre-foot per year per lot (4.0 acre-feet per year total). The water on each lot will be used for in-home use (0.25 acre-feet/year); and irrigation of lawn and garden, domestic animal watering and commercial use (0.75 acre-feet per year).

Source of Water Supply

The proposed water supply source is individual on lot wells constructed in the Dawson aquifer to operate pursuant to Determination of Water Right No. 4025-BD and Replacement Plan No. 4025-RP. Determination of Water Right No. 4025-BD was issued October 22, 2020 and allows an average annual withdrawal of 37.77 acre-feet for 100 years from the Dawson aquifer for in home use, irrigation of lawn and garden, domestic animal watering and commercial use. The allowed place of use is the 40 acres described as the NE ¼ NW ¼ of Sec. 23, T 11S, R 65W, 6th P.M. Replacement Plan No. 4025-RP was issued October 22, 2020 and allows an average annual withdrawal of 1.0 acre-foot for 300 years from the Dawson aquifer for each of four residential lots (4.0 acre-feet total). The allowed uses under the plan for each on lot well is use in one single family residence, irrigation of lawn and garden, domestic animal watering and commercial use.

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 section 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 amount of water determined in Determination of Water Right No. 4025-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, effective November, 1986, Chapter 5, Section 49.5, (D), (2) states:

“Finding of Sufficient Quantity - The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of three hundred (300) years.”

The State Engineer’s Office does not have evidence regarding the length of time for which this source will “meet the average annual demand of the proposed subdivision.” However, treating El Paso County’s requirement as an allocation approach based on 300 years, the allowed average annual amount of withdrawal of 37.77 acre-feet/year from the Dawson would be reduced to one third of that amount, or 12.59 acre-feet/year. Additionally, the average annual withdrawal amount allowed under Replacement Plan 4025-BD is equal to the proposed water demand. Based on this approach, there is sufficient water legally available in the Dawson aquifer based on a 300-year aquifer life to meet the proposed per lot demand based on the allocation available in accordance with Determination of Water Right No. 4025-BD and Replacement Plan no. 4025-RP.

A review of our records shows well permit no. 85571-F located on the subject property. Well permit no. 85571-F was issued May 26, 2021 pursuant to section 37-90-107(7), C.R.S., Determination of Water Right No. 4025-BD and Replacement Plan no. 4025-RP for the use of an existing well constructed under permit no. 95869. The use of this well must be in accordance with applicable statutes, the Designated Basin Rules, Determination of Water Right No. 4025-BD and Replacement Plan no. 4025-RP.

State Engineer's Office Opinion

Based upon the above and pursuant to section 30-28-136(1)(h)(I), C.R.S. the State Engineer’s Office offers the opinion that the proposed water supply can be provided without causing material injury to existing water rights and the supply is expected to be **adequate**.

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 physically available, based on current conditions.

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory allocation approach, for the proposed uses is greater than the annual amount of water required to supply the proposed subdivision.

Our opinion is qualified by the following:

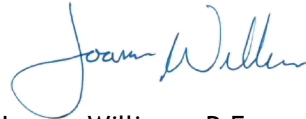
The Colorado Ground Water Commission has retained jurisdiction over the final amount of water available pursuant to the above-referenced Determination of Water Right and Replacement Plan, pending actual geophysical data from the aquifer.

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 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 Wenli Dickinson at (303) 866-3581 x8206 or at Wenli.Dickinson@state.co.us.

Sincerely,

A handwritten signature in blue ink that reads "Joanna Williams". The signature is written in a cursive style with a large initial 'J'.

Joanna Williams, P.E.
Water Resource Engineer

Ec: Referral No. 28770
Keith Vander Horst, Chief of Water Supply, Designated Basins

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

November 2, 2021

MS-21-4 Warner Minor Subdivision

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

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a proposal by Brian Warner ("Applicant") for a minor subdivision of 4 single-family lots on 39.859 acres (the "property"). Lots 1 and 2 will encompass 5 acres, lot 3 will encompass 20 acres, and lot 4 will encompass 10 acres. There is currently an existing home and well (Permit No. 85571-F) on Lot 3. The property is zoned RR-5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary ("WSIS"), the subdivision demand is 1.0 acre-feet per residential lot, comprised of 0.26 acre-feet for household use and up to 0.74 acre-feet/lot for uses which may include irrigation, watering of stock animals, and commercial uses, for a total of 4.0 acre-feet per year for the subdivision based on a total of 4 lots. Based on the total demand, Applicant must be able to provide a supply of 1,200 acre-feet of water (4.0 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement for the residential lots.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from individual on-lot wells as provided in Colorado Ground Water Commission ("Commission") Findings and Order No. 4025-BD ("Determination") and Replacement Plan No. 4025-RP ("Replacement Plan"), both approved on October 22, 2020. The Determination detailed the available amount of water underlying the 40 acres of land as 3,777 acre-feet from the Dawson aquifer, with beneficial uses to include in-home use, irrigation, domestic animal watering, and commercial. The Replacement Plan permits withdrawal from the Dawson aquifer of 4.0 acre-feet/year for the subdivision, based on 1.0 acre-feet of water to

be withdrawn from each of 4 wells on 4 residential lots.¹ The Replacement Plan requires the use of septic return flows for replacement water through the installation and use of a septic system on each residential lot which has a well.

4. Applicant provided a *Water Resources Report for the Warner Subdivision* dated September 27, 2021 (the “*Report*”). The identified water rights underlying the property are summarized as follows:

Aquifer ²	Total Withdrawal (acre-feet)	Annual Average Withdrawal 100 years (acre-feet)	Annual Average Withdrawal 300 years (acre-feet)
Dawson	3777	37.77	12.59
Denver	2520	25.20	8.4
Arapahoe	1770	17.70	5.9
Laramie Fox Hills	1110	11.10	3.7

As described in the *Report*, the Commission awarded the Applicants a “vested right to 3,777 acre feet of groundwater from the not-nontributary Dawson aquifer underlying Applicants’ 40-acre property for in-home, irrigation of lawn and garden, domestic animal watering and commercial uses. The replacement plan specifies that up to 4.0 acre-feet annually may be pumped for 300 years from the Dawson aquifer”

Based on the water demand of 1,200 acre-feet for a period of 300 years and Replacement Plan No. 4025-RP authorizing withdrawal in the amount of 4.0 acre-feet/year (1,200 acre-feet total), there is an adequate water supply available for the subdivision.

State Engineer’s Office Opinion

5. In a letter dated June 29, 2021, the State Engineer reviewed the proposal to subdivide the 39.86-acre parcel into 4 single-family lots. The State Engineer stated that the water supply would be provided by Determination No. 4025-BD and Replacement Plan No. 4025-RP reflecting groundwater underlying the 40-acre property and which allows "average annual withdrawal of 37.77 acre-feet for 100 years [12.59 acre-feet/year for 300 years] from the Dawson aquifer for in home use, irrigation of lawn and garden, domestic animal watering and commercial use.” The Replacement Plan “allows an average annual withdrawal of 1.0 acre-foot [sic] for 300 years from the Dawson aquifer for each of four residential lots (4.0 acre-feet total).”

¹ Note: The Replacement Plan and the State Engineer’s Office letter dated June 29, 2021 stated Applicant’s proposal to divert 0.25 acre-feet/year for in-house use for each of the 4 lots and 0.75 acre-feet/year/lot combined for irrigation, stock watering, and commercial use. The WSIS provided by the Applicant stated that 0.26 acre-feet/year/lot would be withdrawn for in-house use and 0.74 acre-feet/year lot for the remaining uses. This review is based on water use of 0.26 acre-feet/year for household use and 0.74 acre-feet/year for other uses.

² Only the Dawson aquifer water supply will be analyzed in this review.

The State Engineer further notes that Well Permit No. 85571-F dated May 26, 2021 is located on the property and reflects re-permitting of previous Well Permit No. 95869 located on the property.

Finally, the State Engineer stated that “[b]ased upon the above and pursuant to section 30-28-136(1)(h)(I), C.R.S., the State Engineer’s Office offers the opinion that the proposed water supply can be provided without causing material injury to existing water rights and the supply is expected to be adequate.”

Recommended Findings

6. Quantity and Dependability. Applicant’s water demand for the Warner Minor Subdivision is 4.0 acre-feet per year from the Dawson aquifer for a total demand of 1,200 acre-feet for the subdivision for 300 years. The demand for the 4 residential lots can be met by the Dawson aquifer water authorized for withdrawal in Replacement Plan 4025-RP dated October 22, 2020.

Based on the water demand of 1,200 acre-feet/year for the Warner Minor Subdivision and the Replacement Plan permitting withdrawals in that amount, the County Attorney’s Office recommends a finding of sufficient water quantity and dependability for Warner Minor Subdivision.

7. Quality. The water quality requirements of Section 8.4.7.B.10 of the Land Development Code must be satisfied. **El Paso County Public Health shall provide a recommendation as to the sufficiency of water quality.**

8. Basis. The County Attorney’s Office reviewed the following documents in preparing this review: the Water Supply Information Summary submitted October 22, 2021, the Water Resources Report dated September 27, 2021, the State Engineer Office’s opinion dated June 29, 2021, Commission Determination of Water Right No. 4025-BD and Replacement Plan 4025-RP. 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 Determination of Water Right No. 4025-BD and with all requirements of Replacement Plan No. 4025-RP. Water use shall not exceed 1.0 acre-feet annually per well for the 4-lot subdivision, and all stream depletions shall be replaced with non-evaporative septic system return flows for a period of 300 years.

B. The County requires that for subdivisions of 4 lots or more when there is a

replacement plan, Applicant shall create a homeowners' association ("HOA") for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water determinations and replacement plans for the property.

C. Applicant and its successors and assigns shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of Determination of Water Right No. 4025-BD and Replacement Plan No. 4025-RP.

The covenants shall specifically address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 1,200 acre-feet of not nontributary Dawson aquifer water pursuant to Determination and Replacement Plan No. 4025-BD and 4025-RP to satisfy El Paso County's 300-year water supply requirement for the 4 residential lots for the Warner Minor Subdivision.

2) Advise of responsibility for costs. The Covenants shall advise lot owners and their successors and assigns of their obligations regarding the costs of compliance with the Determination and Replacement Plan, which includes pumping of the Dawson wells in a manner to replace depletions during pumping.

3) Require evaporative septic systems and reserve return flows from the same. The Covenants shall require each residential lot owner to use non-evaporative septic systems to ensure that return flows from such systems are made to the stream system to replace actual depletions during pumping, shall reserve said return flows to replace depletions during pumping, and shall state that said return flows shall not be separately sold, traded or used for any other purpose. The Covenants more specifically shall require the Dawson aquifer well on each lot to be serving an occupied single-family dwelling that is generating return flows from a non-evaporative septic system before any irrigation or animal watering is allowed from the well. 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 Determination No. 4025-BD and Replacement Plan No. 4025-RP and the water rights therein are specifically referenced in such

deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

5) Advise of monitoring requirements. The Covenants shall advise future lot owners of this subdivision and their successors and assigns of their responsibility for any metering and data collecting that may be required regarding water withdrawals from Dawson aquifer wells.

6) Address amendments to the covenants. The Covenants shall address amendments using the following or similar language:

“Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Warner Minor Subdivision pursuant to the Colorado Ground Water Commission Findings and Order No. 4025-BD and Replacement Plan No. 4025-RP. Further, written approval of the 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.”

7) 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 the Colorado Ground Water Commission Findings and Order No. 4025-BD and Replacement Plan No. 4025-RP are also terminated by order of the Commission, 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 the Covenants and in any deeds of the property Dawson aquifer water in the decreed amount of at least 1.0 acre-feet per residential lot annually and a total decreed amount of at least 4.0 acre-feet annually for the 4 residential lots in the subdivision for 300 years, for a total of 1,200 acre-feet of Dawson aquifer water for the subdivision.

E. Applicant and its successor 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 aquifer underlying the respective lots pursuant to Colorado Ground Water Commission Findings and Order No. 4025-BD and Replacement Plan No. 4025-RP. Sufficient water rights are 300 acre-feet from the Dawson aquifer (1.0 acre-feet/year x 300 years) for each of the residential lots.

Any and all conveyance instruments shall 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 supply, and replacement during pumping, for each lot of the Warner 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 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 Colorado Ground Water Commission Findings and Order No. 4025-BD and Replacement Plan No. 4025-RP 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, Colorado Ground Water Commission Findings and Order No. 4025-BD and Replacement Plan No. 4025-RP and any assignments thereof, any warranty deeds regarding the water rights, and the Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

H. Applicant and/or lot owners must obtain well permits pursuant to Colorado Ground Water Commission Findings and Order No. 4025-BD and Replacement Plan No. 4025-RP.

I. Prior to recording the final plat, Applicant shall upload a copy of Well Permit No. 85571-F to eDARP.

J. 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. Applicants 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: John Green, Planner II



Prevent • Promote • Protect

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Warner Minor Subdivision, MS-21-4

Please accept the following comments from El Paso County Public Health regarding the 4-lot minor subdivision project referenced above:

- The existing developed 40-acre lot will be divided into 4-lots. Lot 3 will contain the existing residence and outbuildings and will be reduced to 20-acres. Lots 1 and 2 will be 5-acre+ lots each planned for residential development. Lot 4 will be 10 acres.
- Water for all lots will be provided by individual private wells.
- Wastewater treatment for the development is proposed to be by onsite wastewater treatment systems (OWTS). A GroundWater Investigations, LLC., Soils and Geology Report dated 15October2020, and a RMG Engineering Wastewater Study also dated 15October2020, were reviewed for the use of onsite wastewater treatment systems (OWTS) for the proposed project. The report supports the use of OWTS's for wastewater service as does El Paso County Public Health (EPCPH).
- All components of the 1978 OWTS must be on Lot 3 and meet the current OWTS Regulations minimum horizontal installation setbacks. EPCPH recommends locating the soil treatment area to assure it is located entirely on Lot 3.
- Radon resistant construction building techniques/practices are encouraged to be used in this area. The EPA has determined that Colorado, and the El Paso County area have potentially higher radon levels than other areas of the country.

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