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PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Board of Adjustment
Jay Carlson, Chair

FROM: Ashlyn Mathy, Planner I
Carlos Hernandez, Engineer I
Kevin Mastin, Interim Executive Director

RE: Project File #: BOA-22-011
Project Name: Rocky Mountain Calvary Chapel - Ellicott
Parcel No.: 3400000207

OWNER: **REPRESENTATIVE:**

Rocky Mountain Calvary Chapel, Inc. 4285 North Academy Boulevard Colorado Springs, CO, 80918	M.V.E., Inc 1903 Lelaray Street, Suite 200 Colorado Springs, CO 80909
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Commissioner District: 4

Board of Adjustment Hearing Date:	11/30/2022
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EXECUTIVE SUMMARY

A request by Rocky Mountain Calvary Chapel for approval of a dimensional variance to allow a lot size of 2.76 acres where the minimum required lot size is 5 acres for the A-5 (Agricultural) zoning district. Additionally, a request for approval of a dimensional variance to allow a lot width of 184 feet where the minimum required lot width is 200 feet in the A-5 zoning district. The 2.76-acre property is zoned A-5 (Agricultural) and is located in the southeast quarter of the northeast quarter of Section 1, Township 14 south, Range 63 West of the 6th P.M., El Paso County, Colorado.



A. REQUEST

A request by Rocky Mountain Calvary Chapel for approval of a dimensional variance to allow a lot size of 2.76 acres where the minimum required lot size is 5 acres for the A-5 (Agricultural) zoning district. Additionally, a request for approval of a dimensional variance to allow a lot width of 184 feet where the minimum required lot width is 200 feet in the A-5 zoning district.

B. APPROVAL CRITERIA

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Land Development Code (2022), states the following:

The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to:

- 1) *The exceptional narrowness, shallowness, or shape of the specific piece of property.*

The subject property was zoned A-5 at the time of initial zoning, on March 24, 1999; the property width is 184 feet wide where 200 feet is required in the A-5 zoning district. Additionally, the lot size is 2.76 acres where the minimum required lot size is 5 acres. The lot is smaller and does have exceptional narrowness in comparison to the surrounding lots.

- 2) *The exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.*

According to the County's GIS mapping, there are no portions of this property encumbered by 30% slopes. Approximately 1/3 of the property is encumbered by the 100-year floodplain. However, these conditions should not prevent development of the property.

However, Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Code continues by stating the following:



The Board of Adjustment may also grant variances from the strict application of any physical requirement of this Code based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and;

- *The variance provides only reasonably brief, temporary relief; or*

This request would provide permanent relief; therefore, this criterion does not apply.

- *The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements; or*

If approved, this variance would allow the lot to exist as a legal parcel, without necessity for a rezoning. The surrounding properties are zoned A-5 (Agricultural) and A-35 (Agricultural), zoning districts with minimum lot sizes of 5 acres and 35 acres, respectively. Because the zoning in this area is predominantly agricultural, rezoning the subject property may not be appropriate at this time.

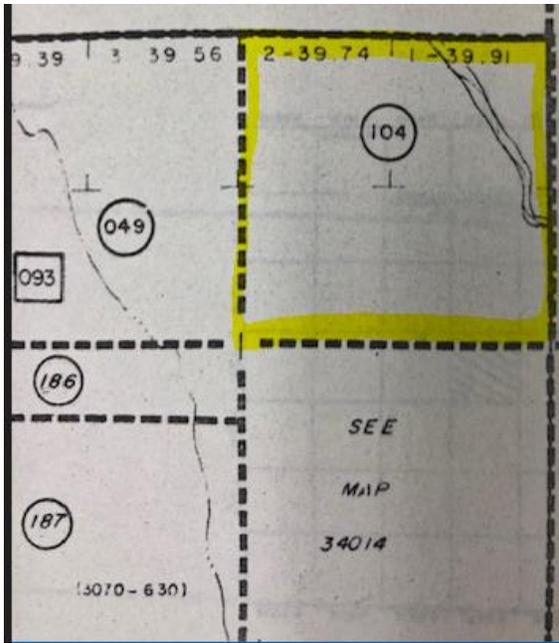
- *Some other unique or equitable consideration compels that strict compliance not be required.*

The applicant states in their letter of intent the illegal subdivision of land was created by prior owners of the property. At the time of the donation of land in 1987, there was no zoning district associated with the property. This property was zoned as A-5 on March 24, 1999, when zoning was first established for this portion of El Paso County. The property has existed in its current configuration since 1987. The lot size and lot width are considered nonconforming to the zoning due to their existence prior to the establishment of zoning on this property. If approved, a minor subdivision would be required to resolve the illegal subdivision of land.

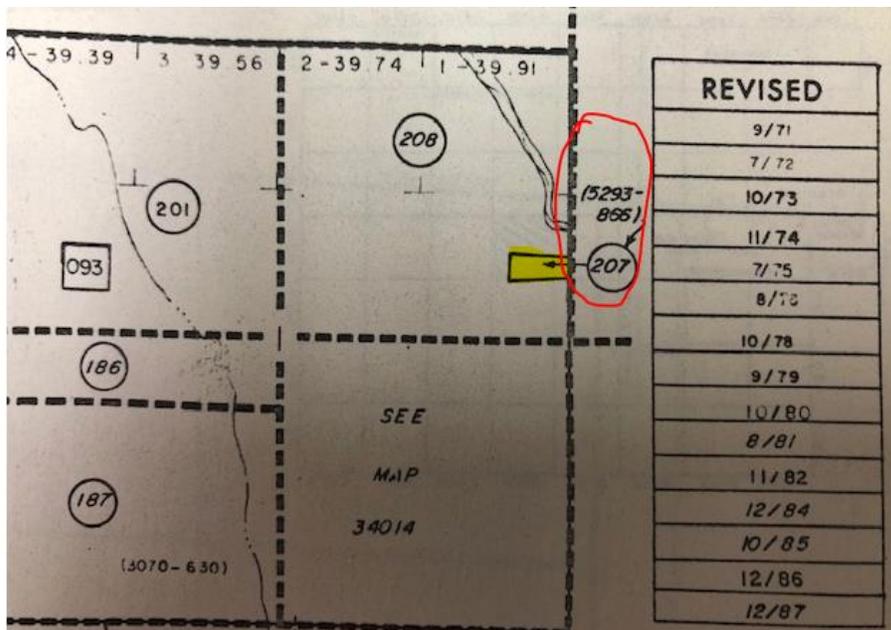
C. BACKGROUND

The subject property in 1986 was initially 159.65 acres, the parcel number being 34000 00 104. The parent parcel is depicted below.





The subject property was created by deed in 1987 (reference number on Map from 1987 is Book 5293, Page 866). The subject property was subdivided from the parcel depicted above to create the current 2.76-acre parcel and the configuration as depicted below.



Pursuant to Section 1.13.3 of the Code, no building permits may be authorized for a parcel of land that has not been included within a final plat action or otherwise



exempted by the Code. In order to legalize the division of land through the subdivision process, the applicant will be required to submit and receive approval of a minor subdivision application prior to any building permits being authorized on the property.

D. ALTERNATIVES EXPLORED

There are 2 alternatives that would not require a dimensional variance request:

- The applicant could submit an application for a Rezone (Map Amendment) to rezone the property to a zoning district with a minimum lot size to accommodate the size of the property.
- The applicant could obtain more land from the surrounding property to bring the total acreage of the property to 5 acres.

E. APPLICABLE RESOLUTION

Approval: Resolution 1

Disapproval: Resolution 2

F. LOCATION

North: A-35 (Agricultural)

Agricultural Grazing Land.

South: A-35 (Agricultural)

Agricultural Grazing Land.

East: A-5 (Agricultural)

Vacant Land.

West: A-35 (Agricultural)

Agricultural Grazing Land.

G. SERVICE

1. WATER

Water is provided by an existing individual well.

2. WASTEWATER

Wastewater is provided by an onsite existing wastewater treatment (septic) system.

3. EMERGENCY SERVICES

The parcel is located within the Ellicott Fire Protection District. The district was sent a referral and has no outstanding comments.

H. ENGINEERING

1. FLOODPLAIN

The site is not located within a defined floodplain as determined by staff following a review of the FEMA Flood Insurance Rate Map Panel No. 08041C0807G, effective on December 7, 2018. Black Squirrel Creek flows from northwest to



southeast approximately 400 feet northeast of the property, with a 100-year floodplain approximately 250 feet away from the property.

2. DRAINAGE AND EROSION

The property is located within both the Hook and Line Ranch (CHBS1800) and Ellicott (CHBS1600) drainage basins. These are unstudied drainage basins with no applicable drainage or bridge fees. The applicant has stated there are no known negative drainage impacts on the surrounding area.

3. TRANSPORTATION

The property is accessed from Ellicott Highway, currently classified as a rural major collector maintained by El Paso County. Per the El Paso County 2016 Major Transportation Corridors Plan Update (MTCP), Ellicott Highway is anticipated to be upgraded to a rural minor arterial. A traffic impact memorandum was not required pursuant to Section B.1.2.D of the El Paso County Engineering Criteria Manual. County road impact fees are not applicable for a Board of Adjustment case. A driveway access permit is on file, AP221416.

I. RECOMMENDED CONDITIONS OF APPROVAL

Should the Board of Adjustment determine that the application is consistent with the criteria for approval of a dimensional variance for a lot size request to allow a 2.76-acre lot size where a 5-acre minimum lot size is required in the A-5 zoning district, and to allow the width of the lot of 184 feet where 200 feet is required, and that the applicant has met the review and approval criteria for granting variances from the applicable standards, staff recommends the following conditions and notation of approval:

CONDITIONS

1. The approval applies only to the plans as submitted. Any expansion or additions to the proposed on the associated site plan may require separate Board of Adjustment application(s) and approval(s) if the development requirements of the applicable zoning district cannot be met.
2. Approval of a minor subdivision by the Planning and Community Development Department and issuance of a building permit from the Pikes Peak Regional Building Department is required prior to construction of any additional buildings on the property.



NOTATIONS

1. Physical variances approved for a proposed structure (except for lot area variances) are valid only if construction of the structure is initiated within twelve (12) months of the date of the Board of Adjustment approval.
2. The PCD Director may require a survey, certified by a registered surveyor, licensed in the State of Colorado, depicting the improvement in relationship to the lot lines affected to demonstrate compliance with the approval of the dimensional variance.

J. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified the five adjoining property owners on 11/2/2022, for the Board of Adjustment meeting. Responses will be provided at the hearing.

K. ATTACHMENTS

Letter of Intent
Vicinity Map
Site Plan
Draft Resolution





July 29, 2022

PCD File No.:

**LETTER OF INTENT
ROCKY MOUNTAIN CALVARY CHAPEL - ELLICOTT
BOARD OF ADJUSTMENT REQUEST**

Owners:

Rocky Mountain Calvary Chapel, Inc.
4285 N Academy Blvd
Colorado Springs, CO 80918
(719) 597-1133
rhbeech@rmcalvary.org

Applicant:

M.V.E., Inc.
1903 Lelaray Street, Suite 200
Colorado Springs, CO
(719) 635-5736
Attn: David R. Gorman, P.E.
daveg@mvecivil.com

Site Location Size and Zoning:

The site of this Board of Adjustment request is a tract of land located in the southeast quarter of the northeast quarter of Section 1, Township 14 south, Range 63 west of the 6th Principal Meridian, El Paso county, Colorado. The property has El Paso County Tax Schedule No. 3400000207. The current address of the site is 2150 North Ellicott Highway. The tract is currently occupied by one (1) one-story building housing the Ellicott Campus of Rocky Mountain Calvary Chapel, a gravel parking lot and a children's playground. The remainder of the site contains natural grass and a few sparse trees. The area of the site is 2.76± acres and it is zoned A-5 (Agricultural 5 Acre).

The site is situated on the west side of existing North Ellicott Highway, approximately a mile and a half North of State Highway 94 in El Paso County. Existing North Ellicott Highway, a paved public roadway, is adjacent to the eastern edge of the site. Lot 1, Cordero Minor Subdivision, zoned A-35 and containing one agricultural residence, borders the site on the north side. Lot 2, Cordero Minor Subdivision, zoned A-35 and containing one agricultural residence borders the site on the west and south sides. An unplatted parcel, zone A-35 is located on the east side of existing North Ellicott Highway opposite the site and contains two (2) mobile homes and one (1) shed. Lot 2, Replat of Lot 1 MUHE Subdivision, zoned A-5 with no existing structures, is also located on the east side of North Ellicott Highway opposite the site. Lot 2, MUHE Subdivision, zoned A-5 and containing one single family residence, is also located on the east side of North Ellicott Highway opposite the site.

Engineers • Surveyors
1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736
Fax 719-635-5450 • e-mail mve@mvecivil.com

Request:

Rocky Mountain Calvary Chapel would like to plat the existing parcel into one lot and construct a new 10,000 SF multi-purpose building and new parking lot on the site. Section 5.4.2, Table 5-4 of the El Paso County Land Development Code requires that Minimum Lot Size in the A-5 zone be 5.0 acres or more in area and 200 ft or more in width at front setback line. However, Section 5.5.2(B)(2)(a) of the Land Development Code also provides that *“The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property.”* The request is for approval of an El Paso County Board of Adjustment dimensional variance to allow the existing lot area of 2.76± acres and lot width of 184± feet in the A-5 zone. The granting of the request, together with a subsequent minor plat application, would provide the church with a legally subdivided lot on which they may apply for a building permit to allow the new addition.

Justification:

Due to the parcel size being less than 35 acres at the time of its donation to the previous owner, Ellicott Bible Fellowship (Later named “New Hope Church”), by Donald and Mary Simmons in 1987, the parcel is deemed an illegal subdivision. At the time of donation, the parcel was not zoned. Sometime after 1992, the A-5 (Agricultural 5 Acre) zone was applied by El Paso County to the parcel, making the parcel size non-compliant with the new zone. Strict compliance with the lot size zoning requirements was not exercised at the time of zoning the parcel A-5, as the parcel lacked the required minimum area and minimum width. The parcel was later sold to its current owners in 2017, the current owners not understanding the status of the parcel as an illegal subdivision that is non-conforming to the A-5 zone.

Due to exceptional circumstance of the illegal subdivision not created by the current owner, coupled with the A-5 zone requirements, Rocky Mountain Calvary Chapel is subject to the hardship of not being able to improve the site with, or use the site for, its intended purposes. Strict compliance with the lot size zoning requirements will severely restrict the legal use of the property. This is because the parcel in its current status cannot be legally platted and the status of illegal subdivision, which currently burdens the owners, cannot be mitigated. There are no known negative potential impacts on the surrounding area related to granting the requested relief. The granting of the variance will be a step in resolving the long standing subdivision and zoning non-compliance.

According to the aforementioned section 5.5.2(B)(2)(a) concerning Dimensional Variances and Appeals to the Board of Adjustment in Chapter 5 of the El Paso County Land Development Code, “the exceptional narrowness” of the parcel as well as “the exceptional situation or condition of the piece of property” being zone non-compliant due to lot size years after the construction and operation of a church on site has caused “practical difficulties and hardship, where the legal use of the property is severely restricted”. It is, therefore, the case that “the burdens of strict compliance with the zoning requirement significantly exceed the benefits of such compliance for the specific piece of property” where the “unique or equitable consideration compels that strict compliance not be required.”

The Your El Paso Master Plan (2021) indicates that the site is designated as “Rural” Placetype with Agricultural, Parks and Open Space and Farm/Homestead as the Primary Land Uses and Estate and Institutional as Supporting Land Uses. The current use falls within and is compatible with the Institutional category. The site is not directly adjacent to any Key Areas of Potential Annexation to the City of Colorado Springs.

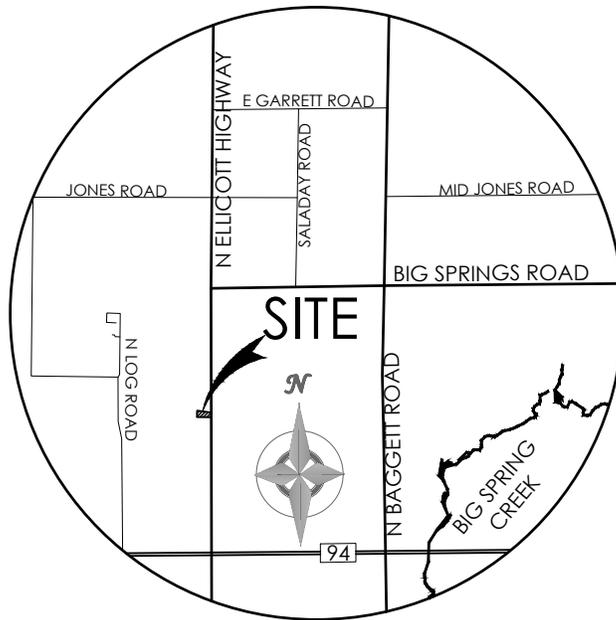
Barring lot size requirements, all other requirements of the A-5 zone will be met including minimum setbacks, maximum height, and primary use of the land. Although the resulting lot size will be smaller than allowed in the A-5 zone, the Board of Adjustment request will still provide compatibility with the existing and future

surrounding land uses. No overlay districts apply to the conditions of and circumstances associated with this site.

Development of the existing parcel as a platted lot is certainly possible while still observing all the remaining dimensional criteria contained in the Land Development Code including Front, Rear and Side Building Setbacks and Maximum Building Height. The boundary dimensions of the site are 535' on the north, 252' on the west, 532' on the south and 181' on the east. Subtracting the setback and easement area from the total property area, leaves 80007 square feet (1.837± acres) available.

A single-story church building currently exists on site and is in active use as a church. The variance, and the plat following it, will allow Rocky Mountain Calvary Chapel to bring the property into full compliance with the county zoning and subdivision regulations and make additions to the building and site, enhancing their ability to serve the surrounding community.

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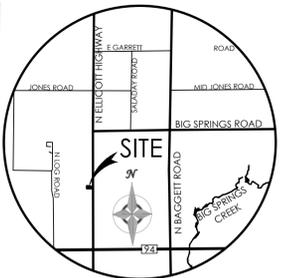
VICINITY MAP

NOT TO SCALE

ROCKY MOUNTAIN CALVARY CHAPEL - ELLICOTT

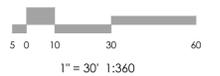
BOARD OF ADJUSTMENT EXHIBIT

TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 1,
TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO



VICINITY MAP
NOT TO SCALE

BENCHMARK



REVISIONS

DESIGNED BY _____
DRAWN BY _____
CHECKED BY _____
AS-BUILTS BY _____
CHECKED BY _____

ROCKY MOUNTAIN CALVARY
CHAPEL - ELLICOTT
2150 N ELLICOTT HIGHWAY

**BOARD OF
ADJUSTMENT
EXHIBIT**

MVE PROJECT 61182
MVE DRAWING BOA-EXH

OCTOBER 26, 2022
SHEET 1 OF 1

SITE DATA

ZONING

CURRENT ZONING: A-5

LOT COVERAGE

CHURCH BUILDING: 3594 SF
SHED: 140 SF
TOTAL LOT COVERAGE: 3.2%

MAXIMUM PER A-5 ZONE: NONE

SETBACKS

FRONT - 25' SETBACK
SIDE - 25' SETBACK
REAR - 25' SETBACK

MAX BUILDING HEIGHT

30'

PARKING DATA

REQUIRED PARKING (52 SPACES)
(50 STANDARD SPACES,
2 DISABLED SPACES)

EXISTING CHURCH BUILDING:
200 SEATS @ 1 SPACE PER 4 SEATS
= 50 SPACES
50 STANDARD SPACES @ 2 DISABLED
SPACE PER 26-50 STANDARD SPACES
= 2 DISABLED SPACES

PROVIDED PARKING

50 STANDARD SPACES
8 DISABLED SPACES

OWNERS

ROCKY MOUNTAIN CALVARY CHAPEL, INC.
4285 N ACADEMY BLVD
COLORADO SPRINGS, CO 80918
(719) 597-1133
RHBEECH@RMCALVARY.ORG

CONSULTANT

M.V.E., INC.
DAVID GORMAN, P.E.
1903 LELARA Y STREET
COLORADO SPRINGS, CO 80909
Ph (719) 635-5736
DAVEG@MVEENGINEERS.COM

TAX SCHEDULE NO.

3400000207

CURRENT ADDRESSES

2150 N ELLICOTT HIGHWAY

LAND USE

RELIGIOUS WORSHIP

ACREAGE

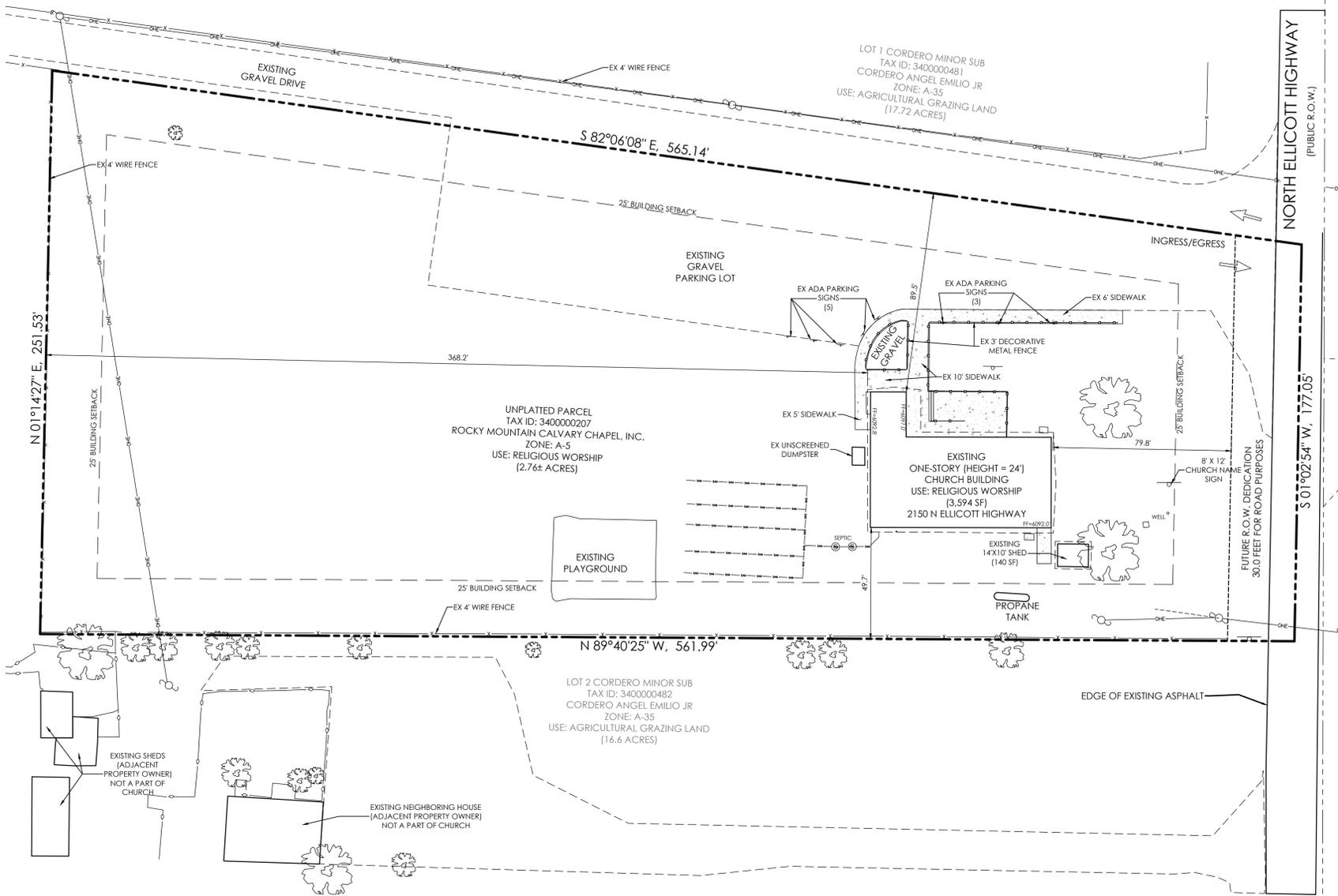
2.76 ± ACRES

LEGEND

- EASEMENT LINE
- LOT LINE
- ADJACENT PROPERTY LINE
- GRAVEL AREA
- WOOD FENCE
- WIRE FENCE
- DECORATIVE METAL FENCE
- OVERHEAD ELECTRIC LINE
- TREE
- SIGN
- UTILITY POLE/GUY WIRE

PERCENT COVERAGE SUMMARY TABLE

	AREA (SF)	PERCENT COVERAGE (%)
BUILDINGS	3,734	3.2
PAVEMENT/SIDEWALK	2,076	1.8
GRAVEL DRIVE/PARKING	12,158	10.6
OPEN SPACE/LANDSCAPE	97,115	84.4
TOTAL	115,083	100.0



EXISTING SITE NOTES:

- THERE ARE NO OUTDOOR LIGHT FIXTURES ON SITE.
- THERE ARE NO DRAINAGE FACILITIES ON SITE.
- THERE ARE NO 'NO BUILD' AREAS ON SITE.
- THERE ARE NO LOADING DOCKS ON SITE.
- THERE ARE NO SIGNS RELATED TO PARKING OR OFF STREET PARKING EXCEPT FOR THE EXISTING ADA PARKING SIGNS SHOWN AND NOTED ON THIS EXHIBIT.

FLOODPLAIN STATEMENT

THIS PROPERTY IS LOCATED WITHIN FEMA DESIGNATED ZONE "X" (AREA OF MINIMAL FLOOD HAZARD) AS INDICATED ON THE FLOOD INSURANCE RATE MAP (FIRM) FOR EL PASO COUNTY, COLORADO AND INCORPORATED AREAS - MAP NUMBER 08041C0807, EFFECTIVE DECEMBER 7, 2018.

LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6TH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF CORDERO MINOR SUBDIVISION AS RECORDED IN THE RECORDS OF EL PASO COUNTY AT RECEPTION NO. 221714805 THENCE S 1°02'54" E, A DISTANCE OF 690.13 FEET ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 1 TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUING S 1°02'54" E, A DISTANCE OF 177.05 FEET;
THENCE, N 89°40'25" W, A DISTANCE OF 561.99 FEET ALONG A NORTHERLY LINE OF LOT 2, SAID CORDERO MINOR SUBDIVISION;
THENCE, N 1°14'27" E, A DISTANCE OF 251.53 FEET ALONG AN EASTERLY LINE OF SAID LOT 2;
THENCE, S 82°06'08" E, A DISTANCE OF 565.14 FEET ALONG THE SOUTH LINE OF LOT 1, SAID CORDERO MINOR SUBDIVISION TO THE TRUE POINT OF BEGINNING,
EXCEPT THE EASTERLY 30.0 FEET FOR ROAD PURPOSES.
CONTAINING A CALCULATED AREA OF 2.76 ACRES, MORE OR LESS.

PCD FILE # BOA-22-011