

EL PASO COUNTY



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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Board of County Commissioners
 Mark Waller, Chair

FROM: Kari Parsons, Planner II
 Gilbert LaForce, PE Engineer II
 Craig Dossey, Executive Director

RE: Project File #: SF-18-041
 Project Name: Settlers View Subdivision
 Parcel No.: 61000-00-463

OWNER:	REPRESENTATIVE:
Gary and Brenda Brinkman 4507 Silver Nell Drive Colorado Springs, CO. 80908	Jerome Hannigan and Associates, Inc. 19360 Spring Valley Road Monument, CO. 80132

Commissioner District: 1

Planning Commission Hearing Date:	3/19/2019
Board of County Commissioners Hearing Date	4/9/2019

EXECUTIVE SUMMARY

A request by Gary and Brenda Brinkman for approval of a final plat for the Settlers View subdivision to authorize development of 14 single-family lots and 2.59 acres of right-of-way. The 40.61 acres parcel is zoned RR-2.5 (Residential Rural) and is located north of Hodgen Road, south of Silver Nell Drive, East of the Walden Development and west of Stepler Road and within Section 23, Township 11 South, Range 66 West of the 6th P.M. The subject property area is within the boundaries of the Black Forest Preservation Plan (1987) area.



The Settlers View subdivision final plat is consistent with the current RR-2.5 (Residential Rural) zoning and the approved Settlers View preliminary plan (SP-17-006). The final plat meets the submittal and review criteria for a final plat as well as the general development standards of Chapter 6, the final plat review criteria of Chapter 7, and the subdivision design requirements of Chapter 8 of the El Paso County Land Development Code (2019).

Water is proposed to be provided via individual wells. Individual onsite wastewater treatment systems (OWTS) are proposed to serve the development. A finding of water sufficiency is requested with this final plat application.

A. REQUEST/WAIVERS/AUTHORIZATION

Request: A request by Gary and Brenda Brinkman for approval of a final plat for the Settlers View subdivision to authorize the development of 14 single-family lots and 2.96 acres of right-of-way located on 40.61 acres. A finding for water sufficiency is requested with this plat application.

Waiver(s): No waivers are requested with this application.

Authorization to Sign: Final Plat, Subdivision Improvements Agreement, Detention Pond Maintenance Agreement and any other documents necessary to carry out the intent of the Board of County Commissioners.

B. Planning Commission Summary

Request Heard: As a Consent item at the March 19, 2019 hearing.

Recommendation: Approval based on recommended conditions and notations.

Waiver Recommendation: N/A

Vote: 7 to 0

Vote Rationale: N/A

Summary of Hearing: The applicant was represented at the hearing.

Legal Notice: N/A

C. APPROVAL CRITERIA

In approving a final plat, Section 7.2.1.D.3 of the El Paso County Land Development Code (2019) states that the BoCC shall find that:

- The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is in substantial conformance with the approved preliminary plan;
- The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for

maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;

- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code;
- A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of this Code;
- All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)];
- Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM;
- Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;
- The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code;
- Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8;
- Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;
- The subdivision meets other applicable sections of Chapter 6 and 8; and
- The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §34-1-302(1), et seq.]

D. LOCATION

North: PUD (Planned Unit Development)	Grandview Subdivision/single-family
South: PUD (Planned Unit Development)	Settlers Ranch Subdivision/single-family
East: RR-2.5 (Residential Rural)	Single-family residential /vacant
West: RR 5.0 (Residential Rural)	Unplatted /single-family residential

E. BACKGROUND

The County initiated the zoning of this area from unzoned to A-5 (Rural) in 1965. Subsequent nomenclature changes renamed the A-5 zoning district to RR-3 (Residential Rural) in 1991 and then to RR-5 (Residential Rural) in 2007. The property was rezoned from RR-5 to RR-2.5 (Residential Rural) on April 10, 2018. A preliminary plan was also approved on that date. The property has remained undeveloped and unplatted.

The developers of the Grandview Subdivision to the north constructed an extension of Silver Nell Drive, a County owned and maintained right-of-way to the northern boundary of the subject parcel in anticipation of development. The applicants will be required to construct an additional extension of Silver Nell Drive to the eastern boundary of the property and dedicate it as County right-of-way with this final plat.

F. ANALYSIS

1. Land Development Code Compliance

The final plat application meets the final plat submittal requirements, the General Development Standards of Chapter 6, the Standards for Divisions of Land in Chapter 7, and the Standards for Subdivision in Chapter 8 of the Code.

2. Zoning Compliance

The Settlers View final plat is consistent with the density and dimensional standards of the RR-2.5 zoning district as identified in Chapter 5, Table 5-4 of the Code and as follows:

- Minimum lot size – 2.5 acres
- Setbacks – 25 feet front and rear, 15 feet side
- Maximum building height – 30 feet
- Maximum lot coverage – none
- Minimum width at front setback- 200 feet

3. Policy Plan Analysis

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues, and provides a framework to tie together the more detailed sub-area elements of the County Master Plan. Relevant policies are as follows:

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

Policy 6.1.8- *Encourage incorporation of buffers or transitions between areas of varying use or density where possible.*

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

Goal 6.1 A- *Encourage patterns of growth and development which complement the regions' unique natural environments and which reinforce community character.*

The applicants are proposing minimum lot sizes of 2.5 acres, including 3 acre lots at the northeastern boundary, as depicted on the approved preliminary plan and the proposed final plat. The platted single-family lots to the north of the subject property located in the Grandview Subdivision have an average lot size of 2.75 acres and the Settlers Ranch development located to the south of the subject property includes an average lot size of 2.5 acres. The Walden Preserve development located northwest of the subject property has an average lot size of one-half (1/2) acre. The lots to the west, which are also located within the Walden Preserve development, have an average lot size of 2.5 acres, which was intended to serve as a transition between the Walden Preserve development and the remaining RR-5 zoned land in the area, which would include this proposed development. The 2.5 acre average lot size of the proposed development is consistent with the transition provided within the Walden Preserve development to the west and the remaining RR-5 zoned properties in the area.

Access has been provided via dedicated right-of-way through the Grandview and Walden Preserve developments. Provision of access to this development through adjoining developments indicates anticipated development of the subject property, which, as proposed, continues the existing pattern of growth in the area. A finding of consistency has been previously made with the rezone and preliminary plan requests. Staff has no concerns with compatibility, density transitions, or patterns of growth with this final plat request.

4. Small Area Plan Analysis

The property is within the Black Forest Preservation Plan (1987) area and, more specifically, within Planning Unit 5, The Spruce Hill/Highway 83 Corridor Sub-Area and the northeastern corner of the property is within Planning Unit 6, Northern Grasslands Sub-Area. The Plan identifies the drainage basin boundary

line between the East Cherry Creek Basin and the West Cherry Creek Basin as the dividing line between the two sub-areas. The Spruce Hill/Highway 83 Corridor Sub-Area is “characterized by undulating stair step topography which gradually rises in an easterly direction.” Much of the area is forested. The Plan includes policies applicable to the Planning Unit 5, The Spruce Hill / Highway 83 Corridor, that state as follows:

- “Emphasis in this unit should be on residential uses which preserve and compliment these unique landscape features by focusing on the forested rather than the open areas. To accomplish this clustering should be encouraged, and large scale tract houses should be avoided. Densities comparable to those in the Walden III Subdivision (one (1) dwelling unit / one (1) acre) would be appropriate if carefully sited and adequate services can be provided.”
- “Uses within this planning unit should be consistent with the non-urban development...”

Planning Unit 6, Northern Grasslands Sub-Area is “characterized as open undulating grasslands. The southern half of the area is more open and views in this portion tend to be longer.” In contrast to Planning Unit 5, the Plan includes a policy applicable to the Planning Unit 6, Northern Grasslands Sub-Area, that state as follows:

- “The entire area is not recommended for development or subdivision at this time. If low density residential development does take place overall density should be strictly held to one (1) dwelling unit / per five (5) acres. ”

The applicant is proposing minimum lot sizes of 2.5 acres as required by the Land Development Code (2019) pursuant to the Density and Dimensional Standards of the RR-2.5 zoning district as listed above in Section F.2 of this report. The RR-2.5 zoning district requires a minimum lot size of 2.5 acres, which is less dense than the recommended density of one (1) dwelling unit/one (1) acre identified in The Spruce Hill/Highway 83 Corridor Sub-Area policy above. The applicants propose individual well and onsite wastewater treatment systems (OWTS), which are permissible on 2.5 acre lots.

As mentioned above, a portion of the area proposed to be platted is within the Northern Grasslands Sub-Area. The boundary between the two Sub-Areas is

defined by the meandering drainage basin line between the Cherry Creek and West Cherry Creek Drainage Basins (see basin map below), with The Spruce Hill/Highway 83 Sub-Area being west of the boundary and the Northern Grasslands Sub-Area being east of the boundary. The applicants are proposing to plat lots within the Northern Grasslands Sub-Area with a minimum lot size of three (3) acres, which is below the recommended lot size of 5 acres Plan. The proposed transition incorporated in this plan for development is consistent with the developed Grandview Subdivision to the north and with the Settlers Ranch development to the south. A finding of consistency has been previously made with the rezone and preliminary plan requests. Staff finds the final plat request to be generally consistent with the Plan.

5. Other Master Plan Elements

The proposed preliminary plan is consistent with or does not create negative impacts to elements depicted on the El Paso County Wildlife Habitat Descriptors Map (1996), the El Paso County Community Services Parks Master Plan (2014), the Master Plan for Mineral Extraction (1996), and the El Paso County 2016 Major Transportation Corridors Plan Update, which is further addressed below.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

A geology and soils report, dated February 2, 2017, was submitted by Entech Engineering, Inc., in support of the approved preliminary plan application. The report provides a geologic hazards evaluation and preliminary geotechnical investigation of the plan area. The report identified shallow groundwater, seasonally shallow groundwater, perched groundwater and erosion in some areas. The report concludes that mitigation measures identified in the report can be completed so as to not preclude development. The applicants have identified the areas that will need to be mitigated on the final plat in the notes section, as well as depicting the areas of concern on the final plat map.

2. Wildlife

Potential impacts to wildlife are generally low as depicted in the El Paso County Wildlife Descriptors Map (1996).

3. Floodplain

The site is not within or near a FEMA floodplain as designated on the FEMA Floodplain Insurance Rate Map (FIRM) panel number 08041C0305G for El Paso County.

4. Drainage and Erosion

The proposed subdivision is located partially within the West Cherry Creek drainage basin (CYCY0400) and partially within the East Cherry Creek drainage basin (CYCY0200). These basins have not been studied and no drainage or bridge fees have been adopted. Runoff from the portion of the property located within the West Cherry Creek Basin generally flows to the west and will utilize roadway ditches and existing natural swales to convey runoff into a proposed full spectrum detention pond which is anticipated to release at 90 percent of the predevelopment rate. The proposed detention pond is proposed to be privately owned and maintained by the subdivision homeowners association. Runoff from the portion of the property located within the East Cherry Creek Basin generally flows to the east onto the adjoining proposed Abert Ranch Subdivision and will utilize existing natural swales and downstream drainage ways. The development plans for the proposed Abert Ranch Subdivision include upgrades to an existing stock pond to meet stormwater detention requirements for the Abert Ranch development and the minimal developed drainage contribution from the proposed Settlers View development. The engineering consultant's drainage report concludes that this development will not adversely affect downstream or surrounding areas.

Grading and erosion control plans associated with the development identified permanent and temporary best management practices (BMPs) to prevent sediment and debris from affecting adjoining properties and the public drainage system before, during, and after construction. The applicants will need to obtain appropriate County permits, including an Erosion and Stormwater Quality Control Permit, for any proposed grading activity, along with any State-required permits, prior to construction. Pre-site development grading is not requested with this request. The drainage improvements to be constructed are proposed to be privately owned and maintained and are not eligible for reimbursement.

5. Transportation

The applicants are not proposing to construct or include access to a road identified in the El Paso County Major Transportation Corridors Plan Update (2016), 2040 Major Transportation Corridors Plan (MTCP). The Grandview Subdivision to the north provided an extension of Silver Nell Drive, a County owned and maintained road, to this property in anticipation of this development. This development will be required to further extend Silver Nell Drive to the eastern boundary of the subject property in accordance with Condition of Approval No. 6 of the preliminary plan (Resolution No. 18-144). Development of

the Settlers View subdivision proposes to dedicate 0.337 lane miles of developer-constructed roadways to the County for ownership and maintenance.

The development of the property to the east, Abert Ranch, which is also currently in review, is anticipated to connect Silver Nell Drive to the future extension of Settlers Ranch Road which is a roadway located within the approved Settlers Ranch development. The Settlers Ranch development is anticipated to be completed within five (5) years. Settlers Ranch Road will connect to Hodgen Road to the south and Stepler Road to the east through the Settlers Ranch development.

Stepler Road north of Silver Nell Drive is currently a gravel road that has exceeded the designed capacity of the road (design is 200 daily trips, existing is 265 daily trips). With the addition of Settlers View, Abert Ranch, and Settlers Ranch, off-site improvements to Stepler Road would be needed. Per the traffic study, Settlers View traffic would constitute about 6.7 percent of the total short-term daily traffic on Stepler Road north of Silver Nell given a length of 2590 linear foot. Based on \$190 per linear foot to upgrade a road from gravel to pavement, the developer will be required to escrow \$32,970.

The Settlers View subdivision is subject to the El Paso County Road Impact Fee Program (Resolution 18-471), as amended.

H. SERVICES

1. Water

Individual wells are proposed to serve the subdivision.

Sufficiency:

Quality: Sufficient

Quantity: Sufficient

Dependability: Sufficient

Attorney's summary: The State Engineer's office has made a finding of adequacy and has stated water can be provided without causing injury to decreed water rights. The County Attorney's Office is anticipated to recommend a finding of sufficiency with regard to water quantity and dependability. Staff anticipates providing a letter at the time of the Planning Commission hearing. El Paso County Public Health previously made a favorable recommendation regarding water quality.

2. Sanitation

Individual onsite wastewater treatment systems are proposed to serve the development. El Paso County Public Health has made a favorable recommendation regarding wastewater disposal.

3. Emergency Services

The subject property is within the boundaries of Tri-Lakes Monument Fire Protection District. The District has committed to serve the development. The District was provided a referral by the Planning and Community Development Department and did not object to the request.

4. Utilities

Mountain View Electric Association will provide electrical service and Black Hills Energy will provide natural gas service to the development. Public utility easements have been depicted on the final plat.

5. Metropolitan and Other Special Districts

The property is not within a metropolitan district.

The property is not anticipated to be included into a Public Improvement District. Traffic impact fees shall be paid in accordance with Resolution 18-471.

6. Parks/Trails

Regional park fees (Region 2) in lieu of land dedication in the amount of \$6,020.00 shall be paid at the time of final plat recordation.

7. Schools

The final plat is located within the boundaries of Lewis Palmer School District No. 38. The developer is required to pay fees in lieu of land dedication in the amount of \$4,312.00 at the time of plat recordation.

I. APPLICABLE RESOLUTIONS:

See attached Resolution.

J. STATUS OF MAJOR ISSUES

There are no outstanding issues with this request.

K. RECOMMENDED CONDITIONS AND NOTATION

Should the 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 applicants provide 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 applicants 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 applicants must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The applicants shall submit the Mylar to Enumerations for addressing.
5. The applicants 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. Collateral sufficient to ensure that the public and private improvements are constructed as listed in the approved financial assurance estimate shall be provided when the final plat is recorded.

8. 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.
9. Park fees in the amount of \$6,020.00 in lieu of land dedication for regional parks (Area 2) fees shall be paid at the time of plat recordation.
10. School fees in the amount of \$4,312.00 in lieu of school land dedication shall be paid to El Paso County for the benefit of Lewis Palmer School District No. 38 at the time of plat recordation.
11. The developer shall participate in a fair and equitable manner in the design and future paving of Stepler Road north of Silver Nell Drive and south of Walker Road. The fair share attributed to Settlers View subdivision shall be deposited as escrow in the amount of \$32,970, corresponding to a roughly six point seven percent (6.7%) proportionate impact. An escrow agreement shall be completed and deposited prior to recording the final plat.

NOTATION

1. Final plats not recorded within 12 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified 17 adjoining property owners on February 27, 2019, for the Board of County Commissioners hearing. Any responses received will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Final Plat Drawing
State Engineers Letter
County Attorneys Letter
Planning Commission Resolution
Board of County Commissioners' Resolution

El Paso County Parcel Information

File Name:

Zone Map No.

Date:

PARCEL	NAME
4300000561	ROI PROPERTY GROUP LLC
4300000562	ROI PROPERTY GROUP LLC
4300000556	ROI PROPERTY GROUP LLC
4300000554	ROI PROPERTY GROUP LLC
4300000555	OLD WEST RANCH CO PARTNERS LLC
4300000557	OLD WEST RANCH CO PARTNERS LLC
4300000543	ROI PROPERTY GROUP LLC
4300000541	ROI PROPERTY GROUP LLC
4300000542	ROI PROPERTY GROUP LLC



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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Jerome W.

HANNIGAN and ASSOCIATES, INC.

Land Planning • Land Surveying • Land Development Consulting

June 05, 2018
Rev: 01-25-19
Job No. 16-025

**FINAL PLAT LETTER of INTENT
SETTLERS VIEW SUBDIVISION**

Settlers View Subdivision (no relation to Settlers Ranch to the south) is a proposed 14 lot residential subdivision in Section 23, T11S, R66W of the 6th P.M., El Paso County, Colorado. More generally, the property lies east of Highway 83, south of Walker Road, west of Stepler Road and at the south end of Silver Nell Drive, which is the access road through Grandview Subdivision. This tract is one part of the earlier Hodgkin Ranch property that has long been used as grazing land for cattle and is now being developed. The property is 40.61 acres in area, recently zoned (P17-004) RR-2.5 and includes the owners' home on what is to be Lot 2. The Preliminary Plan (SP17-006) was approved April 10, 2018 by the Board of County Commissioners at the same time as the zoning. Proposed lots vary in area from 2.52 acres to 3.14 acres with an overall density of 1 dwelling unit per 2.90 acres. The Applicant is requesting a finding of Water Sufficiency with this plat.

The road alignment as well as the lot layout and sizing remains as approved with the Preliminary Plat. The proposed roadway design is both efficient and considerate of the topography while providing good lot design and roads that provide a logical extension of the existing Silver Nell Drive. The cul-de-sac pavement at the current end of Silver Nell will be removed and that area restored by the developer of Settlers View.

In approving a Final Plat, the Board of County Commissioners makes several findings. Among those are conformance with the Goals, Objectives and Policies of the Master Plan; conformance with the LDC and ECM and other County requirements; conformance with the approved preliminary plan; identification of potential hazards and mitigation techniques therefore and, of course, a finding of sufficiency for water quality, quantity and dependability.

Because Silver Nell currently exceeds the standard permitted length and because connection to Stepler Road must occur through two additional properties, our extension will end in a temporary cul-de-sac which will ultimately be removed by the connecting developer. A Deviation from the Engineering Criteria Manual standard for dead end roadway length and a Waiver from the Land Development Code for the number of lots on a dead end street were approved with the Preliminary Plan. Both the Deviation and the Waiver are Temporary in that the road will be extended through Abert Ranch and Settlers Ranch to Stepler.

Two of the proposed lots will access with a short "flag" configuration. One occurs because of the geometry of the existing roadway and the owners house location and the second occurs because of an existing 30 foot wide perpetual ingress-egress easement that must be respected. That access easement serves a single residence on the adjoining Morehead property. The owner of that property and access easement concurs with this design and supports the proposed subdivision. As is normal, that 30 foot flag configuration requires a waiver to the usual 60 foot minimum road frontage which is also part of this request.

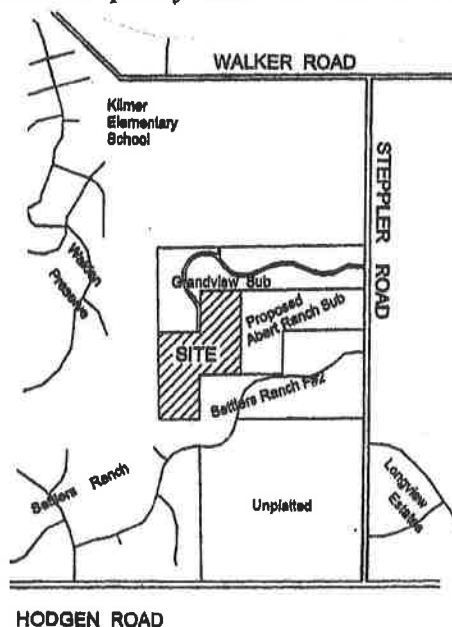
(2)

Water for 15 lots (one more than proposed) has been adjudicated and an augmentation plan has been approved by the Water Court. Specific laboratory testing has been done on samples of water withdrawn from the existing well at the Brinkman's home on Lot 2. The El Paso County Health Department has reviewed those results and made of finding of sufficiency for water quality. Individual Sewage Disposal Systems (ISDS) are proposed for each of the lots and preliminary on site testing has determined that soils are suitable for those systems. As with all systems permitted by the Health Department, individual testing is required at the specific leach field location on each lot to determine field sizing and design. Further soils studies have been done to evaluate their other characteristics with respect to this residential use including roadway construction and homes. Specific engineering criteria result that have been used in those designs.

Surface drainage is a consideration that is accounted for and the low density and gentle slopes combined with reasonable vegetative cover results in minimal developed flows. The southern portion of the property is subject to offsite flows that are carried in a swale to a detention pond. Other onsite flows are carried there through the use of roadside ditches and appropriate culverts. Water quality is enhanced before leaving the property at no more than historic flows. The pond and it's maintenance is the responsibility of the Homeowners Association.

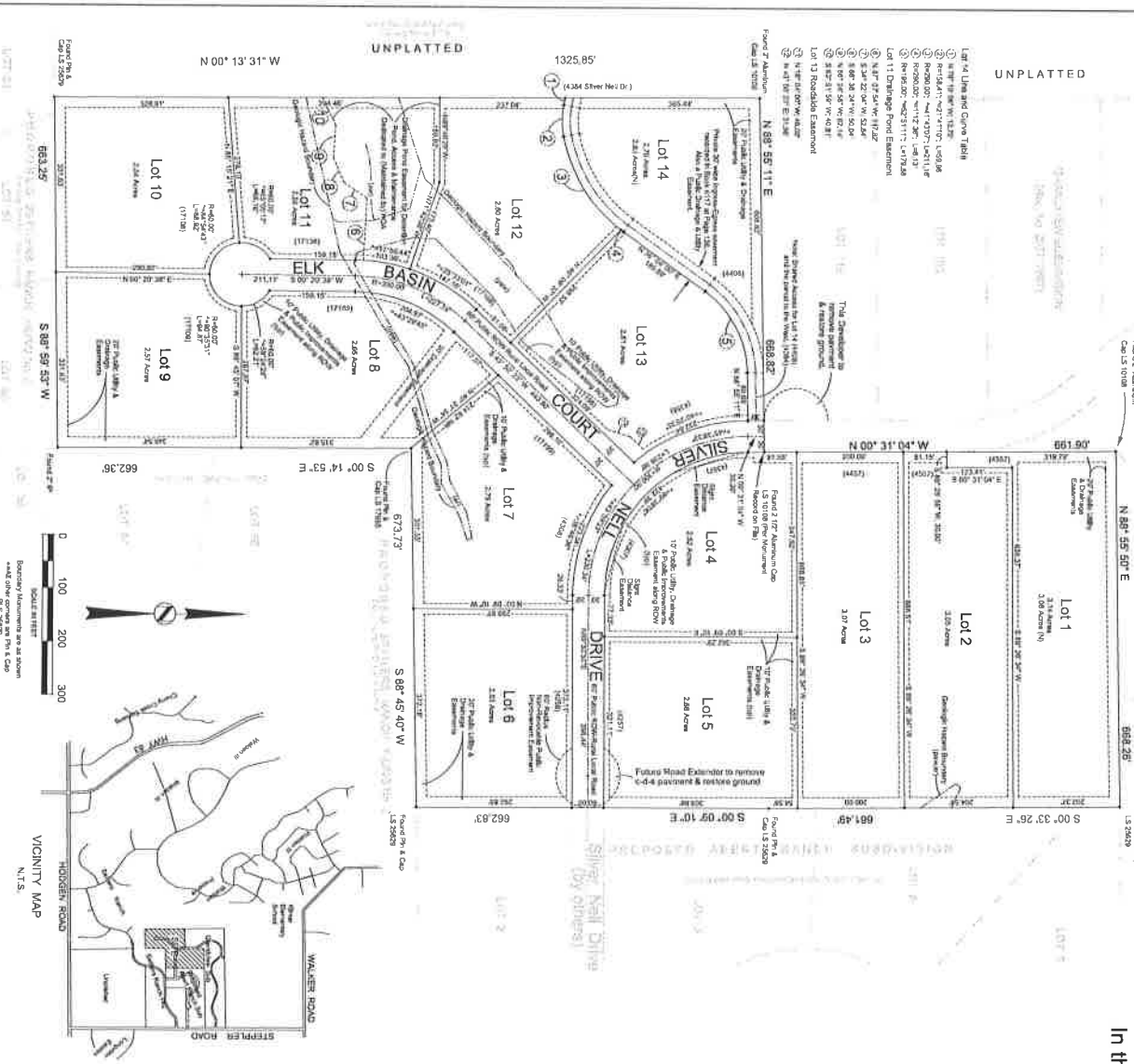
Utilities are necessary to serve the planned homes and all are either adjoining or already onsite serving the existing Brinkman residence. Mountain View Electric supplies power and Black Hills Energy supplies natural gas. Extensions will occur as required by the individual utilities and easements are provided to accommodate them. Police services are available from the El Paso County Sheriffs office. Fire protection and emergency medical services are provided by the Tri Lakes Fire Protection District who has agreed to continue to serve the property. Their Station Number 2 is the closest at Highway 105 and Roller Coaster Road, perhaps 5 minutes away.

In summary, this proposed residential subdivision is both suitable and compatible with the surrounding neighborhood. Additionally, as the Board found at both the rezoning and preliminary plan application approvals, the proposal is in general conformance with the goals, objectives and policies of the Master Plan, which in this area includes the Black Forest Preservation Plan. It is zoned appropriately and the lot and road layout can meet all code requirements. Necessary infrastructure either exists or is planned for and will be provided. Natural hazards can be avoided or otherwise mitigated. Individual sewage disposal systems are appropriate and a sufficient and dependable quantity of excellent quality water will be available through individual onsite wells.



SETTLERS VIEW SUBDIVISION

In the NE Quarter of Section 23, Township 11 South, Range 66 West
of the 6th P.M., El Paso County, Colorado



NOTES:

1. The plat of this subdivision is subject to the following conditions, covenants, restrictions, easements, and other provisions of the plat of this subdivision, and the plat of this subdivision shall be construed in accordance with the plat of this subdivision. If any provision of this plat of this subdivision is inconsistent with the plat of this subdivision, the plat of this subdivision shall prevail.

2. The plat of this subdivision is subject to the following conditions, covenants, restrictions, easements, and other provisions of the plat of this subdivision, and the plat of this subdivision shall be construed in accordance with the plat of this subdivision. If any provision of this plat of this subdivision is inconsistent with the plat of this subdivision, the plat of this subdivision shall prevail.

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10. The plat of this subdivision is subject to the following conditions, covenants, restrictions, easements, and other provisions of the plat of this subdivision, and the plat of this subdivision shall be construed in accordance with the plat of this subdivision. If any provision of this plat of this subdivision is inconsistent with the plat of this subdivision, the plat of this subdivision shall prevail.

11. The plat of this subdivision is subject to the following conditions, covenants, restrictions, easements, and other provisions of the plat of this subdivision, and the plat of this subdivision shall be construed in accordance with the plat of this subdivision. If any provision of this plat of this subdivision is inconsistent with the plat of this subdivision, the plat of this subdivision shall prevail.

12. The plat of this subdivision is subject to the following conditions, covenants, restrictions, easements, and other provisions of the plat of this subdivision, and the plat of this subdivision shall be construed in accordance with the plat of this subdivision. If any provision of this plat of this subdivision is inconsistent with the plat of this subdivision, the plat of this subdivision shall prevail.

13. The plat of this subdivision is subject to the following conditions, covenants, restrictions, easements, and other provisions of the plat of this subdivision, and the plat of this subdivision shall be construed in accordance with the plat of this subdivision. If any provision of this plat of this subdivision is inconsistent with the plat of this subdivision, the plat of this subdivision shall prevail.

14. The plat of this subdivision is subject to the following conditions, covenants, restrictions, easements, and other provisions of the plat of this subdivision, and the plat of this subdivision shall be construed in accordance with the plat of this subdivision. If any provision of this plat of this subdivision is inconsistent with the plat of this subdivision, the plat of this subdivision shall prevail.

15. The plat of this subdivision is subject to the following conditions, covenants, restrictions, easements, and other provisions of the plat of this subdivision, and the plat of this subdivision shall be construed in accordance with the plat of this subdivision. If any provision of this plat of this subdivision is inconsistent with the plat of this subdivision, the plat of this subdivision shall prevail.

OWNERS CERTIFICATE:

I, the undersigned, being the owner of the above described premises, do hereby certify that the above described premises are the same as those described in the plat of this subdivision, and that the above described premises are the same as those described in the plat of this subdivision. I further certify that the above described premises are the same as those described in the plat of this subdivision, and that the above described premises are the same as those described in the plat of this subdivision.

Signature: _____
Name: _____

NOTARIES CERTIFICATES:

I, the undersigned, being a Notary Public in and for the State of Colorado, do hereby certify that the above described premises are the same as those described in the plat of this subdivision, and that the above described premises are the same as those described in the plat of this subdivision.

Signature: _____
Name: _____

PLANNING AND COMMUNITY DEVELOPMENT:

I, the undersigned, being a member of the Planning and Community Development Department, do hereby certify that the above described premises are the same as those described in the plat of this subdivision, and that the above described premises are the same as those described in the plat of this subdivision.

Signature: _____
Name: _____

BOARD OF COUNTY COMMISSIONERS CERTIFICATE:

I, the undersigned, being a member of the Board of County Commissioners, do hereby certify that the above described premises are the same as those described in the plat of this subdivision, and that the above described premises are the same as those described in the plat of this subdivision.

Signature: _____
Name: _____

SURVEYORS CERTIFICATE:

I, the undersigned, being a Licensed Professional Surveyor, do hereby certify that the above described premises are the same as those described in the plat of this subdivision, and that the above described premises are the same as those described in the plat of this subdivision.

Signature: _____
Name: _____

CLERK & RECORDER:

I, the undersigned, being the Clerk and Recorder of El Paso County, Colorado, do hereby certify that the above described premises are the same as those described in the plat of this subdivision, and that the above described premises are the same as those described in the plat of this subdivision.

Signature: _____
Name: _____

HANNIGAN + ASSOCIATES, INC.
LAND SURVEYING & LAND PLANNING
1714 South Tejon Street, Suite 100
Colorado Springs, Colorado 80905
Tel: 719.575.1000 Fax: 719.575.1001

SETTLERS VIEW SUBDIVISION
Final Plat
El Paso County, Colorado
Clerk and Recorder
El Paso County, Colorado
719.575.1000



John W. Hickenlooper
Governor

Robert Randall
Executive Director

Kevin G. Rein, P.E.
Director/State Engineer

March 15, 2018

Kari Parsons
El Paso County Development Services Department
Transmission via email: kariparsons@elpasoco.com

**RE: Settlers View Preliminary Plan
Part of the NE1/4 of Section 23, T11S, R66W, 6th P.M.
Water Division 1, Water District 8**

Dear Ms. Parsons:

We have reviewed the additional information received on March 13, 2018 concerning the above referenced proposal to subdivide an approximately 40-acre parcel into 14 residential single-family lots at a minimum lot size of 2.5 acres each. Residential lots will be served by individual on-lot wells producing from the not nontributary Dawson aquifer in accordance with the augmentation plan decreed in consolidated case nos. 2011CW045 (Division 1) and 2011CW023 (Division 2). There is an existing home and an existing well operating under with permit no. 75798-F located on the property. The home and the well will continue to be used on what will become Lot 2 of the Settlers View subdivision. We have previously provided comments on this proposal by our letter dated July 31, 2017.

In our previous letter we indicated that the Applicant dedicated up to 6.475 acre-feet/year for other specified or unspecified uses. Since, the unspecified uses were not specifically spell out, we recommended that Applicant provide information on the other specified or unspecified uses and ensure that those uses are allowed by the decree in consolidated case nos. 2011CW045 (Division 1) and 2011CW023 (Division 2).

According to the additional information provided from the Applicants' water attorney Mr. Henry D. Worley, the allowed uses which are not specified in the Water Supply Plan Summary submitted with the original referral are allowed by the decree and include: drinking and sanitary water for commercial uses, a stand-alone cottage or a guest house, and a hot tub/spa and or swimming pool. Lot owners may chose to use the Dawson aquifer well for none, one, or any combination of the above described uses allowed by the water decree in consolidated case nos. 2011CW045 (Division 1) and 2011CW023 (Division 2), so long as the well pumping does not exceed the allowed amount of 0.97 acre-feet/year or 1.0 acre foot/year for the existing well, permit no. 75798-F. If the existing well is expanded to be used for the above described uses the applicant must obtain a new well permit for this structure in accordance with Section 37-90-137(4) C.R.S. We note that the above described uses are allowed by the decree in consolidated case nos. 2011CW045 (Division 1) and 2011CW023 (Division 2).

State Engineer's Office Opinion

Based upon the above we reiterate that pursuant to Section 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights. Our previous comments regarding any storm water detention structure proposed for this subdivision still apply.



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

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory allocation approach, for the proposed uses is 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 1 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin 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 100 years (or 300 years) used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.

Should you or the applicant have any questions, please contact Ioana Comaniciu at (303) 866-3581 x8246.

Sincerely,



Joanna Williams, P.E.
Water Resource Engineer

Ec: Subdivision File 24079
File for permit no. 75798-F

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY
CIVIL DIVISION

First Assistant County Attorney
Diana K. May

Amy R. Folsom, County Attorney

Assistant County Attorneys
M. Cole Emmons
Lori L. Seago
Diana K. May
Kenneth R. Hodges
Lisa A. Kirkman
Steven A. Klaffky
Peter A. Lichtman

March 18, 2019

SF-18-41 Settlers View
 (Final Plat)

Reviewed by: M. Cole Emmons, Senior Assistant County Attorney
 Edi Anderson, Paralegal

FINDINGS AND CONCLUSIONS:

1. This is a proposal by Gary and Brenda Brinkman ("Applicant") for approval of a final plat to subdivide approximately 40.61 acres of land into 14 single-family residential lots. Applicant is in process of selling the property that is being subdivided, but will continue to reside in the existing residence that is located on what will be identified as Lot 2. The property is currently zoned RR-2.5 (Rural Residential).

2. The Applicant has provided for the source of water to derive from individual on-lot wells withdrawing from the not nontributary Dawson aquifer, pursuant to the groundwater decreed in District Court Water Division Consolidated Case Nos. 11CW045 (Div. 1) and 11CW023 (Div. 2) (the "Decree"). The Decree provided for alternative water demands based on the number of lots in the subdivision. Because this subdivision is identified as a 14-lot subdivision, the Decree allows for 0.97 acre-feet of Dawson Aquifer water to be pumped for 13 wells and 1.0 acre-feet to be pumped by existing Well Permit No. 75798-F, which is located on proposed Lot 2, for a total demand of 13.6 acre-feet/year for the 14 lots. Pursuant to the Water Supply Information Summary and correspondence from the Hank Worley Law Firm, LLC, the Applicant estimates its annual water requirements for the 14-lot subdivision as follows: household use at 3.64 acre-feet/year, irrigation at 3.15 acre-feet/year, stock watering for 28 animals at 0.345 acre-feet/year, and 6.475 acre-feet/year for other uses for a total of 13.6 acre-feet/year. Applicant will need to provide a supply of 4,080 acre-feet of water (13.6 acre-feet /year x 300 years) to meet the County's 300-year water supply requirement.

200 S. CASCADE AVENUE
OFFICE: (719) 520-6485



COLORADO SPRINGS, CO 80903
FAX: (719) 520-6487

3. In letters dated July 31, 2017 and March 15, 2018, the State Engineer's Office reviewed the proposed water supply for this final plat. The State Engineer's Office indicates that the proposed source of water for the subdivision is the Denver Basin with the water supply withdrawing from the Dawson Aquifer operating pursuant to the plan for augmentation noted in the Decree. The State Engineer notes that there is a pre-existing well on the property (well permit no. 75798-F) which will continue to be used by Applicant on Lot 2 of the subdivision. The following chart delineates the available water supply pursuant to the Decree:

Aquifer	Annual amount available for the 40 acre parcel	
	100 year allocation	300 year allocation
Dawson	49.6 af	16.5 af
Denver	37.1 af	12.3 af
Arapahoe	16.3 af	5.4 af
Laramie-Fox Hills	12.0 af	4.0 af

In its letter dated July 31, 2017, the State Engineer noted that the "plan for augmentation ... allows for an average diversion of 13.6 acre-feet annually and 4,081 acre feet total over a 300-year period. The decree allows the withdrawal from up to 15 wells in the Dawson aquifer, including the existing well with permit no. 75798-F ... and one well in each other aquifer underlying the property.... According to the decree, the allowed withdrawal from each well depends on the eventual number of lots in the subdivision. Annual diversions from the existing Dawson aquifer well ... are limited to 1.0 acre-feet annually by decree. For the proposed fourteen lot subdivision, the decree would allow pumping of up to 0.97 acre-feet per year for the remaining thirteen Dawson aquifer wells." The State Engineer further notes that "the annual demand for the subdivision is less than the allowed average annual amount of withdrawal of 13.6 acre-feet per year, allowed by the augmentation plan."

The State Engineer's letter dated July 31st asked the Applicant to provide clarification on the proposed uses that are labeled "other uses" in the Water Supply Information Summary. In correspondence to the County from the Worley Law Firm, LLC, dated March 13, 2018, Mr. Worley detailed the allowed uses that were not on the Water Supply Information Summary but which were allowed by the Decree, to include:

- 1) Drinking and sanitation water for commercial uses;
- 2) A stand-alone office or guest cottage; and
- 3) A hot tub/spa and/or swimming pool.

Mr. Worley stated that the above noted uses are permitted "so long as such owner's well pumping does not exceed the allowed amount of 0.97 acre foot annually per well (1.0 acre foot annually for the existing well, permit no. 75798-f)." In the State Engineer's letter dated March 15, 2018, the Engineer acknowledged the clarification by Mr. Worley and that the "above described uses are allowed by the decree....Lot owners

may chose [sic] to use the Dawson aquifer well for none, one, or any combination of the above described uses allowed by the water decree . . . so long as the well pumping does not exceed the allowed amount of 0.97 acre-feet/year or 1.0 acre foot/year for the existing well, permit no. 75798-F. If the existing well is expanded to be used for the above described uses the applicant must obtain a new well permit for this structure in accordance with Section 37-90-137(4) C.R.S.”

The State Engineer also noted that Applicant’s materials indicate that the proposed development will have a detention pond. Therefore, the State Engineer provided an advisory to the Applicant 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.”

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

4. The water quality requirements of Section 8.4.7.B.10 of the El Paso County Land Development Code must be satisfied.

5. Plan for Augmentation. The Decree permits the Applicant to subdivide the parcel into up to a total of 15 lots, using the existing Dawson Aquifer well on one lot and Dawson aquifer wells on each additional lot. The Decree provides that if “14 or 15 lots are created, the [existing well] will continue to be allowed to pump 1.0 acre feet per year, but annual Dawson aquifer pumping on the remaining lots shall be reduced to 0.97 acre-feet for the remaining wells in a 14 lot subdivision. . . . Dawson aquifer pumping under this plan for augmentation will be limited to a maximum of 13.6 acre-feet annually, and 4,081 acre feet total. . . .” In short, the Decree permits the Applicant to withdraw and use 4,081 acre-feet of the Dawson Aquifer water for this 14 lot subdivision.

Replacement of depletions during pumping. The plan for augmentation requires that stream system depletions during the 300 years of pumping the Dawson Aquifer are to be replaced by septic system return flows. Therefore, Applicants, their successors and assigns, must use nonevaporative septic tanks and leach fields for each single-family dwelling.

Replacement of post-pumping depletions. The Decree requires the Applicant, its successors and assigns, “. . . to replace the actual depletions caused by pumping the Dawson aquifer well that impact the stream system after pumping ceases.” The Decree requires the Applicant, its successors and assigns, to “. . . reserve and dedicate to this plan for augmentation all 3,706 acre feet of their Denver aquifer water decreed herein for the purpose of replacing to the South Platte River system all post-pumping depletions. This is less than a 1:1 replacement of the 4,080 acre-feet of Dawson Aquifer water that will be pumped during 300 years; however, the Water Court says this 3,706 acre-feet of

Denver Aquifer water will be adequate. The Court stated: “[t]aking into account the two percent relinquishment amount for nontributary water, and the fact that depletions of approximately 449 acre feet will occur during the projected 300 year pumping period, this amount is adequate to replace post-pumping depletions of approximately 3,632 acre feet under the maximum pumping scenario of 13.6 acre feet annually. . . .” In other words, it appears the Court took 4,080 acre-feet of the Dawson Aquifer demand, subtracted 449 acre-feet of depletions during pumping, which equals 3,631 acre-feet (likely the Court rounded to 3,632 acre-feet) to arrive at the amount of post-pumping depletions that will have to be replaced. The Decree also requires that the Applicant, its successors and assigns, return at least two percent of Arapahoe Aquifer water to the South Platte River system,; and return at least two percent of the Laramie-Fox Hills Aquifer water to the Monument Creek drainage .

6. Analysis. The Court decreed a permitted withdrawal of 13.6 acre-feet of water annually for 300 years for a total of 4,080 acre-feet from the Dawson Aquifer, which can be withdrawn to serve the 14 residential lots in this subdivision through individual wells, including one existing Dawson aquifer well. In this 14-lot subdivision, the lot with the existing well will use 1.0 acre-foot/year (300 acre-feet) and the remaining 13 lots in this subdivision will use 12.61 acre-feet/year total (3,783 acre-feet total for 300 years). With a total available supply based on the Decree of 4,960 acre-feet of Dawson Aquifer water, 1,632 acre-feet of Arapahoe Aquifer water, and 1,200 acre-feet of Laramie-Fox Hills Aquifer water, and an annual demand allowed by the Decree of 13.6 acre-feet/year (4,080 acre-feet total for 300 years) of Dawson Aquifer water, there should be a sufficient supply to meet the County’s 300 year water supply rule.

7. Therefore, at this time, based on the finding of no injury and sufficiency by the State Engineer, the decreed water rights and plan for augmentation in District Court Water Division Consolidated Case Nos. 11CW045 (Div. 1) and 11CW023 (Div. 2), and based on the requirements listed below, the County Attorney’s Office recommends a finding that the proposed water supply is **sufficient** in terms of quantity and dependability. The El Paso County Health Department shall make a finding as to water quality.

REQUIREMENTS:

Plat Notes and Documentation are required to address the following:

A. Applicant shall take all necessary steps to ensure that if and when Applicant conveys the property for this subdivision, that the appropriate water rights and obligations of the Decree are also conveyed to the successor purchaser. These Requirements shall apply to the Applicant and its successors and assigns. Applicant, its successors and assigns, shall create a Homeowners’ Association (“HOA”) and advise the HOA and all future owners of these lots of all applicable requirements of the Decree entered in District Court Water Division Consolidated Case Nos. 11CW045 (Div. 1) and 11CW023 (Div. 2), as well as their obligations to comply with the Decree and plan for

augmentation, including but not limited to, costs of operating the plan for augmentation, including the costs for constructing and pumping the Denver Aquifer well(s) for replacing post-pumping depletions, and the responsibility for metering and collecting data regarding water withdrawals from all wells.

B. Applicant shall reserve and convey by warranty deed to the HOA, Applicant's interests, rights, and obligations in all of the 3,706 acre-feet of Denver Aquifer groundwater to be used for replacing post-pumping depletions. Applicant shall reserve, dedicate, and convey, as appropriate, to the HOA, at least two percent of the Arapahoe Aquifer water vested to the Applicant to return to the South Platte River system and at least two percent of the Laramie-Fox Hills Aquifer water to return to the Monument Creek drainage system. Applicant shall create restrictive covenants upon and running with the property which shall obligate individual lot owners and the HOA to carry out the requirements of the plan for augmentation. The conveyance instruments and/or deed(s) shall provide that these water rights shall be appurtenant to the land, to be used for replacing depletions to the applicable stream systems, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, bartered, or encumbered. Such conveyance instruments and/or deed(s) shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney's Office prior to recording the final plat.

C. Applicant shall require non-evaporative septic systems and leach fields to replace depletions during 300 years of pumping from the Dawson Aquifer. Deeds for the subdivision property as a whole and lots shall specifically state that all return flows shall be dedicated by Grantee to replacing depletions during pumping of the Dawson Aquifer pursuant to the plan for augmentation, and said return flows shall not be sold, leased or otherwise used for any other purpose, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, bartered, or encumbered. In addition, the Covenants shall recite that return flows from non-evaporative septic systems shall comply with the requirements of the plan for augmentation, that such return flows shall only be used to replace depletions, shall not be sold, leased or otherwise used for any other purpose, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, bartered, or encumbered.

D. Applicant, its successors and assigns, at the time of lot sales, shall convey by warranty deed to individual lot owners sufficient water rights in the underlying Dawson Aquifer to satisfy El Paso County's 300 year water supply requirement: 291 acre-feet total for each of the 13 lots and 300 acre-feet for the lot with the existing Dawson aquifer well, as well as sufficient water rights in the Arapahoe and Laramie-Fox Hills aquifers to accommodate post-pumping depletions. Said Deed shall provide that the water rights shall be appurtenant to the land, to be used for the benefit of the lot owner, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, bartered, or encumbered. It is anticipated that these conveyances will satisfy the State Engineer's evidentiary requirement that an applicant for an individual on-lot well has

acquired the right to the portion of water being requested on the application. Applicant shall provide a form deed for such conveyance that shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney's Office prior to recording of the final plat.

E. Applicant shall submit a Declaration of Covenants, Conditions, and Restrictions as well as Bylaws and Articles of Incorporation of the HOA 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 of the final plat. Said Declaration shall cross-reference the decreed plan for augmentation and the related water rights decrees, and shall recite the obligations of the individual lot owners and the HOA under each of these documents. Applicant shall provide a copy of the Certificate of Incorporation of the HOA by the Secretary of State to the Planning and Community Development Department and the County Attorney's Office prior to recording of the final plat.

F. Applicant, its successors and assigns, shall record all applicable documents including, but not limited to, the Decree and plan for augmentation, agreements, assignments, and warranty deeds regarding the water rights, Declaration of Covenants, Bylaws, and Articles of Incorporation in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

G. 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, which is based on an allocation approach. Applicants, the Home Owners Association, and all future owners in the subdivision should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than either the 100 years or 300 years indicated due to anticipated water level declines. Furthermore, the water supply plan should not rely solely upon non-renewable aquifers, and Applicants and their successors and assigns, including individual lot owners in the subdivision and the HOA, may be required to acquire, develop, and incorporate alternative renewable water resources in a permanent water supply plan that provides future generations with a water supply."

cc: Kari Parson, Project Manager, Planner II

EL PASO COUNTY



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

COLORADO

HOLLY WILLIAMS
STAN VANDERWERF
CAMI BREMER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Planning Commission Meeting
Tuesday, March 19, 2019
El Paso County Planning and Community Development Department
2880 International Circle, Hearing Room
Colorado Springs, Colorado 80910

WORK SESSION

8:00 a.m. – Houseal-Lavigne representatives held a work session for the County Master Plan, including proposed time line, committee representation, and upcoming events. Mr. Devon Lavigne, Mr. Sean Tapia, and Ms. Carly Peters were the Houseal-Lavigne representatives who spoke at today's hearing.

PRESENT: JIM EGBERT, BRIAN RISLEY, JANE DILLON, KEVIN CURRY, JOAN LUCIA TREESE, SHARON FRIEDMAN, AND TOM BAILEY

STAFF PRESENT: CRAIG DOSSEY, MARK GEBHART, KARI PARSONS, NINA RUIZ, LEN KENDALL, GABE SEVIGNY, ELIZABETH NIJKAMP, GILBERT LAFORCE, BECK GRIMM, AND EL PASO COUNTY SENIOR ASSISTANT COUNTY ATTORNEY LORI SEAGO

REGULAR HEARING

9:00 a.m.

PRESENT AND VOTING: JIM EGBERT, BRIAN RISLEY, JANE DILLON, KEVIN CURRY, JOAN LUCIA TREESE, SHARON FRIEDMAN, AND TOM BAILEY

PRESENT AND NOT VOTING: NONE

ABSENT: ALLAN CREELY, PETER AURICH, AND GRACE BLEA-NUNEZ

STAFF PRESENT: CRAIG DOSSEY, MARK GEBHART, KARI PARSONS, NINA RUIZ, LEN KENDALL, GABE SEVIGNY, ELIZABETH NIJKAMP, GILBERT LAFORCE, BECK GRIMM, AND EL PASO COUNTY SENIOR ASSISTANT COUNTY ATTORNEY COLE EMMONS

2880 INTERNATIONAL CIRCLE, SUITE 110
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127
FAX: (719) 520-6695

www.ELPASOCO.com

OTHERS PRESENT WHO SPOKE AT HEARING: DAVID MIJARES, JORDAN SAVAGE, TAMMY DAVIS, DAVE ELLIOTT, JERRY HANNIGAN, FRANK MCGEE, ZACHARY HUMBLE, ANDY HOUGH, DAVID CONDIT, JAKE MATTER, RAY GEIRHART, PATTY WOODARD, SHELIA MIKITA TART, EARNEST MIKITA, BILL GUMAN, BART JONES

Report Items

Planning and Community Development Department – Mr. Gebhart

- A.** The next scheduled Planning Commission meeting is on Tuesday, **April 2, 2019.**
- B. Mr. Gebhart** gave an overview of the County Master Plan Advisory Committee, liaison members, and other stakeholder groups that will be a part of the 2-3 year process.
- C. Mr. Gebhart** gave an update of the Planning Commission agenda items and action taken by the Board of County Commissioners since the last Planning Commission meeting.

1. Consent Items

A. Approval of the Minutes – March 5, 2019

The minutes were approved as presented. (7-0)

ALL CONSENT ITEMS WERE REQUESTED TO BE MOVED TO REGULAR SESSION DUE TO QUESTIONS/CONCERNS.

B. SP-18-003

RUIZ

**PRELIMINARY PLAN
HIGH PLAINS**

A request by Savage Development, Inc., for approval of a preliminary plan to create seven (7) single-family residential lots. The 39.4 acre property is zoned RR-5 (Residential Rural) and is located immediately north of Hodgen Road and approximately one-half (1/2) mile west of Black Forest Road. (Parcel No. 51190-01-009)

Ms. Ruiz requested permission to give a dual presentation for both High Plains projects (Preliminary Plan and Final Plat). That request was granted.

Ms. Friedman – I have a concern that there is a lot that has direct access to Hodgen Road. Could you give me more information?

Mr. David Mijares, Catamount Engineering, gave his presentation to the Planning Commission.

Mr. Gilbert LaForce – Due to the floodplain there is a 20 foot drop in elevation which causes a hardship with developing across the floodplain. The applicant wishes to leave the floodplain in its natural state and to not develop that area, even with a driveway. The deviation request was approved by the County Engineer to gain access off Hodgen. Prior to approving the deviation there was a sight distance review done and a condition is provided that sufficient turn-around internal to the lot must be achieved in order to ensure there is no issue with stacking onto Hodgen.

Ms. Friedman – I agree with the point of view that we don't need any other traffic coming onto Hodgen when it's supposed to be a minor arterial road with higher speeds. It's already too dangerous.

Mr. Emmons – The Planning Commission has to weigh the evidence in front of them. This is not a legal question. This is a weighing of evidence presented with regards to traffic components as it pertains to access. The County Engineer has approved the deviation. You have to weigh all that and decide if you agree or not.

Mr. LaForce – Sight distance factors in the speed of road and determines distances based on that data.

Mr. Curry – Relative to deviations, isn't there also spacing requirements from lot to lot? **Mr. LaForce** – Our criteria is more about intersection spacing, not necessarily from each lot. The next closest access is approximately 1,000 feet.

IN FAVOR:

Mr. Jordan Savage, President of Savage Development – Lot 4 has issues, but we did everything we could to utilize the land in the most effective manner and take into consideration the safety of others. That 20 foot drop requires the deviation, but there is adequate site distance. We will ensure that it has a paved driveway and not gravel or dirt.

IN OPPOSITION: NONE

PC ACTION: BAILEY MADE A MOTION/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM #2B FOR SP-18-003 FOR A

PRELIMINARY PLAN FOR HIGH PLAINS UTILIZING RESOLUTION PAGE 25, MORE PARTICULARLY DESCRIBED ON PAGE 19-011 WITH FIVE (5) CONDITIONS AND TWO (2) NOTATIONS WITH A FINDING OF SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED. (6-1) MS. FRIEDMAN WAS THE NAY VOTE.

C. SF-18-024

RUIZ

**FINAL PLAT
HIGH PLAINS**

A request by Savage Development, Inc., for approval of a final plat to create seven (7) single-family residential lots. The 39.4 acre property is zoned RR-5 (Residential Rural) and is located immediately north of Hodgen Road, approximately one-half (1/2) mile west of Black Forest Road. (Parcel No. 51190-01-009)

PC ACTION: LUCIA-TREESE MADE A MOTION/BAILEY SECONDED TO APPROVE CONSENT ITEM #2C FOR SF-18-024 FOR A FINAL PLAT FOR HIGH PLAINS UTILIZING RESOLUTION PAGE 19, MORE PARTICULARLY DESCRIBED ON PAGE 19-012, WITH ELEVEN (11) CONDITIONS AND ONE (1) NOTATION WITH A FINDING OF SUFFICIENCY FOR WATER QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED. (6-1) MS. FRIEDMAN WAS THE NAY VOTE.

The High Plains items were heard as one presentation.

D. P-17-015

RUIZ

**MAP AMENDMENT (REZONE)
JUDGE ORR RANCHETTES**

A request by John and Linda Jennings for approval of a map amendment (rezoning) of 40.67 acres from A-35 (Agricultural) to RR-5 (Residential Rural). The property is located immediately north of Judge Orr Road and west of Stapleton Road. (Parcel No. 42330-00-035)

Ms. Ruiz requested permission to present the map amendment (rezone) and the preliminary plan items together. **Mr. Emmons** went over the review criteria.

Mr. Mijares, on behalf of the applicants, gave his presentation to the Planning Commission.

Mr. Curry – It wasn't in our staff report for this item, but in the next project (824 acres) the Meadow Lake Airport has comments. Does that impact this project? **Ms. Ruiz** – It only applies to the next project. We sent a referral to Meadow Lake Airport for this project but did not receive a response back.

Mr. LaForce gave his engineering report/findings to the Planning Commission.

Mr. Curry – Where does the lot at the top get its access? **Mr. LaForce** – There is no direct access to Stapleton. It will be on the right of way being dedicated.

IN FAVOR: NONE

IN OPPOSITION:

Ms. Tammy Davis – We own property adjacent to the development. We understand that this corner is new and everyone wants a part of it, we just want a slowdown of development. The 5-acre lots in the area were developed decades ago. We would suggest and urge that this project not be approved. Judge Orr is two lanes, it is highly used for Schriever. I do not see where they will be able to put in turn lanes. We would like to see it become two 20-acre lots. We'd like to see infrastructure improvements before more development happens.

Mr. Dave Elliott, Meadow Lake Airport, gave a report in opposition of several projects in the area, of which this one was not included. This report is on permanent file. We never received a request to comment on this project. In summary, there will be noise, vibrations, etc. from the airport traffic. 5 acre residential lots are compatible with other residential lots in the area. Owners need to know there will be noise, vibrations, and overflights.

Mr. Egbert – In the 824 acre project, the statement goes to all homeowners advising them of traffic, etc. Is there a letter that went out to residents for this project? **Ms. Mijares** – Currently we were not requested to add a aviation statement, but we have no objection to adding that language to the preliminary plan and final plat. **Ms. Ruiz** – There is no requirement for the 824 acre project to add an aviation easement. Staff is not recommending a condition of approval for this project either requiring them to add such an easement. It would be inappropriate for the County to require this when there are no criteria/rules in place to require such an easement in this portion of the County. If the applicant is agreeable they

may choose to add a plat note but I will not recommend it as a condition of approval.

PC ACTION: RISLEY MADE A MOTION/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM #2D FOR P-17-015 FOR A MAP AMENDMENT (REZONE) FOR JUDGE ORR RANCHETTES UTILIZING RESOLUTION PAGE 27, MORE PARTICULARLY DESCRIBED ON PAGE 19-013, WITH THREE (3) CONDITIONS AND TWO (2) NOTATIONS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY. (7-0)

E. SP-17-011

RUIZ

**PRELIMINARY PLAN
JUDGE ORR RANCHETTES**

A request by John and Linda Jennings for approval of a preliminary plan to create seven (7) single-family residential lots. The 40.67 acre property is zoned RR-5 (Residential Rural) and is located immediately north of Judge Orr Road and west of Stapleton Road. (Parcel No. 42330-00-035)

Mr. Risley – The impact on Judge Orr is for two residential lots, so I don't see that as a huge impact on traffic. This area is designated for much more dense development than what is proposed.

Ms. Friedman – Part of the problem is that our plan is so old and that will be fixed with a Master Plan, but by breaking lots into 5 acres now, it sets it up to subdivide further.

Mr. Curry – I'm going to vote against this project because of deferring the water finding. With the Water Master Plan we are tasked with reviewing and determining that finding at the preliminary plan stage.

Mr. Emmons – Nevertheless, the Land Development Code does provide that the Planning Commission may approve the preliminary plan without a finding of water sufficiency but not at the final plat.

Mr. Risley – Does this application fall into a gray area as far as when it was submitted and when the Water Master Plan goes into effect? **Mr. Emmons** – They likely are trying to work through the state permitting and that takes time. **Mr. Gebhart** – The Water Master Plan has not yet been certified by the Planning Commission. That is being finalized now and will come to the Planning Commission very soon. If the basis for your action is thinking towards that plan, it's a little premature. The application was

submitted prior to that plan going into effect; so yes we are in that gray area.

Mr. Emmons (In response to Mr. Curry)– I think given your concerns with regard to the water supply, it is probably a better vote to make that decision based on the subdivision criteria rather than the statement you made relying on the Water Master Plan and the timing of the certification.

PC ACTION: BAILEY MADE A MOTION/LUCIA-TREESE SECONDED TO APPROVE CONSENT ITEM #2E FOR SP-17-011 FOR A PRELIMINARY PLAN FOR JUDGE ORR RANCHETTES UTILIZING RESOLUTION PAGE 25, MORE PARTICULARLY DESCRIBED ON PAGE 19-014, WITH SIX (6) CONDITIONS AND TWO (2) NOTATIONS AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED. (6-1) MR. CURRY WAS THE NAY VOTE.

The Judge Orr Ranchettes items were heard together. Please see discussion included above that apply to item below.

F. SF-17-021

RUIZ

**FINAL PLAT
JUDGE ORR RANCHETTES**

A request by John and Linda Jennings for approval of a final plat to create seven (7) single-family residential lots. The 40.67 acre property is zoned RR-5 (Residential Rural) and is located immediately north of Judge Orr Road and west of Stapleton Road. (Parcel No. 42330-00-035)

PC ACTION: NO PC ACTION REQUIRED. THE ITEM HAS BEEN WITHDRAWN.

G. SF-18-041

PARSONS

**FINAL PLAT
SETTLER'S VIEW**

A request by Gary and Brenda Brinkman for approval of a final plat to create 14 single-family residential lots. The 40.61 acre property is zoned RR-2.5 (Residential Rural) and is located north of Hodgen Road, south of Silver Nell Drive, east of the Walden development, and west of Stepler Road. (Parcel No. 61000-00-463)

Ms. Parsons introduced the applicants' representative **Mr. Jerry Hannigan** to give his presentation.

Mr. Hannigan – I have a question regarding the calculation used on Condition # 11. Instead of the dollar amount, put TBD and strike “corresponding to.” **Ms. Parsons** – Staff does need a dollar amount because the BoCC Resolution is the record and our authorization to collect that dollar amount. The traffic report states it would generate the 6.7 percent x \$188.30 per linear foot of rural road upgrade.

Mr. Bailey – The point at which fair share is calculated, rather sooner than later – is that the question? **Mr. Hannigan** – I just want to know what is accurate.

Ms. Nijkamp – I would need something in his traffic study to show a different number. I am confident in the data that we have provided.

Mr. LaForce – The 4% is a future growth worth. The smaller is based on anticipated growth variable. If we use the 4% then we would have to inflate the \$188 to a much higher rate.

Mr. Emmons – You have two options. You could vote for continuance to a date certain. That forces the applicant to come to an agreement on the numbers. Or you vote on the condition in front of you and if the applicant has strong feelings about that, then they can work with staff to come up with a different number for the Board of County Commissioners’ hearing. It would be better if the applicant can come to an agreement on the number before it goes to Board of County Commissioners.

Mr. Hannigan – Indicated he did not want a continuance.

IN FAVOR: NONE

IN OPPOSITION: NONE

Mr. Curry – I appreciate the staff’s explanation of the calculations. I’ll be voting in favor.

PC ACTION: LUCIA-TREESE MADE A MOTION/RISLEY SECONDED TO APPROVE CONSENT ITEM #2G FOR SF-18-041 FOR A FINAL PLAT FOR SETTLER’S VIEW UTILIZING RESOLUTION PAGE 19, MORE PARTICULARLY DESCRIBED ON PAGE 19-016, WITH ELEVEN (11) CONDITIONS AND ONE (1) NOTATIONS, WITH A FINDING OF WATER SUFFICIENCY FOR QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS. THE MOTION WAS APPROVED UNANIMOUSLY. (7-0)

Ms. Friedman left the hearing at 11:00 a.m. A quorum is still in place.

REGULAR ITEMS

3. U-19-001

SEVIGNY

**APPROVAL OF LOCATION
COLORADO PARKS AND WILDLIFE RAMAH SHOOTING RANGE**

A request by Colorado Parks and Wildlife for approval of location to allow for an outdoor shooting range. The property is zoned A-35 (Agricultural) and is located approximately .5 miles north of the Highway 24 and North Yoder Road intersection. (Parcel Nos. 11000-00-032, 11000-00-020, 11000-00-023, 11000-00-033, 11000-00-071, and 11000-00-081)

Mr. Sevigny asked **Mr. Emmons** to go over the review criteria for an approval of location. He then introduced the applicant **Mr. Frank McGee, Colorado Parks and Wildlife**, for their presentation.

Mr. Egbert – How long does it take people to come out and use a facility like this once it's been established? **Mr. McGee** – Not long actually. If we provide it, they will come use it. This is one step in a much larger process. This will be the first free public range within a 2 hour drive.

Mr. Zachary Humbles, Civil Engineer, Colorado Parks and Wildlife, gave his presentation on the operation and development concept for the range, including how the design is intended to prevent negligent shots from leaving the range.

Mr. Andy Hugh (Southern Shooting Partnership) and **Mr. David Condit** (U.S. Forest Service) gave a report on the growing local demand for shooting sports. They also spoke on the collaboration needed with all the entities involved.

Mr. Sevigny gave his presentation to the Planning Commission.

Mr. Risley – From the subject property to Highway 24, would access be gained by property completely owned by the state? **Mr. Sevigny** -- The access is through the State of Colorado and also across one parcel owned by the Soil and Conservation office. They would need an easement or lease agreement at the site development plan stage.

Ms. Dillon – We have a letter from the Double E Conservation District that they have not granted access. **Mr. Sevigny** – They are considered an outside agency, but we have not received anything through EDARP. The applicant has noted that there is a lease in place. We will ensure that there is legal access at the site development phase of the project.

Mr. Emmons – Because the access has become a question, you (the Planning Commission) may want to address that with the applicant now.

Mr. Jake Matter, Colorado Attorney General's Office – I agree with the staff's assessment. It is an issue we are aware of as far as Double E Conservation District disagreeing with our application. We have a copy of the 1962 lease. The property has quite a history. Under our lease, the state has the right to erect such improvements as are consistent with recreational hunting and fishing facilities. Our view is that we have an existing right to traverse the property and Antelope Road is a public road. CPW has significant rights to this parcel. We ask that you abstain from ruling on the lease, which is a civil matter. The issue today is if it is an appropriate location.

IN FAVOR:

Mr. Ray Geirhart, El Paso County Sheriff's Office – The Sheriff's Office is not opposed to a shooting range; however, we have not had any contact with CPW regarding safety concerns. We would like to see their plan regarding public safety calls that will come in. Unfortunately, accidents will occur. Our biggest concern is will they provide law enforcement protections or will they rely on the County's assistance? While we do support the creation of safe shooting places, we would like to see some communication to determine how this will be resolved when 911 calls come in.

IN OPPOSITION:

Mr. George Foschia, Double E Conservation District– The Double E Conservation District is the responsible party for 14 flood control dams. They were constructed in the early '60s. Many towns are protected by the dams that we maintain. It was intended to have a recreation area. With the drought we've experienced, Big Sandy does not flow like it did in the past. The lease agreement in 1962 was made in perpetuity. The amount that was paid was \$5800 by the State of Colorado. It is for the specific purpose only for game management for restoration of game or fishing. This could be grounds for termination of the lease and legal action. This is a violation of that clause. Noise pollution is also going to be an issue. Trash removal, late night parties, emergency response, liability, livestock being affected, etc. are all concerns that I have. The immediately adjacent neighbors are against this range.

Ms. Patty Woodard – We are adjacent to this property. We have been there for over 30 years. We have access to our property through the State Wildlife area. We have been able to see how the public utilizes that property both positively and negatively. I also did some research on unsupervised, unattended shooting ranges. I have major concerns on that research. Fires, trash, partying, dumping of furniture are all issues that we will see if this project is approved.

Ms. Shelia Miketa Tart – I am an adjacent property owner as is my mother. I agree with **Ms. Woodard** and **Mr. Foschia**. They did a good job outlining the issues. My concern is that we have livestock very close to the project site. We also ride horses on the adjoining properties. There are always going to be irresponsible and neglectful gun users. I don't want my livestock or my family impacted.

Mr. Marty Miketa – I own the property to the north. I run cattle east and north of this range property. I am concerned about the lack of supervision. Our property values will decrease. No one will want to live beside a gun range. The liability of who will be responsible for an injured or killed cow has not been determined. There are grazing antelope and deer that will also be affected. A fence that was installed two years ago was done badly and I had a calf get stuck in that fence. To the north by about 7 or 8 miles there is a shooting range out in the middle of nowhere. So there is another place to go. I hope that you'll deny this request.

Mr. McGee had a chance for rebuttal. Our intention is to have CPW staff on site daily. There are no ranges on Forest land; there are dispersed ranges. We are trying to provide for a safe place. We've tried to design this with berms and baffles to ensure safety. There is a broad coalition of partners that support this effort. We have rules on the properties, and yes there is trash where there is no management. We want to have management in place.

Mr. Curry – Can you talk to your experience of unsupervised ranges elsewhere? **Mr. McGee** – The closest facility we manage is by Salida. We have a number of other ranges. We don't have the issues of trash on managed sites. If something is dumped, we remove it.

Mr. Curry -- Could you speak to fire mitigation? **Mr. Humbles** -- Fire mitigation is an on-going issue. We plan on fire breaks and the vegetation that is out there is low and will burn out.

Mr. Curry – Sheriff's department had some concerns on response times. Part of our review criteria is around safety concerns. **Mr. McGee** – We've been talking with the Sheriff's Office since July. We don't have an expectation that the Sheriff's Office will manage this property. We have CPW officers that will patrol, but we can't guarantee that the Sheriff's Office won't get calls. We will continue to work with them.

Mr. Curry – Is there any chance of changing the operating hours? **Mr. McGee** – We do have some flexibility to adopt different regulations for different properties if needed.

Ms. Dillon – One of the speakers had mentioned that other ranges had been approved and were shut down. **Mr. McGee** – They were dispersed ranges that were not approved or designed or engineered ranges and there were conflicts. This is part of the broader effort to look at areas to have developed ranges.

Ms. Dillon – Is this area fenced in? **Mr. McGee** – Yes, and we are working with Double E Conservation District to get additional fencing and offer some grazing.

Mr. Egbert – We have a difficult decision to make. On one hand, we have property owners that are fearful of something new and what could happen; and on the other hand, we have a County where people are going to target shoot and it would be nice to have a facility to offer that service. **Mr. McGee** – Recreational shooting happens on public lands, and as our community grows, there will be even more shooting. We organized this group to try to find solutions to recreational shooting in unapproved areas. There are private ranges and gun clubs, but we are trying to fill a gap that has not been addressed.

Ms. Friedman – I was peripherally involved in this issue a few years ago. I thank you for the efforts to deal with a very big issue.

DISCUSSION:

Mr. Risley – There's no discussion if this is a necessary facility. Our job is to determine if this is the appropriate place. We've heard testimony about wildlife, and there is moderate wildlife potential.

When I think about growth in the County, I wonder what this looks like in 40 or 50 years and would this be an appropriate place. This would be a special use if it were a private land owner. My challenge is if we deny this then it will go to the state and the state will approve it any way. I think it's a lot more complicated than we are acknowledging.

Mr. Curry – I could not agree with my colleague more. I was initially concerned about the irresponsible shooter. I have hesitancy about the lack of personnel on site. I don't like the hours. Public safety is one of our review criteria. I too am struggling with this. This is very complicated.

Ms. Lucia-Treese – While the Sheriff's Office did have concerns, they were not opposed to it. I believe that the State has gone above and beyond in their design of the facility. I think they do have safety in mind with their design. Shooting ranges are emotional issues. We have to look at our criteria and we tell other home owners that they don't have a right to a view. Your land is your right, not what someone else is doing. The state has offered a viable plan and there is no cure for irresponsible people. We just have to have whatever safeguards we can to mitigate the problems.

Mr. Bailey – I would like to echo my colleague's comments. This has everything to do with perspective. I understand your view to say it's too close, but for me the location that they want to put it is out there and seems perfect since I live just outside of Colorado Springs. The forward looking development is what we need to remember. We need places like this. The fact that it is an unsupervised range does not mean it's unmanaged. There's a lot of unmanaged shooting going on in the

state, but this would be controlled to a certain extent. I made the motion and I will be voting in favor of this project.

Ms. Dillon – When you live in an area that is primarily agricultural, I think that landowners have the right to live that way. This is sitting where everything is agricultural. It bothers me.

Mr. Egbert – I am convinced that it will be a very safe range. It will be environmentally safer than people's back yards. We do have people that are very experienced and willing to help those who are less experienced practice responsible gun safety. This will be an area that will be heavily used and they care about weapons and will use it wisely.

PC ACTION: BAILEY MOVED/LUCIA-TREESE SECONDED TO APPROVE REGULAR ITEM NO. 3, U-19-001 FOR AN APPROVAL OF LOCATION FOR COLORADO PARKS AND WILDLIFE FOR THE RAMAH SHOOTING RANGE UTILIZING RESOLUTION PAGE 9, MORE PARTICULARLY DESCRIBED ON PAGE 19-017 WITH TWO (2) CONDITIONS AND ONE (1) NOTATION. THE MOTION WAS APPROVED (4-2). MR. RISLEY AND MS. DILLON VOTED NAY.

Ms. Friedman left the meeting during the hearing on this item and did not vote; however, a quorum was maintained. Mr. Curry left the meeting at 2:00 p.m. after this item, and Ms. Friedman returned. A quorum is still in place.

4. P-18-008

RUIZ

**MAP AMENDMENT (REZONE)
824 ACRES CURTIS ROAD**

A request by ROI Property Group, LLC, for approval of a map amendment (rezoning) of 824 acres from A-35 (Agricultural) to RR-2.5 (Residential Rural). The property is located at the southeast corner of the Judge Orr Road and Curtis Road intersection. (Parcel Nos. 43000-00-541, 43000-00-542, 43000-00-543, 43000-00-554, 43000-00-561, 43000-00-562, 43000-00-556, 43000-00-555, 43000-00-557)

Ms. Ruiz asked **Mr. Emmons** to go over the review criteria for a map amendment (rezone). Ms. Ruiz briefly covered the "Status of Major Issues" having to do with Meadow Lake Airport and the FAA concerns but explained that it would be covered in greater detail during the staff presentation. She then introduced the applicant's representative, **Mr. Bill Guman**, for their presentation.

Mr. Egbert – You mentioned in your letter of intent that you planned on affordable housing. Is that still the plan? **Mr. Guman** – We used the word attainable housing, not affordable. It would be a misnomer to say it's a community of affordable housing. We are looking for alternatives to the \$500-600,000 houses that are typically built on this size property. It does not mean doublewides or modular homes. Our price target

is in the \$300-350,000 range which is more affordable than \$500,000. We are paying respect to the rural lifestyle and surrounding neighborhoods.

Ms. Friedman – How many lots are actually going to be platted? **Mr. Guman** – I don't have an exact number, but it's currently working out to be 200-225 lots.

Ms. Ruiz gave her full presentation to the Planning Commission. Her PowerPoint is incorporated herein by this reference. Below is a summary of the content of the presentation:

- The request is for a rezone from the A-35 zoning district to the RR-2.5 zoning district. The RR-2.5 zoning district density and dimensional standards are:
 - Minimum lot size 2.5 acres
 - Minimum lot width at from lot line 200 feet
 - Setbacks 25 feet on the front and rear, 15 on the sides
 - Maximum height 30 feet
- The zoning in the vicinity
 - The property is surrounded by A-35 to the north, south, and east but that the property and those parcels surrounding were previously a part of Santa Fe Springs PUD, which allowed for high density residential, commercial, an industrial uses.
 - To the west, the parcels are zoned PUD and RR-5.
 - Those parcels which are part of Meadow Lake Airport (directly to the west) are also within the GA-O, which allows 1 dwelling unit per 2.5 acres.
 - Within 1 mile of the subject parcel, there are 3 different subdivisions with RR-2.5 zoning.
 - Across highway 24, which is approximately 1 mile away, is dense suburban development.
- The subject parcel was rezoned from the Santa Fe Springs PUD to A-35 12/12/17
- The surrounding existing development consist of:
 - Vacant agricultural land to the north, south, and east
 - Rural residential development consisting of both 5 and 2.5 acre parcels
 - An RV Park on Judge Orr Road
 - Meadow Lake Airport. Meadow Lake Airport is a unique private airport that allows for airport runways, hangers, and commercial uses, as well as single-family residences to co-exist within the same subdivision. The Federal Aviation Administration advises that Meadow Lake Airport Authority is a general aviation, public use, airport. Meadow Lake Airport Filing No. 14, for example, includes platted taxiways on the residential lots and allows for hangers as well as commercial uses on the same parcel. Across Highway 24 is dense suburban development
- The El Paso County Policy Plan (1998) provides the following relevant policies:

- **Policy 6.1.3-** *Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use, and access.*
- **Policy 6.1.11-** *Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.*
- The development of these parcels as RR-2.5 (Rural Residential) is a logical extension and density transition from the existing development in this area and is compatible in terms of uses and densities.
- The property is located within the Falcon/Peyton Small Area Master Plan (2008)
 - The Plan recommends urban density residential development with lot sizes being less than 2.5 acres in size when central services can be provided. Should the rezoning application be approved, the applicant is proposing to establish a Title 32 special district to provide central water service to the proposed development. The Plan recognizes the existence and importance of Meadow Lake Airport from a land use perspective, but does not further limit development near the airport and, furthermore, recognizes that the Part 77 surfaces and any noise overlay district for Meadow Lake Airport have not been adopted by the Board of County Commissioners.
- Staff Covered the Status of Major Issues having to do with Meadow Lake Airport and the FAA objecting to the request.
 - The Board of County Commissioners has not adopted the Part 77 surface overlay for Meadow Lake Airport. As such, staff recommends that the County cannot impose conditions of approval restricting the applicant's right to develop the land based upon such Part 77 surfaces.
 - Any request from Meadow Lake Airport of the County to adopt the Part 77 surfaces and impose land use restrictions would require the airport to submit an application for a 1041 permit as well as applications for an amendment to the Land Development Code to create a new overlay zoning district and for a map amendment (rezoning) to apply the new overlay zoning district.
 - Meadow Lake Airport was sent a letter dated October 3, 2018, which outlined these requirements and the position of the Planning and Community Development Department regarding the status of the Part 77 surfaces in substantial detail (see attached). Meadow Lake Airport has not submitted a complete application to date to initiate the required processes.
- Staff notified 32 adjacent property owners and received 2 letters in favor and 1 in opposition.

Mr. Egbert – Is the applicant proposing to let the potential home owners know about the noise and airport overlay? **Ms. Ruiz** – I'll leave that to the applicant to answer during their rebuttal. Because there are no regulations or criteria in place to require it, the County will not make this a recommended condition of approval. If the applicant is agreeable, it would be my recommendation that there is no additional condition added. If the Planning Commission feels strongly that it should be included it could be included as a notation that the applicant is proposing to do so, but not as a condition.

Ms. Friedman – It if was intended to be more urbanized, then 2.5 acre lots had water, sewer, and roads. What were the other public road services discussed in the plan? What is the road layout? **Ms. Ruiz** – The Falcon/Peyton Plan does discuss other services. They were proposing dense development with Santa Fe Springs so that could have included public transportation. They are proposing RR-2.5, and because we are just at the zoning stage and have not received an application for the preliminary plan or final plat. We don't have the number of lots or densities, or road configuration. I would recommend against focusing on the proposed subdivision, or putting conditions limiting the future subdivision because we are only at the zoning stage.

Ms. Nijkamp gave her engineering report/findings. There is a floodplain on the area being rezoned. The floodplain will need to be shown as no build areas with the preliminary plan and final plat(s). The applicant submitted a traffic study with the rezone. The traffic study outlined the need for improvements. With the preliminary plan and final plat the applicant will need to submit documentation for those necessary improvements. They will be required to pay the Road Impact Fee with any future final plat filings.

IN FAVOR: NONE

IN OPPOSITION:

Mr. Dave Elliott – I've been on the Board of Directors of Meadow Lake Airport for over 20 years and this is the first time the County has reached out to the FAA. So, I applaud **Ms. Ruiz**. There are seven developments being proposed around the airport. Meadow Lake Airport is a reliever airport. That entitled the airport to federal grants to maintain and oversee the Airport. We could lose our funding if we are not in compliance with the FAA. We also have to be aware of compatible land use and development. We believe any rezoning or development will put lives at risk for both aircraft people and residents. The FAA has no jurisdiction over land use.

Ms. Friedman – Is the problem that the feds in combination with the state haven't decided what land use looks like or is it that our code doesn't match? **Mr. Elliott** – They don't publish land standards. They say certain activities are not compatible. The state said that the local governments shall have zoning requirements around airports.

Mr. Risley – It appears that there have been some requirements put forth by the state that the County hasn't adopted yet and that there has been development around the Airport. Could you tell me why you think the County hasn't prohibited that development? **Mr. Elliott** – There's a lot of confusion on the Code requirements. We have an existing zoning overlay but it doesn't take into consideration the surrounding property.

Mr. Risley -- How has rezoning and development occurred around the airport?

Mr. Dossey – There is nothing in place at the County level that would prohibit a rezone of the property.

Ms. Ruiz – Regarding whether the County is slow to adopt the regulations. We don't believe that is the case. We have put the 1041 regulations in place that allow for the airports to be established, expand, and create overlay zones to limit uses and development. We feel we are in compliance with the federal regulations. We would not knowingly be contrary to Statute, as we are a statutory County. Meadow Lake is a private airport. This is a unique circumstance from other Airports in Colorado, which are operated by a municipality or local jurisdiction. In all other instances in Colorado the same process, or a very similar process, that we are requiring is followed, except it is the local jurisdiction making the application and not a private entity because it is their airport.

Ms. Lucia-Treese – Because there are no prohibitions by the County, therefore the request of this rezone can come forward and nothing prohibits it.

Mr. Dossey – In the letter we provided to Meadow Lake we outline the Part 77 regulations and the Code, one of the sections 15.7.202 of the 1041 regs “. . . provide evidence that sufficient property rights or restrictions exist, or alternatively, that adequate measures have been or will be taken and property rights have been or will be acquired to demonstrate that the airport site or expansion, and uses and activities associated with or generated by it, can be legally operated as proposed.” The applicant must acquire those property interests as part of the 1041 application. **Mr. Elliott** – There is no federal regulation to that regard. The County regulation is contrary to federal regulations.

Mr. Bart Jones – Colorado Pilots Association President – We have a developer that wants a zoning change. There's been discussion about applications and 1041s. For years there has been and will continue to be discussion over this subdivision. There are aircraft failures. Right now it's open space. If this project is approved, something will happen.

Mr. Guman had an opportunity for rebuttal. We acknowledge our intention is to develop. We are aware that we are adjacent to an airport and we want to offer that we include a disclosure agreement to home owners that they understand they will experience noise and/or vibration effects from the airport traffic. We will work with the

Airport on suitable language. The subdivision plans will not interfere with the Part 77 surfaces.

Mr. Risley – Was this an issue when you went through the entitlement process before for the development of Santa Fe Springs? **Mr. Guman** – We knew what the level of concern was, but it was not a condition of approval at that time. If there was language regarding a requirement to notify the neighbors that they would be impacted by noise, then we would have been building 1200 homes based on that prior approval.

Ms. Friedman – Could you explain why you didn't consider 5 acre lots? **Mr. Guman** – We are dealing with a floodplain that limits the buildable area. The floodplain area will be included as a no-build area and not part of the lot area. This is a development and there are economics point to this as well. Our initial application was for 5 acre zoning and we couldn't make it work. We feel like giving up 135 acres of open space and drainage, that we've brought other amenities- like equestrian trails. We are forming a metro district in order to provide central water service. I think the 2.5 acre zoning is wholly compatible. It is contiguous to the Meadow Lake property that has 2.5 acre lots as well.

DISCUSSION:

Mr. Risley – Given the approval criteria I think that it is completely allowed and substantiated or supported by the master plan; however I don't think this is the last time we will hear about airport issues. I hope we can find a way to get on the same page with regulations and that County Staff will work with Meadow Lake Airport.

Ms. Lucia-Treese – I concur with my colleague. We have to go by what we have before us. In my opinion, the applicant has satisfied all the requirements of a rezone. I am in support of this application.

PC ACTION: LUCIA-TREESE MOVED/RISLEY SECONDED TO APPROVE REGULAR ITEM NO. 4, P-18-008 FOR A MAP AMENDMENT (REZONE) OF 824 ACRES CURTIS ROAD UTILIZING RESOLUTION PAGE 27, MORE PARTICULARY DESCRIBED ON PAGE 19-018 WITH THREE (3) CONDITIONS AND TWO (2) NOTATIONS. THE MOTION WAS APPROVED UNANIMOUSLY (5-0).

NOTE: For information regarding the Agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at www.elpasoco.com to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title

indicates the Project Manager/ Planner processing the request.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.

FINAL PLAT (RECOMMEND APPROVAL)

Commissioner Lucia-Treese moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. SF-18-041

WHEREAS, Gary and Brenda Brinkman, did file an application with the El Paso County Planning and Community Development Department for the approval of a final plat for the Settler's View 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 March 19, 2019; and

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

1. The application was properly submitted for consideration by the Planning Commission.
2. Proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission.
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters and issues were submitted and that all interested persons and the general public were heard at that hearing.
4. All exhibits were received into evidence.
5. The subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
6. The subdivision is in substantial conformance with any applicable approved preliminary plan.
7. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of El Paso County for maps,

data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.

8. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(1)] and the requirements of Chapter 8 of the Land Development Code.
9. A public sewage disposal system has been established or, 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 Land Development Code.
10. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)].
11. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and Engineering Criteria Manual.
12. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.
13. Final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
14. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Land Development Code.
15. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the Subdivision Improvements Agreement so the impacts of the subdivision will be adequately mitigated.
16. The subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
17. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et. seq.]
18. The proposed subdivision of land conforms to the El Paso County Zoning Resolutions.
19. For the above-stated and other reasons, the proposed subdivision is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends approval of the application for the final plat of the Settler's View Subdivision 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 applicants provide 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 applicants 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 applicants must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The applicants shall submit the Mylar to Enumerations for addressing.
5. The applicants 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. Collateral sufficient to ensure that the public and private improvements are constructed as listed in the approved financial assurance estimate shall be provided when the final plat is recorded.
8. 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.

9. Park fees in the amount of \$6,020.00 in lieu of land dedication for regional parks (Area 2) fees shall be paid at the time of plat recordation.
10. School fees in the amount of \$4,312.00 in lieu of school land dedication shall be paid to El Paso County for the benefit of Lewis Palmer School District No. 38 at the time of plat recordation.
11. The developer shall participate in a fair and equitable manner in the design and future paving of Stepler Road north of Silver Nell Drive and south of Walker Road. The fair share attributed to Settlers View subdivision shall be deposited as escrow in the amount of \$32,970, corresponding to a roughly six point seven percent (6.7%) proportionate impact. An escrow agreement shall be completed and deposited prior to recording the final plat.

NOTATION

1. Final plats not recorded within 12 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.

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

Commissioner Risley seconded the adoption of the foregoing Resolution.

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

Commissioner Egbert	aye
Commissioner Risley	aye
Commissioner Dillon	aye
Commissioner Curry	aye
Commissioner Lucia-Treese	aye
Commissioner Friedman	aye
Commissioner Bailey	aye

The Resolution was adopted by a vote of 7 to 0 by the El Paso County Planning Commission, State of Colorado.

DATED: March 19, 2019

Jim Egbert, Chair

EXHIBIT A

The Southwest one quarter of the Northeast one quarter of the Northeast one quarter together with the Northwest one quarter of the Southeast one quarter of the Northeast one quarter and together with the East half of the Southwest one quarter of the Northeast one quarter of Section 23, Township 11 South, Range 66 West of the 6th Principal Meridian, El Paso County, Colorado.

Containing 40.61 acres, more or less.

RESOLUTION NO. 19-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

APPROVE FINAL PLAT FOR SETTLER'S VIEW (SF-18-041)

WHEREAS, Gary and Brenda Brinkman, did file an application with the El Paso County Planning and Community Development Department for the approval of a final plat for the Settler's View Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on March 19, 2019, upon which date the Planning Commission did by formal resolution recommend approval of the final plat application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on April 9, 2019; and

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

1. The application was properly submitted for consideration by the Planning Commission.
2. Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. All exhibits were received into evidence.
5. The subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.

6. The subdivision is in substantial conformance with the approved preliminary plan.
7. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of El Paso County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.
8. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(1)] and the requirements of Chapter 8 of the Land Development Code.
9. A public sewage disposal system has been established or, 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 Land Development Code.
10. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)].
11. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and Engineering Criteria Manual.
12. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.
13. Final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
14. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Land Development Code.
15. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the Subdivision Improvements Agreement so the impacts of the subdivision will be adequately mitigated.

16. The subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
17. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et. seq.].
18. The proposed subdivision of land conforms to the El Paso County Zoning Resolutions.
19. For the above-stated and other reasons, the proposed subdivision is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the final plat application for the Settler's View Subdivision;

BE IT FURTHER RESOLVED that the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the applicants provide 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 applicants 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 applicants must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The applicants shall submit the Mylar to Enumerations for addressing.
5. The applicants 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. Collateral sufficient to ensure that the public and private improvements are constructed as listed in the approved financial assurance estimate shall be provided when the final plat is recorded.
8. 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.
9. Park fees in the amount of \$6,020.00 in lieu of land dedication for regional parks (Area 2) fees shall be paid at the time of plat recordation.
10. School fees in the amount of \$4,312.00 in lieu of school land dedication shall be paid to El Paso County for the benefit of Lewis Palmer School District No. 38 at the time of plat recordation.
11. The developer shall participate in a fair and equitable manner in the design and future paving of Stepler Road north of Silver Nell Drive and south of Walker Road. The fair share attributed to Settlers View subdivision shall be deposited as escrow in the amount of \$32,970, corresponding to a roughly six point seven percent (6.7%) proportionate impact. An escrow agreement shall be completed and deposited prior to recording the final plat.

NOTATION

1. Final plats not recorded within 12 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.

AND BE IT FURTHER RESOLVED that the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 9th day of April, 2019, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

The Southwest one quarter of the Northeast one quarter of the Northeast one quarter together with the Northwest one quarter of the Southeast one quarter of the Northeast one quarter and together with the East half of the Southwest one quarter of the Northeast one quarter of Section 23, Township 11 South, Range 66 West of the 6th Principal Meridian, El Paso County, Colorado.

Containing 40.61 acres, more or less.