

MEGGAN HERINGTON, AICP, EXECUTIVE DIRECTOR
PLANNING AND COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Jay Carlson, Chair

FROM: Joseph Letke, Planner
Joseph Sandstrom, Associate Engineer

RE: Project File Number: MS2211
Project Name: Nabulsi-Abushaban Subdivision
Parcel Number: 5219000101
Commissioner District: 1

| OWNER: | REPRESENTATIVE: |
|--|------------------------------------|
| Nabulsi-Abushaban Family Trust | Land Development Consultants, Inc. |
| C/O Abushaban Rola Co-Trustee | C/O David V. Hostetler |
| Nabulsi Taher Co-Trustee | 3898 Maizeland Road |
| 14384 Whispering Ridge Road | Colorado Springs, CO 80909 |
| San Diego, CA 92131 | |
| Planning Commission Hearing Date: | 5/7/2026 |
| Board of County Commissioners Hearing Date: | 5/28/2026 |

EXECUTIVE SUMMARY

A request by Nabulsi-Abushaban Family Trust for approval of a Minor Subdivision of a 24.8-acre parcel to create four single-family residential lots. The property is within the RR-5 (Residential Rural) zoning district and is located at the intersection of Old Ranch Road and Black Forest Road.



A. AUTHORIZATION TO SIGN: Final Plat and any other documents necessary to carry out the intent of the Board of County Commissioners.

B. APPROVAL CRITERIA

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

- *The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;*
- *The subdivision is consistent with the purposes of this Code;*
- *The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;*
- *A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code (this finding may not be deferred to Final Plat if the applicant intends to seek administrative Final Plat approval);*
- *A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of this Code;*
- *All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)];*
- *Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;*
- *The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development;*
- *Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;*
- *The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of*

the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;

- *Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;*
- *The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and*
- *Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8;*
- *Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;*
- *The subdivision meets other applicable sections of Chapter 6 and 8; and*
- *The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.]*

C. LOCATION

| | | |
|--------|--------------------------|---|
| North: | RR-5 (Residential Rural) | Single Family Residential |
| South: | City of Colorado Springs | Active Residential Suburban Development |
| East: | RR-5 (Residential Rural) | Single Family Residential |
| West: | RR-5 (Residential Rural) | Single Family Residential |

D. BACKGROUND

The subject property was initially zoned on September 20, 1965. The current Residential Rural zoning district permits the creation of lots of 5-acres or more. Lot 1 is 4.76 acres, and Lot 4 is 4.9 acres. The reduced lot sizes are permitted because both lots abut a section line County road, allowing a minimum

of 4.75 acres instead of the standard 5-acre requirement, in accordance with Chapter 5 Table 5-4 of the Land Development Code. Lot 2 is 5 acres in size, and Lot 3, which contains an existing residence, is 9.2 acres in size. Access to the proposed lots will be by a private road.

Lastly, the subject property is adjacent to the city limits of the City of Colorado Springs, where substantial residential development is actively occurring within the Wolf Ranch Subdivision. This active phase of development is located in the city's Planned Development Zoning district and consists of approximately 70 lots, which range in size from 1.7 acres to 16,000 square feet (City file: SUBD-25-0023).

E. LAND DEVELOPMENT CODE AND ZONING ANALYSIS

The Minor Subdivision application meets the Final Plat submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the El Paso County Land Development Code (as amended).

The applicant requests a Waiver from Section 8.4.4.C of the Code to allow a private road to be constructed in lieu of a public road. Pursuant to Section 8.4.3.B.2.e, lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to a Waiver granted under Section 8.4.4.E. In approving a Waiver for private roads, the Board of County Commissioners shall find that the Waiver meets the criteria outlined in Section 8.4.4.E of the Code.

Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the waiver. Private road Waivers may only include design standards for the following:

- *Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;*
- *Design speed where it is unlikely the road will be needed for use by the general public;*
- *Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;*

- *Maximum and minimum block lengths; and*
- *Maximum grade.*

In approving a Waiver from any of the subdivision design standards and requirements, the Board of County Commissioners shall find that the waiver meets the criteria for approval outlined in Section 7.3.3 (Waivers) of the Code:

- *The waiver does not have the effect of nullifying the intent and purpose of this Code;*
- *The waiver will not result in the need for additional subsequent waivers;*
- *The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;*
- *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;*
- *A particular non-economical hardship to the owner would result from a strict application of this Code;*
- *The waiver will not in any manner vary the zoning provisions of this Code; and*
- *The proposed waiver is not contrary to any provision of the Master Plan.*

F. MASTER PLAN COMPLIANCE

1. Your El Paso County Master Plan

a. Placetype Character: Large-Lot Residential

The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more, and are generally large and dispersed throughout the area so as to preserve a rural aesthetic. The Large-Lot Residential placetype generally supports accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote than Rural areas. Large-Lot Residential neighborhoods typically rely on well and septic, but some developments may be served by central water and 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

Analysis:

The proposed Minor Subdivision is generally consistent with the Large-Lot Residential Placetype. This consistency is reflected in the placetype's primary land use recommendation of single-family detached residences on lots typically 2.5 acres or larger. The Master Plan further emphasizes that development within this Placetype should preserve the area's rural character. Although substantial suburban development exists immediately to the south within the City of Colorado Springs, the proposed subdivision maintains the rural aesthetic defined in this Placetype.

b. Area of Change Designation: Minimal Change: Undeveloped

The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites

adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall there will be no change to the prioritized rural and natural environments.

Analysis:

The Minimal Change: Undeveloped designation contemplates two main relevant components to this development proposal: the redeveloped of underutilized land and ensuring that development remains *"limited in scale as to not alter the essential character."* As discussed in the Placetype analysis, significant suburban level development and aesthetic changes are occurring within the properties directly to the south of the subject parcel. It is also important to recognize that the Master Plan is not site-specific but rather provides broad guidance and predictability for development within unincorporated El Paso County. Overall, the proposed request is generally consistent with the intent of the Minimal Change: Undeveloped area of change designation.

c. Key Area Influences: 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.

Analysis:

The subject property is located within the Forest Area Key Area. Specific strategies for this area emphasize that all new development and redevelopment must adhere to established guidelines for transportation and infrastructure, stormwater management, built form, and transitions as defined by the relevant placetypes. In addition, each development proposal should be evaluated on a case-by-case basis to assess its specific impacts on the Forest Area and the established character of the surrounding community.

2. Water Master Plan Analysis

The El Paso County Water Master Plan (2018) has three main purposes: better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

***Goal 1.1** – Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.*

***Goal 4.5** – Plan for water resources in a thoughtful way that recognizes the nonrenewable nature of water resources in the area, accommodates existing and historical uses, and allows for sustainable, planned growth*

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 2 of the Plan, which is an area anticipated to experience growth by 2040. This project will be supplied with water from individual wells. See the water section below for a summary of the water findings and recommendations.

3. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. Colorado Parks and Wildlife and El Paso County Conservation District were each sent a referral and have no outstanding comments.

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

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

During review of the Minor Subdivision, geological hazards and constraints were identified on lots 2, 3, and 4. These hazards and constraints include areas of artificial fill, downslope creep, expansive soils, and potentially seasonal and shallow groundwater areas. These hazards are identified in writing as note #19 on the face of the plat and graphically on the plat drawings. Full recommendations regarding these hazard areas can be found in the submitted Soils and Geology Report dated September 9, 2022.

2. Floodplain

The FEMA Flood Insurance Rate Map (FIRM) panel number for this area is 08041C0527G, effective December 7, 2018. This property is in Zone X, an area of minimal flood hazard.

3. Drainage and Erosion

This subdivision is located within the Cottonwood Creek Drainage Basin (FOMO2200), which is a studied basin with drainage and bridge fees. Fees are due at the time of Final Plat recordation. Stormwater from the site drains to the south and is conveyed under Old Ranch Road by two existing culverts. A drainage report as well as a grading and erosion control plan were submitted with this application. Permanent water quality is not required as the lots are larger than 2.5 acres and meet the permanent water quality exemption identified in the Engineering Criteria Manual I.7.1.B. Permanent water quality for the proposed roadway is addressed through the runoff reduction method identified in the Engineering Criteria Manual I.7.1.C.

The drainage report identifies a small increase in flows generated by the subdivision and detention was not required. The drainage report states that there is no erosion downstream of the development and that there will be no adverse impact to downstream properties.

4. Transportation

This subdivision is located at the intersection of Black Forest Road and Old Ranch Road, which are both County owned-and-maintained roadways. Access to the lots will be obtained via a proposed private local roadway connecting to Old Ranch Road, a major collector. The Major Transportation Corridors Plan depicts improvements to Black Forest Road adjacent to this subdivision, to widen the existing roadway from two lanes to four lanes.

A fair share escrow contribution for the paving of Old Ranch Road was required. A Traffic Impact Study was submitted with this application, and no additional public improvement contributions are required. This subdivision is dedicating 20' of right-of-way along Black Forest Road and 15' of right-of-way along Old Ranch Road. This application is subject to the El Paso County Road Impact Fee Program (Resolution No. 25-337), as amended.

H. SERVICES

1. Water

Water will be provided by individual onsite wells. Water sufficiency has been analyzed with the review of the proposed subdivision. The applicant has shown a sufficient water supply for the required 300-year period. The State Engineer and the County Attorney's Office have recommended that the proposed subdivision has an adequate water supply in terms of quantity and dependability. El Paso County Public Health has recommended that there is an adequate water supply in terms of quality.

2. Sanitation

Wastewater is provided by on-site wastewater treatment systems.

3. Emergency Services

The property is within the Black Forest Fire Protection District, which is committed to providing fire protection services to the proposed development. The District was sent a referral and

provided several conditions of approval. The Black Forest Fire District has provided comments and a supporting letter which is reflective of the applicant supplied fire protection report. This report contemplates the absence of sufficient on-site central water infrastructure for fire suppression. Specific implementing restrictions and plat notes addressing the absence of sufficient on-site central water infrastructure for fire suppression include limits on residential structure size and require that all future residential structures be equipped with NFPA 13D fire sprinkler systems. All fire related comments can be found within the project file on EDARP.

4. Utilities

Electric services will be provided by Mountain View Electric Association, Inc. and Black Hills Energy will provide natural gas.

5. Metropolitan Districts

The subject property is not located within a metropolitan district.

5. Parks/Trails

Fees in lieu of park land dedication in the amount of \$1,840 for regional park fees (Regional Park Area: 2) will be due at the time of recording the Final Plat.

6. Schools

Fees in lieu of school land dedication in the amount of \$1,224.00 shall be paid to El Paso County for the benefit of School District #20 at the time of recording the Final Plat.

I. STATUS OF MAJOR ISSUES

No major issues.

J. RECOMMENDED CONDITIONS AND NOTATIONS

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

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the Final Plat.
4. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
5. 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.
6. 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.
7. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated November 13, 2024, as provided by the County Attorney's Office.
8. The applicant shall complete an escrow agreement with El Paso County in the amount of \$10,216 to be applied toward the paving of Old Ranch Road between the subdivision and Black Forest Road.

NOTATIONS

1. The following fees are required to be paid to El Paso County at the time of Final Plat recordation:
 - a. Drainage Fees in the amount of \$29,017 and bridge fees in the amount of \$2,116 for the Cottonwood Creek basin.
 - b. Park fees in lieu of land dedication for regional parks (Area 2) in the amount of \$1,840.00
 - c. Fees in lieu of school land dedication in the amount of \$1,224.00 shall be paid for the benefit of School District #20.

2. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
3. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Department of Public Works Inspections and a Construction Permit is issued by the Department of Public Works.
4. 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 No. 25-377), 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.

K. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified sixteen (16) adjoining property owners on April 23, 2026 for the Planning Commission and Board of County Commissioner meetings. Responses will be provided at the hearing.

L. ATTACHMENTS

Map Series

Letter of Intent

Plat Drawing

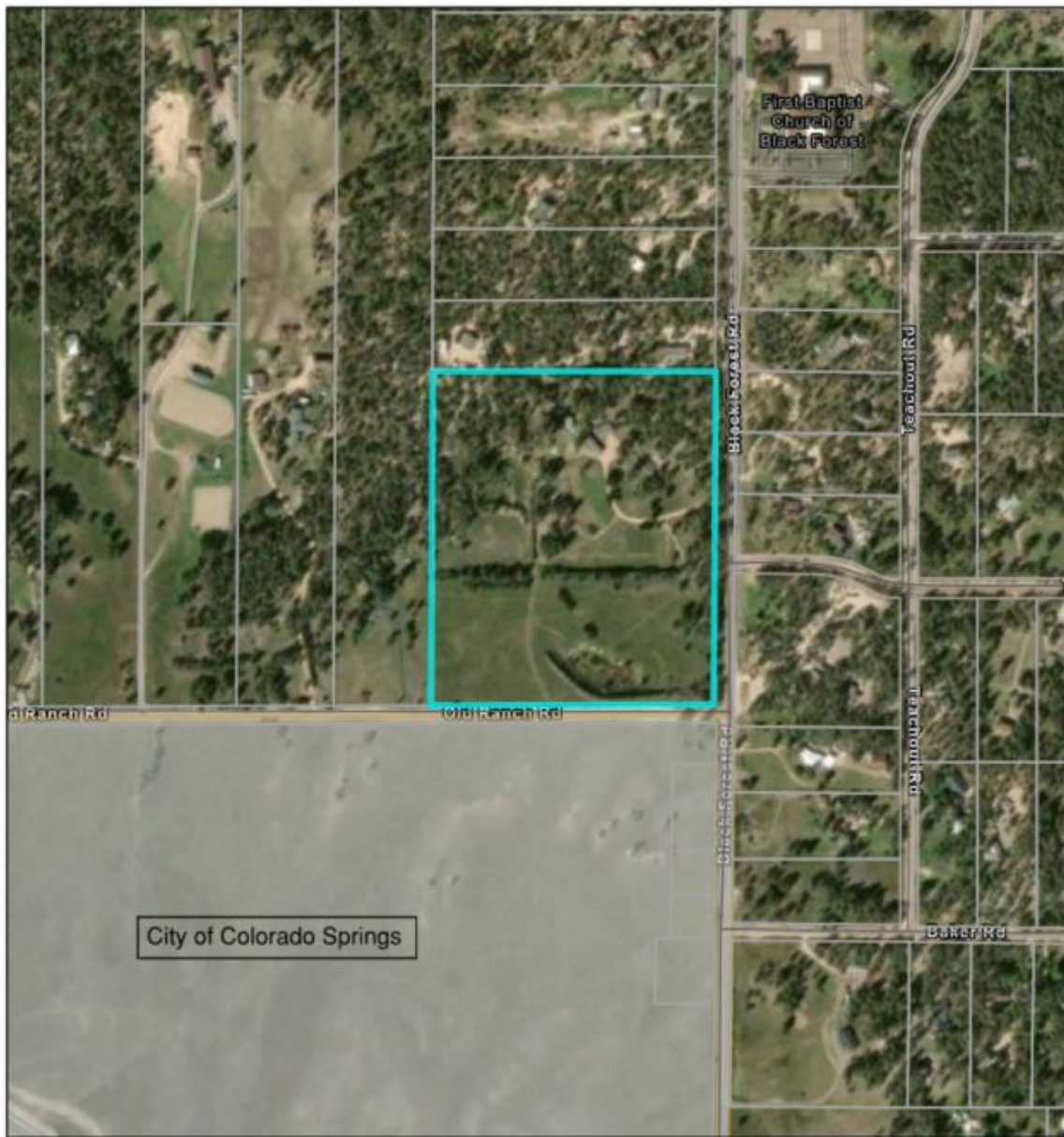
State Engineer's Letter

County Attorney's Letter

Draft Resolution

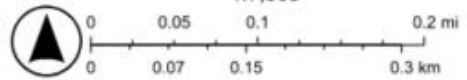
MAP SERIES

Aerial Map



4/2/2026, 8:03:02 AM

1:7,363



- County Roads
- ▭ Parcels
- ▭ Incorporated Cities
- World Imagery

Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, Vantor

El Paso County

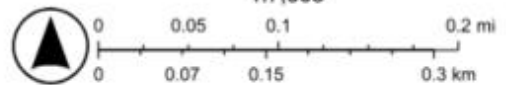
MAP SERIES

Zoning Map



4/2/2026, 8:08:11 AM

-  Incorporated Cities
-  County Roads
-  Parcels
- County Zoning
 -  RR-5: Residential Rural (5 acres)



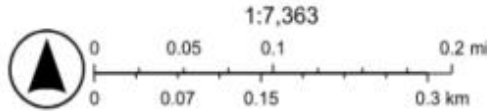
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Placetypes Map



4/2/2026, 8:25:35 AM

-  County Roads
-  Incorporated Cities
-  Parcels
- Placetypes**
-  Large-Lot Residential
-  Incorporated Area



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, Vantor

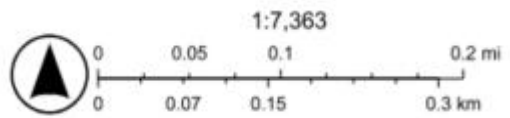
MAP SERIES

Areas of Change Map



4/2/2026, 8:29:24 AM

- Incorporated Cities
- County Roads
- Parcels
- Areas Of Change**
- Minimal Change: Undeveloped



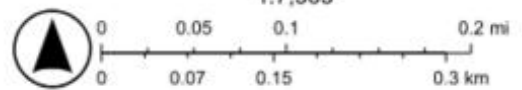
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Key Areas Map



4/2/2026, 8:33:06 AM

-  Incorporated Cities
-  County Roads
-  Parcels
- Key Areas**
-  Forested Area



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, Vantor

PCD File: MS2211

Revised January 19, 2026

El Paso County Planning Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910

Re: Letter of Intent . . . NABULSI-ABUSHABAN SUBDIVISION

To whom it may concern:

This letter serves as our Letter of Intent for the above referenced minor subdivision Final Plat request. Detailed information on this request is as follows:

Applicant and Owner: NABULSI-ABUSHABAN FAMILY TRUST, Attention: Taher Nabulsi, 14384 Whispering Ridge Road, San Diego, CA 92131-4268; Phone: (858) 245-4927

Site location: 10650 Black Forest Road, El Paso County, CO (Mailing: Colorado Springs, CO 80908) . . . EPC APN: 52190-00-101

Size: 24.796 "net" acres, Zoned RR-5

Proposed Request: The proposed request is to subdivide a 25.636 "gross" acre parcel into four (4) residential lots, with applicable County section line road rights-of-way "exceptions", now dedicated right-of-way additions, to Black Forest Road and Old Ranch Road, and a proposed private road easement (Serenity Ridge Drive) for lot ingress/egress. The current zoning allows for minimum 5-acre lot sizes (minimum 4.75-acre lots adjacent to Section lines) within the zone district. No community outreach was required or is planned as part of this request.

The current state water allocation will allow up to four (4) new wells on this property, as decreed, and with a proposed four-lot subdivision, the water need, water quality and dependability for the proposed uses is being met (as detailed within the previously submitted Colorado Ground Water Determination of Water Rights, Water Resources Report, Water Supply Information Summary and Water Quality Report, and per Final Plat Note.

The application for a minor subdivision complies with El Paso County review criteria for a minor subdivision, as stated in El Paso County Land Development Code Chapter 7 and C.R.S. 30-28-133. Relationship to surrounding land uses is compatible to adjacent properties to the West, East and North. The property to the South is a large parcel for future zone-established development. The proposed subdivision is in general conformance with the goals, objectives and policies of the Master Plan for this area, the subdivision is consistent with the purposes of this code, the subdivision is in conformance with the subdivision design standards and any approved sketch plan (not applicable in this case), to the best effort of all associated subconsultants to the best of their information, knowledge and belief.

Master Plan Conformance: *"The subdivision is in conformance with the goals, objectives, and policies of the Master Plan."*

Your El Paso Master Plan (2021) is a comprehensive document communicating a vision for many factors that influence the quality of in El Paso County, including Land Use. The Master Plan provides a strategy to achieve the vision by putting forth goals and policies that can be used as a framework for decision-making regarding development of the County.

The site is located in the key area of the County designated a "Forested Area" approximately bound by Black Forest Road on the East, Old Ranch Road on the South and developed rural residential to the West and North. The plan emphasizes small scale, low intensity development which is critical to maintaining the identity of the key area. The location of this site and existing infrastructure is suited to single family residential use.

In the Land Use category, Goal 1.1 is "*Ensure compatibility with established character and infrastructure capacity*". This area of the County is conducive to rural residential development that allows residential use of property but preserves the natural character of the landscape. The existing community character is preserved with this proposed Final Plat. The proposed density is less than allowed by zoning since enough acreage exists to allow the four rural residential lots. The proposed density will not overburden the capacity of the land to support the water and wastewater needs of the development. The site will remain rural residential and is surrounded by existing rural residential developments on the North, East, and West sides while land located in the City of Colorado Springs and zone PUD is adjacent on the south. The development will therefore be a part of the transition from the potentially higher densities on the South. Goal 2.2 is "*Preserve the character of rural and environmentally sensitive areas*". The proposed subdivision will keep the forested nature of the area intact. The five-acre lot density has reduced impact on environmental conditions. Density and land use are compatible with the surrounding area and the natural features of the site will remain preserved, even with the addition of three more residences on the site. The proposed private roadway is planned to avoid significant natural features and stand of trees in order to minimize impact on the existing terrain. The project maintains the rural character of site and neighborhood.

The proposed Final Plat is in compliance with the **Parks Master Plan (2013)**, which does not appear to call for trails or parks in the site. The site is located to the southeast of Black Forest Regional Park and southwest of Black Forest Section 16. Any required Park Fees will be paid at the time of platting.

The proposed subdivision is in compliance with the **2040 Major Transportation Corridors Plan (MTCP)**. An additional 15 feet of right-of-way is being dedicated for Old Ranch Road located on the South edge of the site, and an additional 20 feet of right-of-way is being dedicated for Black Forest Road located on the East edge of the site.

The proposed subdivision is also in compliance with the **Master Plan for Mineral Extraction** as no separate mineral estate owners were found for the property and the existing development on surrounding properties is not compatible with any potential mineral extraction operations.

The proposed subdivision is in compliance with the **El Paso County Water Master Plan (2018)**. The District Court, Water Division 2 Colorado, has decreed certain water rights and approved a plan for augmentation as necessary to allow use of the existing well and the drilling of up to four wells for the subdivision in Case No. 19CW3051 recorded under reception number 22CW3020 of the records of El Paso County.

A listing of some of the policies of the Water Master Plan that are supported by the proposed development follow: *Policy 6.2.1.2 – Encourage re-use of treated wastewater for irrigation and other acceptable uses when feasible*. Both the existing residence and the new single-family residences on the proposed 5 acre lots will utilize onsite wastewater treatment systems which will provide "Return Flows" to the environment as a condition of the groundwater findings and order and the well permit.

Subdivision Design Standards: "*The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.*"

The proposed Final Plat is prepared in accordance with applicable subdivision design standards with respect to lot size, setbacks, access and provision of utilities. Waiver and Deviation of LDC provisions are requested with the Final Plat/Preliminary Plan as mentioned below.

Requested Waiver: A waiver from LDC Section 8.4.3(A)(1) "Minimum Frontage for Division of Land: A division of land shall have a minimum of 60 feet frontage on a public road." along with Section 8.4.3(B)(2)(e) is requested. The referenced code provision requires that "Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC". Proposed Lots 1-4 will gain access by way of a private road connecting the site to Old Ranch Road in the southern-center portion of the site. The responsibility and maintenance of said access shall be carried out as described in a

separate private access maintenance agreement. Additional code references for the requested waiver are Section 8.4.4(E)(2) "Private Roads Require Waiver. The use of private roads is limited and allowed only by waiver. In granting a waiver to allow private roads, the BOCC shall make written findings supporting the use of private roads and may require the owner to enter into a Private Road Maintenance Agreement or create covenants whereby the lot owners are required to maintain the private roads." and Section 8.4.4(E)(3) "Private Roads to Meet County Standards. Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the waiver. Private road waivers may only include design standards for the following:• Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;• Design speed where it is unlikely the road will be needed for use by the general public;• Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;• Maximum and minimum block lengths; and• Maximum grade."

Proposed Lots 1-4 are proposed to be connected to Old Ranch Road by private roadway located in a sixty (60) foot wide access easement comprising a portion of each of the proposed lots. The roadway will be constructed to facilitate access to proposed Lots 1-4 in accordance with the provisions of the El Paso County Engineering Criteria Manual except as modified with this waiver request along with an associated Deviation Request.

The applicant and adjacent residential owners wish to maintain the private character of the development by keeping the road within the neighborhood private. The private road for this development is appropriate as a public road is not needed for convenience or safety of the general public due to the small number of residential lots that will utilize it. The proposed roadway is also very short, having a total length of just under 600 feet. The road will be maintained by the four new lot owners of Nabulsi-Abushaban Subdivision. Since the code allows for access by private road through waiver, it is most practical for proposed Lots 1-4 to be able to access by the proposed private roadway, rather than extending a public roadway into the site. The arrangement eliminates the need for additional public right-of-way and additional public maintenance to serve the four rural residential single family lots. The allowance of private roads, coupled with private maintenance agreements have been shown to be effective and efficient modes of access within the county. The proposed private road with approved alternative road design characteristics will also have a diminished impact on the natural terrain and landscape of the site compared to a public roadway which would be much larger dedication and require far more disturbance than a smaller private road.

LDC 8.4.4.E Private Roads to Meet County Standards - A waiver is requested from Land Development Code Section 8.4.4.E in consideration of the provisions of Section 8.4.4(E)(3) to allow modification of certain standards, to be considered with the Private Road Waiver. Modifications to right-of-way/road width, design speed, standard section thickness minimums and pavement type, block lengths and maximum grade are allowed as part of the private road waiver.

The applicant requests a lower design speed of 20 mph for the private road. The lower design speed will allow further preservation of existing natural features and terrain by allowing the improved road surface to remain closer in elevation to the existing road surface and prevent unnecessary disturbance of the roadsides. The roadway is relatively short, promoting lower speeds and will be stop controlled at the connection with Old Ranch Road. The road will be posted with a 20 mph speed limit sign.

The applicant requests the use of a gravel surface for the roadway. Gravel roadway surfaces have proved adequate, reliable and stable over the long term for roadways with low traffic volumes such as generated by the proposed small subdivision of only for lots. The private roadway surface will be maintained by the residents as noted above.

Each criteria for approval of waivers as stated in section 7.3.3 of the El Paso County Land Development Code (2021) is listed below followed by the appropriate justification.

1. The waiver does not have the effect of nullifying the intent and purpose of this code; The request for a waiver of the referenced LDC sections does not go against the intent and purpose of this code. This request is in line with the provisions and requirements set forth in the LDC, and the private roadway will comply with the applicable design standards as modified by the request.

2. The waiver will not result in the need for additional subsequent waivers; With the approval of the referenced waivers, the lots will each be provided the required access necessary for their development. There is no

known need for additional waivers as all applicable requirements of the El Paso County Land Development Code will be met.

3. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property; The private road will be improved to provide safe and reliable access to each lot on the site. The responsibility and maintenance of said driveway shall be carried out as described in a private access maintenance agreement. The driveway will not pose a threat to the public safety, health, or welfare, nor will it be injurious to any other property.

4. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property; This site has existing natural trees in good health along with natural earth stabilizing vegetation. The parties desire that the road remain private with the platting of the minor subdivision and that the roadway improvements create only minimum disturbance and modification to the existing natural terrain and vegetation. Therefore, due to very limited number of residences that will utilize the road and the agreement reached with adjacent owners, the waiver to allow the private road is preferable access to the entire site in lieu of a public road.

5. A particular non-economical hardship to the owner would result from a strict application of this code; With strict application of this code, the subdivision would be required to access by a public roadway in a 60-foot right-of-way constructed to El Paso County standards. The public road would significantly increase disturbance of the natural terrain and forest as well as the impervious area of the site while increasing the maintenance responsibility of the county. A public paved roadway would detract from the existing rural residential character of the site and intrude upon the property against the wishes of the residents.

6. The waiver will not in any manner vary the zoning provisions of this code; The proposed private road will comply with all zoning provisions of this code and does not produce violations.

7. The proposed waiver is not contrary to any provision of the master plan; The proposed private road is in harmony with the goals of the master plan with regard to preserving place type characteristics and preserving natural features.

A deviation from the standards found in Engineering Criteria Manual (ECM) Section 2.2.4 Roadway Functional Classifications, Section 6, Figure 2.8 and Appendix F SD 2-10 is requested as part of this application. The request to increase the allowed foreslope grade from 6:1 to 4:1 on each side to promote the preservation of the existing natural terrain at the site which will highlight the private and rural residential nature of the development. The narrower width serves to preserve existing trees, natural vegetation and terrain. The applicant also requests to eliminate the 5-foot Public Improvements Easement dedicated to El Paso County. Since the roadway will be private, there is no legal need or useful purpose for a 5' wide public improvement easement dedicated to El Paso County along the outside edge of the roadway. The standard 10' wide Public Utility & Drainage Easement will still be provided along the outside edge of the 60' wide private roadway easement. The proposed private roadway is low volume, serving only 4 residential lots producing 38 ADT. The narrower roadway is adequate to allow two-way traffic on this low volume roadway. Additionally, the private roadway will be constructed with a cul-de-sac bulb turnaround, constructed to El Paso County standards.

The requirement for a minor subdivision are contained within the package that has been submitted:

- Required services to the site such as fire and emergency access to a public road have been addressed and await confirming comments from Black Forest Fire Protection District.
- Black Forest Road and Old Ranch Road are County-maintained public rights-of-way, with primary access to this subdivision being via proposed Serenity Ridge View's private road easement to/from said Old Ranch Road. All existing access points within this subdivision will be required to be closed to/from Black Forest Road.
- Private on-site wastewater septic systems and associated leach fields will be designed by a licensed engineer to address all septic needs for the minor subdivision's individual lots and the existing and/or planned single-family residence homes, to be in compliance with current El Paso County Health Department regulation and shall comply with required distances to new wells.
- All utility providers have been contacted and agree to provide the necessary utility services for this project. Electric service (above and/or below ground) is currently, and will be, provided by Mountain

View Electric Association (MVEA), as permitted. The developer/owner and/or individual lot owners will meet with MVEA to address transformers and power locations such that underground power to each home may be achieved. Natural Gas service will be provided by Black Hills Energy (BHE), in accordance with BHE approved tariffs and gas network main extension policies, and/or individual lot propane storage tanks, as permitted.

- All soil, topographical conditions and drainage requirements have been addressed by reports submitted from ENTECH ENGINEERING and MVE, INC. respectively. No Build Easements have been created within the affected lots on the Final Plat surrounding soil hazard areas and as detailed per Final Plat note. On-site potential soil condition hazards include, but are not necessarily limited to, down slope creep (Lot 2 and 3), seasonal shallow groundwater areas (Lot 4) and potentially seasonal wet areas (Lots 1, 2, 3 and 4). Reference for all lots should be made by review of the on-file Soils Report. There are no designated wetlands on-site.
- The Colorado Geological Survey (CGS) Land Use review fee has been paid as required by El Paso County and comments were received December 19, 2023, which stated that if ENTECH ENGINEERING's report recommendations are strictly adhered to, CGS has no objection to approval.
- All use standards for development standards, traffic circulation, private road easement maintenance agreement, and fire department access and turnaround space are addressed in the following paragraphs.

Use Standards: The parcel being subdivided into four (4) lots is to stay within development standards for smaller subdivisions. The access to each parcel will be by a private common access drive that will be constructed to allow fire/emergency department access and turnaround space for said vehicles. All home sites will be accessed directly off the private common access drive.

Each home site will then be constructed on an area under one acre disturbance. The private common access drive will be constructed to standards set forth by the Fire Department regulations and County standards for a private access. Additionally, both Black Forest Road and Old Ranch Road are anticipated to be widened at some point in the future through this development. The owners are aware of such and will provide additional R.O.W. dedication on the plat.

The primary subdivision entrance, as provided per Traffic Impact Study separation distance to a major intersection will be developed to County standards.

Traffic: The Traffic Impact Study (Memo) has been uploaded with the other requirements to the County's EDARP website. The use of this property for three (3) additional lots generates minimal additional traffic to/from the proposed subdivision. The proposed private common access road will exist with proper visibility for residents within this subdivision. This location to the site is deemed the best location.

- Staff review comments on this report indicate: *"Please identify the fair share portion of paving that will be required for this subdivision. Calculate potential escrow alternative for paving as well. Provide the amount of paving required."*
 - This project's percentage of the total future projected ADT on this segment (between Black Forest Road and the proposed subdivision roadway intersection) would be **10 percent**. This project would add negligible trips to existing Old Ranch Road west of the site.
 - The estimated **total** cost of road paving the segment of road between Black Forest Road and the proposed subdivision roadway intersection would be **\$102,157.**
 - Ten percent of this amount would be **\$10,216.**
 - LSC recommends that a "sunset date" (for example, seven years in the future) be established for the escrow amount given to the County for the applicant's pro-rata share of future roadway paving such that the escrow amount would be returned to

Alternatives: No alternatives or variances are requested or proposed. There are no additional Public Improvements planned for this development. All property within this subdivision will be subject to a Common Private Access Agreement for ownership and maintenance responsibilities to be created and recorded by separate document. Wastewater septic profile pits will need to be excavated to determine specifics of septic system designs. Soils reports will need to be generated to determine specifics of soil conditions for future residences. The owners will clean and clear the site to be in compliance with fire-wise policies.

We have made every effort to address all requirements for this request, but our entire team is available to answer any additional questions that may arise from the County on any aspects of this request for a minor subdivision.

Respectfully submitted,

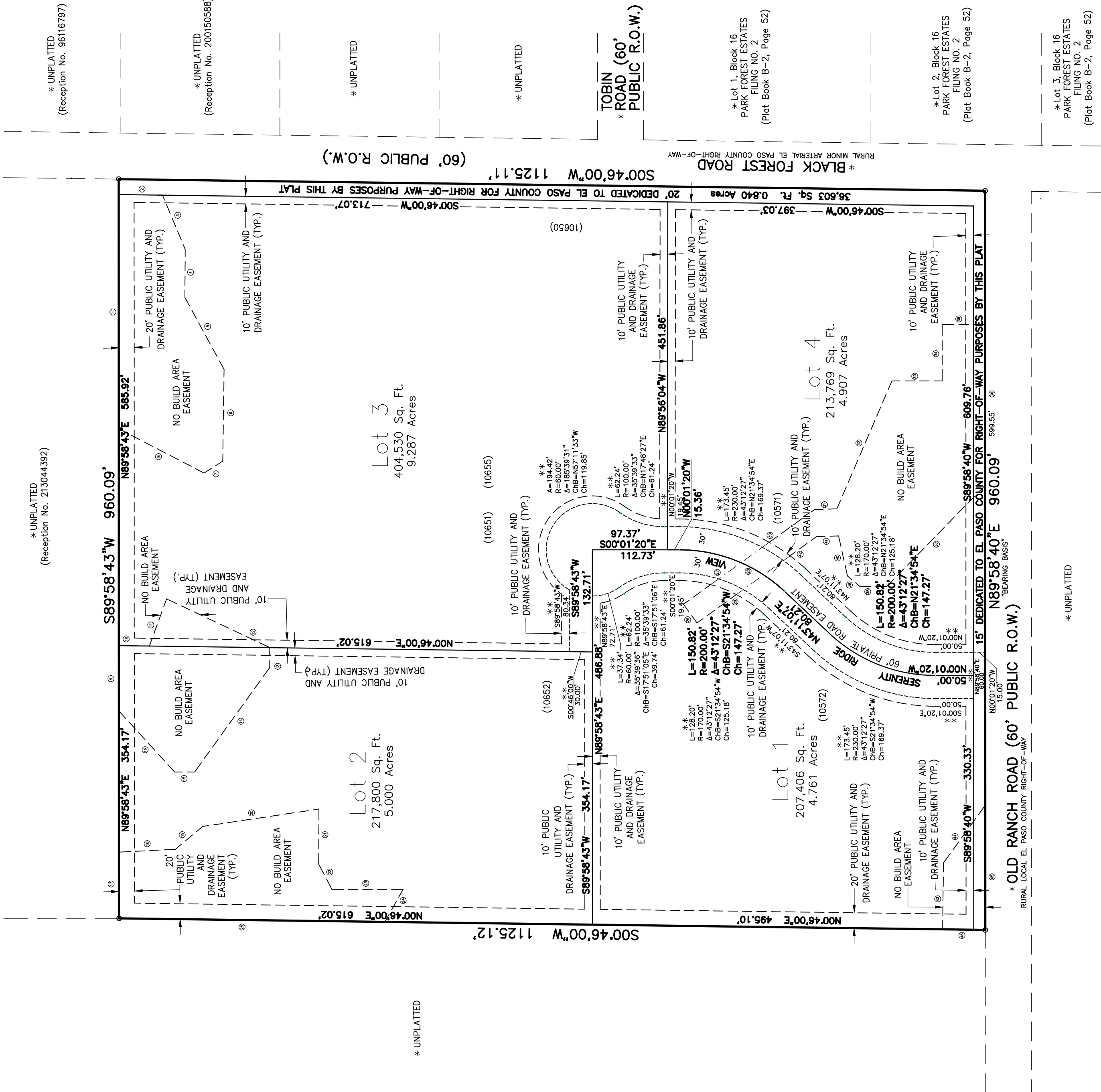
A handwritten signature in blue ink, appearing to read "David V. Hostetler", followed by a long, sweeping horizontal line.

David V. Hostetler, Director of Surveying
For and on behalf of LAND DEVELOPMENT CONSULTANTS, INC.

File: N-A SUBD LOI.doc
DVH/dh

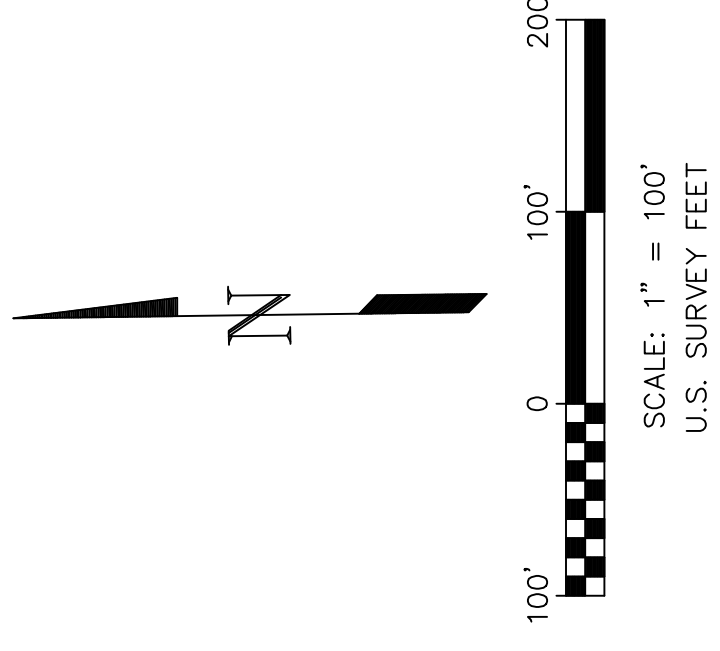
NABULSI-ABUSHABAN SUBDIVISION

A PORTION OF THE SOUTHEAST QUARTER OF SECTION 19,
TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M.,
EL PASO COUNTY, COLORADO



LEGEND:

- Indicates survey monument set with #4 rebar and red plastic cap, PLS No. 20681 flush w/ground, except where noted otherwise
- Indicates survey monument found as noted
- Property Line _____ - Lot Line
- ** - Indicates not a part of this subdivision
- ** - Indicates Private Road Easement data (10650) _____ - Easement data "tie" lines
- ⊗ - Indicates lot address does not exist within the 60' Private Road Easement



NO-BUILD AREA EASEMENT DATA

| LINE BEARING | DISTANCE |
|----------------|----------|
| 1 N89°58'43"E | 304.29' |
| 2 S87°15'19"W | 76.46' |
| 3 S89°36'27"E | 62.45' |
| 4 N61°22'16"E | 106.24' |
| 5 S89°10'43"E | 119.36' |
| 6 S77°26'24"W | 28.83' |
| 7 S89°58'45"E | 84.84' |
| 8 S00°46'00"W | 39.59' |
| 9 N69°54'07"W | 65.16' |
| 10 N25°14'31"E | 185.00' |
| 11 S54°19'14"E | 167.09' |
| 12 N00°00'00"W | 26.06' |
| 13 S47°37'55"W | 107.29' |
| 14 N89°58'43"E | 85.99' |
| 15 N39°57'27"W | 46.21' |
| 16 S89°47'15"E | 71.52' |
| 17 N62°23'13"E | 37.34' |
| 18 S00°46'00"W | 46.04' |
| 19 S54°09'17"W | 30.00' |
| 20 N35°50'43"W | 92.19' |
| 21 N35°50'43"W | 106.92' |
| 22 S01°56'29"E | 28.96' |
| 23 N00°01'20"W | 65.28' |
| 24 S89°58'40"W | 73.28' |
| 25 S89°58'40"W | 208.98' |
| 26 S00°46'00"E | 34.83' |
| 27 S40°18'51"W | 21.23' |
| 28 S01°56'29"E | 28.97' |
| 29 S35°50'43"E | 84.88' |
| 30 N89°14'00"W | 86.29' |
| 31 N54°07'29"W | 92.46' |
| 32 S89°46'00"W | 61.29' |
| 33 S89°46'00"W | 52.92' |

| ORDER | BEARING | LENGTH | AREA | PERCENTAGE | BEARING | LENGTH | AREA | PERCENTAGE |
|-------|-------------|---------|-----------|------------|-------------|--------|-----------|------------|
| 1 | S00°00'00"W | 153.30' | 10,337.05 | 24.25 | N89°29'26"E | 193.37 | 13,317.05 | 31.10 |

OWNER INFORMATION:

NABULSI-ABUSHABAN FAMILY TRUST
14384 Whispering Ridge Road
San Diego, CA 92131-4268
Phone: (618) 245-4927

| No. | Description | By | Date |
|-----|-----------------|-----|----------|
| 1 | COUNTY COMMENTS | DVH | 03/20/24 |
| 2 | COUNTY COMMENTS | DVH | 11/20/24 |

H Scale: 1" = 100'
V Scale: N/A
Designed By: N/A
Drawn By: WCS
Checked By: DVH
Date: 03/06/23

3898 MAZELAND ROAD • COLORADO SPRINGS, CO 80909
www.lndc.com • TEL: (719) 528-6133 • FAX: (719) 528-6848
PLANNING • SURVEYING
Land Consultants, Inc.

FINAL PLAT SUBDIVISION NABULSI-ABUSHABAN

Project No.: 22005
Sheet: 2 of 2

PCD FILE NO.: MS2211



December 27, 2023

Joe Letke
El Paso County Planning and Community Development
Transmission via EDARP portal

**Re: Nabulsi-Agushaban Subdivision, EA21214 and MS2211
SE ¼ SE ¼ Sec. 19, T12S, R65W of the 6th PM
Water Division 2, Water District 10
CDWR Assigned Subdivision No. 31116**

Dear Mr. Letke;

We have reviewed your November 27, 2023 submittal concerning the above referenced proposal to subdivide 24.8 acres into 4 lots ranging in size from approximately 5 acres to 9.3 acres.

Water Supply Demand

According to the submittal, the proposed uses and estimated water requirements for the four lots are 0.57 acre-feet of water per lot, estimated as 0.26 acre-feet per single family dwelling, and allocating the remaining 0.31 acre-feet per lot to other approved uses, which are lawn and garden irrigation at 0.26 acre-foot per acre of lawn and garden, and the watering of domestic animals and stock at 0.05 acre-feet per 4 large animals.

Source of Water Supply

The proposed source of water is individual on lot wells producing from the not-nontributary Dawson aquifer that will operate pursuant to the decree and plan for augmentation in case no. 2022CW3020. The allowed average annual amount of withdrawal decreed in case no. 2022CW3020 from the Dawson aquifer is 9.5 acre-feet. The plan for augmentation decreed in case no. 2022CW3020 allows for an average diversion of 3.2 acre-feet annually for a maximum of 300 years. The proposed uses are allowed by the decree.

The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to 37-90-137(4)(b)(I), C.R.S., "Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years." Based on this allocation approach, the annual amounts of water decreed in 2022CW3020 are equal to one percent of the total amount, as determined by rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

Our records also indicate that several exempt wells may currently exist within the proposed development. Note that Section 37-92-602(3)(b)(III), CRS, requires that the cumulative effect of all wells in a subdivision be considered when evaluating material injury to decreed water rights. Therefore, the existing exempt wells must be included in an augmentation plan, or must be plugged and abandoned since the provisions of CRS 37-92-602 which allowed for issuance of the well permits will no longer apply.



In 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 three hundred years, the allowed average annual amount of withdrawal of 9.5 acre-feet/year would be reduced to one third of that amount, or 3.2 acre-feet/year, which is greater than the annual demand for this subdivision. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

State Engineer’s Office Opinion

Based upon the above and pursuant to Section 30-28-136(1)(h)(I) [(for municipal supply, add:) and Section 30-28-136(1)(h)(II)], C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights.

Our opinion that the water supply is **adequate** is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory allocation approach, for the proposed 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 Division 2 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, and identified in this letter, are calculated based on estimated current aquifer conditions. For planning purposes 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 300 years used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.

Additional Comments

The application materials indicate that the project will collect storm flows in a detention pond. The applicant should be aware that, unless the structure can meet the requirements of a “storm water detention and infiltration facility” as defined in section 37-92-602(8), Colorado Revised Statutes, the structure may be subject to administration by this office. The applicant should review DWR’s *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado*, to ensure that the notification, construction and operation of the proposed structure meets statutory and administrative requirements. The applicant is encouraged to use *Colorado Stormwater Detention and Infiltration Facility Notification Portal*, located at <https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>, to meet the notification requirements.

Should you have any questions, please contact me at 303-866-3581

Sincerely,

A handwritten signature in cursive script that reads "Melissa A. van der Poel".

Melissa A. van der Poel, P.E.
Team Leader, Team 237

cc: Subdivision File 31116
Water well permit nos. 85841-A, 137196

County Attorney

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

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

November 13, 2024

MS-22-11 Nabulsi-Abushaban Subdivision

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

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a proposal for approval of a subdivision application by Taher Nabulsi, Rola Abushaban and Nabulsi-Abushaban Family Trust (“Applicant”) for a 4-lot subdivision on 24.8 acres (the “property”). The property is zoned RR-5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the *Water Supply Information Summary* (“WSIS”), the water demand for the subdivision is 2.28 acre-feet/year, comprised of 0.26 acre-feet/year per household uses, 0.26 acre-feet/year for irrigation and 0.05 acre-feet/year for stock watering for a total of 0.57 acre-feet/year per household/lot. 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 up to four (4) wells withdrawing from the not-nontributary Dawson aquifer as provided in the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020 (“Decree” or “Augmentation Plan”). The Decree allocated 950 acre-feet (3.2 acre-feet/year for 300 years) of Dawson aquifer water to the property. The Augmentation Plan allows water to be withdrawn from the Dawson aquifer through up to 4 wells in an annual amount that shall not exceed 2.28 acre-feet for up to 300 years. The allowed annual amount of water to be withdrawn from each on-lot well shall not exceed 0.57

ASSISTANT COUNTY ATTORNEYS

acre-feet to be used for domestic, irrigation, stock water, recreation, wildlife, fire protection, and also for storage and augmentation purposes associated with such uses.

There are three existing wells on the property anticipated to supply water to three of the lots (one per lot).¹ These wells must be re-permitted as non-exempt wells in accordance with the Augmentation Plan. The fourth lot will be supplied by a well not yet constructed.

The approved Augmentation Plan has a term of 300 years and requires that septic system return flows be used for augmentation during the pumping period for the 4 approved wells. Applicant must reserve 713 acre-feet total of its water rights in the Laramie-Fox Hills aquifer to be used for replacement of post-pumping depletions.

State Engineer's Office Opinion

4. In a letter dated December 27, 2023, the State Engineer stated that “[t]he proposed source of water is individual on lot wells producing from the not-nontributary Dawson aquifer that will operate pursuant to the decree and plan for augmentation in case no. 2022CW3020.” The allowed average annual amount of withdrawal provided for in the Decree is 3.2 acre-feet annually for a maximum of 300 years. The augmentation plan approved allows for an average diversion of 2.28 acre-feet annually for a maximum of 300 years. This equates to 0.57 annual acre-feet for each of the four (4) lots.

Finally, the State Engineer stated that, “... pursuant to 30-28-136(1)(h)(I) C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights.”

Recommended Findings

5. Quantity and Dependability. Applicant's water demand for the Nabulsi-Abushaban Subdivision is 2.28 acre-feet per year for a total demand of 684 acre-feet for the subdivision for 300 years. The Augmentation Plan allows for four (4) wells necessary to meet the needs of this subdivision, limited to an annual withdrawal of 0.57 acre-feet per well, for a total of 2.28 acre-feet.

Based on the water demand of 2.28 acre-feet/year for the Nabulsi-Abushaban Subdivision and the Augmentation Plan permitting withdrawals in that amount, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the Nabulsi-Abushaban Subdivision.

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

¹ Permit Nos. 85841-A, 137196 and 23585.

7. Basis. The County Attorney's Office reviewed the following documents in preparing this review: a *Water Resources Report* dated August 25, 2023, the *Water Supply Information Summary*, the *State Engineer's Office Opinion* dated December 27, 2023, and Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020 entered on April 20, 2023. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

REQUIREMENTS:

A. Applicant and its successors and assigns shall comply with all requirements of the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020, specifically, that water withdrawn from the Dawson aquifer shall not exceed 0.57 annual acre-feet per well for up to four (4) wells, based on a total combined annual withdrawal of 2.28 acre-feet. Depletions during pumping shall be replaced by individual on-lot non-evaporative septic systems.

B. The County requires that when there is an augmentation plan, Applicant create a homeowners' association ("HOA") for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water decree and augmentation plan for the property.

C. Applicant shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision, their successors and assigns, and the HOA regarding all applicable requirements of the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020, including the limitations on diversions and use of water for each well and lot, the requirement to meter and record all well pumping, and information on how records are to be kept.

Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 684 acre-feet of not-nontributary Dawson aquifer water and 714 acre-feet of Laramie-Fox Hills aquifer water pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020 to satisfy El Paso County's 300-year water supply requirement for the four (4) lots of the Nabulsi-Abushaban Subdivision. The Covenants shall further identify that 171 acre-feet (0.57 acre-feet/year) of Dawson aquifer water is allocated to each lot. Said reservations shall not be separated from transfer of

title to the property and shall be used exclusively for primary and replacement water supply.

2) Advise of responsibility for costs. The Covenants shall advise the HOA, lot owners and their successors and assigns of their obligations regarding the costs of operating the plan for augmentation, which include pumping of the Dawson wells in a manner to replace depletions during pumping and the cost of drilling Laramie-Fox Hills aquifer wells in the future to replace post-pumping depletions.

3) Require non-evaporative septic systems and reserve return flows from the same. The Covenants shall require each lot owner to use a non-evaporative septic system to ensure that return flows from such systems are made to the stream system to replace actual depletions during pumping and shall state that said return flows shall not be separately sold, traded, assigned, or used for any other purpose. The Covenants shall also include the following or similar language to ensure that such return flows shall only be used for replacement purposes: "Return flows shall only be used for replacement purposes, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose."

4) Address future lot conveyances. The following or similar language shall be included in the Covenants to address future conveyances of the lots subsequent to the initial conveyance made by Applicant/Declarant:

"The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020 and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

5) Advise of monitoring requirements. The Covenants shall advise the HOA, future lot owners of this subdivision and their successors and assigns of their responsibility for any metering and data collecting that may be required regarding water withdrawals from existing and future wells in the Dawson and/or Laramie-Fox Hills aquifers.

6) Require well permits. The Covenants shall require that well permits be obtained pursuant to the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee

and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020 and C.R.S. § 37-90-137(4) and (10), to include the requirement that three (3) existing wells be re-permitted as non-exempt wells according to the Augmentation Plan.

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

“Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Nabulsi-Abushaban Subdivision pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020. Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney’s Office. Any amendments must be pursuant to the 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 determination.”

8) Address termination of the covenants. The Covenants shall address termination using the following or similar language:

“These Covenants shall not terminate unless the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020 are also terminated by the Division 2 Water Court and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

D. Applicant and its successors and assigns shall reserve in any deeds of the Property Dawson aquifer water in the decreed amount of 684 acre-feet and 713 acre-feet of Laramie-Fox Hills aquifer water. Said reservations shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply.

E. Applicant and its successors and assigns shall convey by recorded warranty deed these reserved Dawson aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Dawson and Laramie-Fox Hills aquifers underlying the respective lots to satisfy El Paso County’s 300-year water supply requirement, which amount is 171 acre-feet (0.57 acre-feet per year) per lot.

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary supply (Dawson aquifer): "These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during pumping, for each of the lots of the Nabulsi-Abushaban 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 shall convey, or provide proof of previous conveyance of, 713 acre-feet of Laramie-Fox Hills aquifer water to the HOA for use in the Augmentation Plan to replace post-pumping depletions.

G. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions, and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney's Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney's Office prior to recording the final plat. Said Declaration shall cross-reference Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020 and shall identify the obligations of the individual lot owners thereunder.

H. Applicant and its successors and assigns shall record all applicable documents, including but not limited to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW3020, 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.

I. Applications for well permits submitted by persons other than the Applicant must include evidence that the permittee has acquired the right to the portion of the water being requested.

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. 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.”

K. Prior to recording the final plat, Applicant shall provide proof that well nos. 85841-A, 137196 and 23585 have been re-permitted as non-exempt pursuant to the Augmentation Plan.

cc: Joe Letke, Project Manager, Planner

MINOR SUBDIVISION (RECOMMEND APPROVAL)

_____ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. MS2211
NABULSI-ABUSHABAN SUBDIVISION

WHEREAS, Nabulsi-Abushaban Family Trust did file an application with the El Paso County Planning and Community Development Department for approval of a Minor Subdivision for the Nabulsi-Abushaban Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on May 7, 2026; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the Master Plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the El Paso County Planning Commission members during the hearing, this Commission finds as follows:

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations.

6. For the above-stated and other reasons, the proposed Final Plat is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, this Commission further finds that the request meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code ("Code") (as amended), as follows:

1. The Subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
2. The Subdivision is in substantial conformance with the approved Preliminary Plan;
3. The Subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;
4. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of Subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code;
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of the Code;
6. All areas of the proposed Subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed Subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];
7. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual ("ECM");
8. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement acceptable to the County in compliance with the Code and the ECM;
9. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed Subdivision;
10. The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code;
11. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the Subdivision in accordance with applicable requirements of Chapter 8 of the Code;

12. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed Subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the Subdivision will be adequately mitigated;
13. The Subdivision meets other applicable sections of Chapter 6 and 8 of the Code;
14. The extraction of any known commercial mining deposit shall not be impeded by this Subdivision [C.R.S. §§ 34-1-302(1), et seq.]; and

WHEREAS, a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of Subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code;

WHEREAS, this Commission further finds that the proposed Waiver(s) from the Code meet(s) the criteria for a Waiver outlined in Section 7.3.3 of the Land Development Code and any other applicable criteria for consideration of a Waiver.

NOW, THEREFORE, BE IT RESOLVED, that the El Paso County Planning Commission recommends that the petition of Nabulsi-Abushaban Family Trust for approval of a Minor Subdivision for the Nabulsi-Abushaban Subdivision meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code and be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the Final Plat.

4. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
5. 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.
6. 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.
7. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated November 13, 2024, as provided by the County Attorney's Office.
8. The applicant shall complete an escrow agreement with El Paso County in the amount of \$10,216 to be applied toward the paving of Old Ranch Road between the subdivision and Black Forest Road.

NOTATIONS

1. The following fees are required to be paid to El Paso County at the time of Final Plat recordation:
 - a. Drainage Fees in the amount of \$29,017 and bridge fees in the amount of \$2,116 for the Cottonwood Creek basin.
 - b. Park fees in lieu of land dedication for regional parks (Area 2) in the amount of \$1,840.00
 - c. Fees in lieu of school land dedication in the amount of \$1,224.00 shall be paid for the benefit of School District #20.
2. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
3. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Department of Public Works Inspections and a Construction Permit is issued by the Department of Public Works.
4. 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 No. 25-377), 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.

BE IT FURTHER RESOLVED that the El Paso County Planning Commission recommends approval of the following Waivers from the Land Development Code:

WAIVERS

Waiver from Section 8.4.4.C of the Code to allow a private road to be constructed in lieu of a public road.

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

_____ seconded the adoption of the foregoing Resolution.

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

| | |
|---------------------|--|
| Blaine Brew | aye / no / non-voting / recused / absent |
| Michael Brewer | aye / no / non-voting / recused / absent |
| Sarah Brittain Jack | aye / no / non-voting / recused / absent |
| Jim Byers | aye / no / non-voting / recused / absent |
| Jay Carlson | aye / no / non-voting / recused / absent |
| Suzanne Casagrande | aye / no / non-voting / recused / absent |
| Maribeth Emrick | aye / no / non-voting / recused / absent |
| Becky Fuller | aye / no / non-voting / recused / absent |
| Eric Moraes | aye / no / non-voting / recused / absent |
| Bryce Schuettpelz | aye / no / non-voting / recused / absent |
| Tim Trowbridge | aye / no / non-voting / recused / absent |
| Christopher Whitney | aye / no / non-voting / recused / absent |
| Jason Wulf | aye / no / non-voting / recused / absent |

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

DONE THIS 7th day of May 2026 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
Chair

EXHIBIT A

The East 990 feet of the South 1155 feet of the Southeast Quarter of Section 19 in Township 12 South, Range 65 West of the 6 th P.M., El Paso County, Colorado, EXCEPT the South 30 feet and the East 30 feet thereof;

Containing 24.796 "net" acres, more or less.