

**EL PASO COUNTY**  
COLORADO

**Kevin Mastin, Interim Executive Director**  
**El Paso County Planning & Community Development**  
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Colorado Springs, CO 80910

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

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

**FROM: Kylie Bagley, Planner II**  
**Lupe Packman, EI Engineer I**  
**Kevin Mastin, Interim Executive Director**

**RE: Project File #: SP-22-006**  
**Project Name: High View Estates Preliminary Plan**  
**Parcel No.: 51000-00-421**

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
Collin Brones 6665 Walker Road Colorado Springs, CO 80908	Compass Surveying and Mapping, LLC John Fornander 3249 West Carefree Circle Colorado Springs, CO 80917

**Commissioner District: 1**

Planning Commission Hearing Date:	9/1/2022
Board of County Commissioners Hearing Date	9/13/2022

**EXECUTIVE SUMMARY**

A request by Compass Surveying and Mapping, LLC for approval of High View Estates Preliminary Plan for five (5) single-family residential lots. The 40.00-acre property is zoned RR-5 and is located one-half of a mile southwest of the intersection of Black Forest Road and Walker Road, and north of Hodgen Road, and is within Section 18, Township 11 South, Range 65 West of the 6<sup>th</sup> P.M.



## A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

**Request:** A request by Compass Surveying and Mapping, LLC for approval of High View Estates Preliminary Plan for five (5) single-family residential lots.

**Waiver(s)/Deviation(s):** The following waivers from the El Paso County Land Development Code (2022) (LDC) is requested with the High View Estates Preliminary Plan:

1. The applicants are requesting a waiver of Sections 8.4.4.C. and 8.4.4.E.3 of the Code to allow for the applicant to private road design criteria similar to driveway criteria.
  - Section 8.4.4.C, *Public Roads Required*, of the Code states:  
“Divisions of land, lots and tracts shall be served by public roads.”
  - Section 8.4.4.E.3, *Private Road Allowances*, of the Code states:  
“Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the waiver. Private road waivers may include design standards for the following:
    - Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;
    - Design speed where it is unlikely the road will be needed for use by the general public;
    - Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;
    - Maximum and minimum block lengths;
    - Maximum grade.”

**Authorization to Sign:** Administrative 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:**

**Recommendation:**

**Waiver Recommendation:**

**Vote:**

**Vote Rationale:**

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**Summary of Hearing:**  
**Legal Notice:**

**C. APPROVAL CRITERIA**

In approving a preliminary plan, Section 7.2.1.D.2 of the El Paso County Land Development Code (2021) states the BoCC shall find that:

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is consistent with the purposes of this Code;
- The subdivision is in conformance with the subdivision design standards and any approved sketch plan;
- 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 the proposed subdivision is compatible with such conditions. [C.R.S. §30-28-133(6)(c)];
- Adequate drainage improvements complying with State law [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;
- The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development;
- Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass

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

- Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;
- The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and
- The proposed subdivision meets other applicable sections of Chapter 6 and 8 of this Code.

**D. LOCATION**

North: RR-5 (Residential Rural)	Single-family Residential
South: RR-5 (Residential Rural)	Single-family Residential
East: RR-5 (Residential Rural)	Single-family Residential
West: RR-5 (Residential Rural)	Single-family Residential

**E. BACKGROUND**

The property was zoned A-4 (Agricultural) on September 20, 1965, when zoning was first initiated for this portion of the County. Due to changes in the nomenclature of the Code, the A-4 zoning district was renamed as the RR-5 (Residential Rural) zoning district in 2007.

There are five existing structures on the property, including a residence. Please see the Zoning Compliance section below for information regarding the existing structures' conformance with the dimensional standards.

The applicant is requesting approval of a preliminary plan to create five (5) single-family residential lots from the existing 40.00-acre parcel. Lot 1 is proposed to be 11 acres, Lots 2, 3 and 4 are proposed to be 6 acres each, and Lot 5 is proposed to be 8 acres. The existing dwellings are proposed to remain on proposed Lot 1, as well as the approved well and septic system. The existing dwelling and accessory

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structure on proposed Lot 1 would comply with all setback, lot coverage, and height standards of the RR-5 (Residential Rural) district as depicted on the preliminary plan.

The applicants have submitted a request for approval of a preliminary plan to create five (5) single-family residential lots, a waiver to allow a private road that does not meet County design standards and for a finding of sufficient water quality, quantity, and dependability, thereby authorizing administrative approval of subsequent final plats. A final plat for the development area is under concurrent review.

## **F. ANALYSIS**

### **1. Land Development Code Compliance**

This application meets the preliminary plan submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the El Paso County Land Development Code (2021).

### **2. Zoning Compliance**

The subject parcel is zoned RR-5 (Residential Rural). The RR-5 zoning district is intended to accommodate low-density, rural, single family residential development. The density and dimensional standards for the RR-5 zoning district are as follows:

- Minimum lot size: 5 acres \*
- Minimum width at the front setback line: 200 feet
- Minimum setback requirement: front 25 feet, rear 25 feet, side 25 feet \*
- Maximum lot coverage: 25 percent
- Maximum height: 30 feet

\* In the event that the land to be partitioned, platted, sold or zoned abuts a section line County road, the minimum lot area for lots abutting the road shall be 4.75 acres and minimum lot width shall be 165 ft.

\*Agricultural stands shall be setback a minimum of 35 feet from all property lines.

All five (5) proposed lots will meet or exceed the minimum lot size of five (5) acres. The existing dwellings meet the required 25-foot setback from all property lines and is under 30 feet in height.

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The applicant is not proposing to construct any new structures at this time. Any proposed additional structures constructed in the future will require site plan review and approval and will need to include confirmation that all site improvements (existing and proposed) comply with the dimensional standards included in Chapter 5 as well as any applicable development standards of Chapter 6 of the Code.

## **G. MASTER PLAN ANALYSIS**

### **1. Your El Paso Master Plan**

#### **a. Placetype: Large-Lot Residential**

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

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

#### **Recommended Land Uses:**

##### *Primary*

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



*Supporting*

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

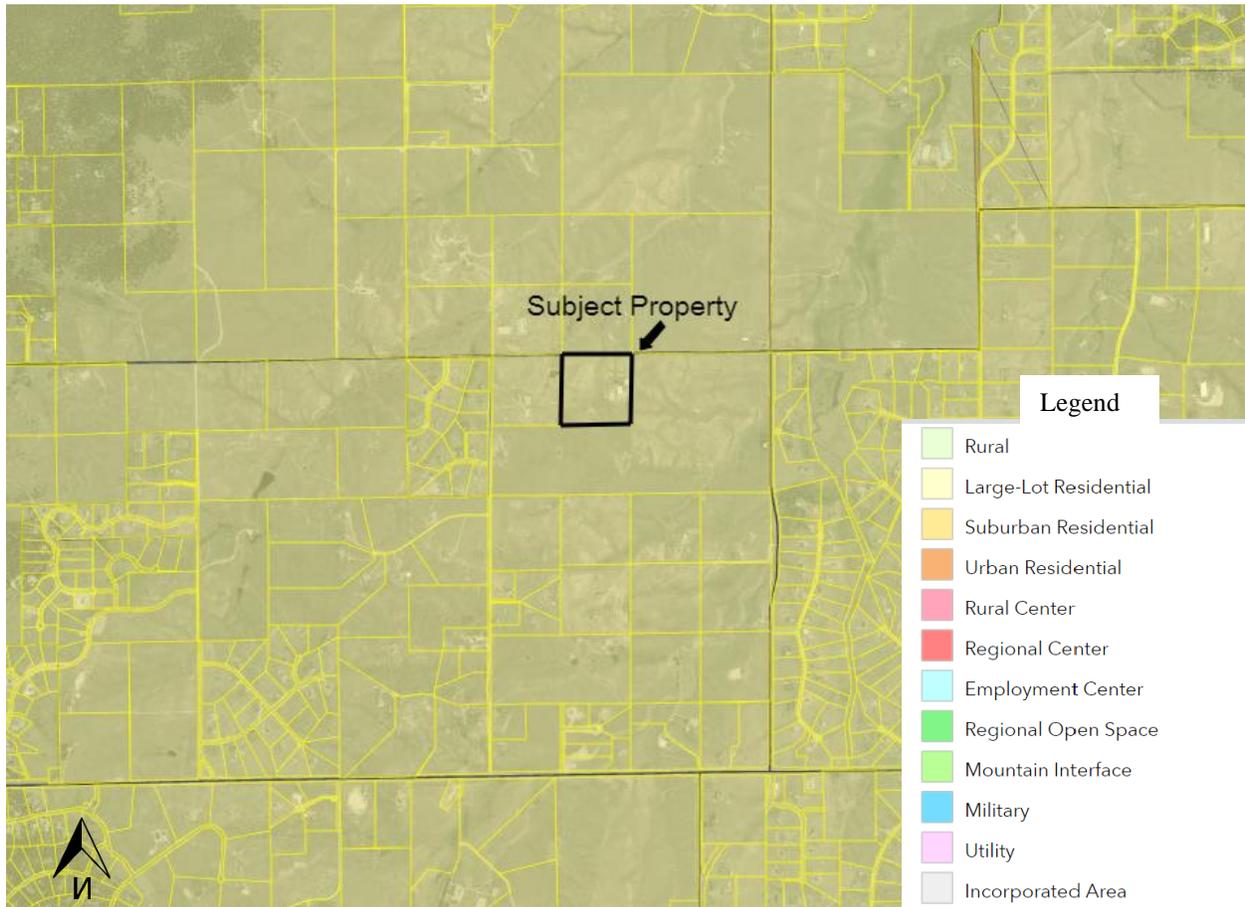


Figure G.1: Placetype Map

**Analysis:**

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

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

**Objective LU3-1** – *Development should be consistent with the allowable land uses set forth in the placetypes first and second to their built form guidelines.*

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

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

**Goal HC-2 Specific Strategy** – *Maintain existing and expand the Large-Lot Residential placetype in Black Forest/North Central area in a development pattern that matches the existing character of the developed Black Forest community.*

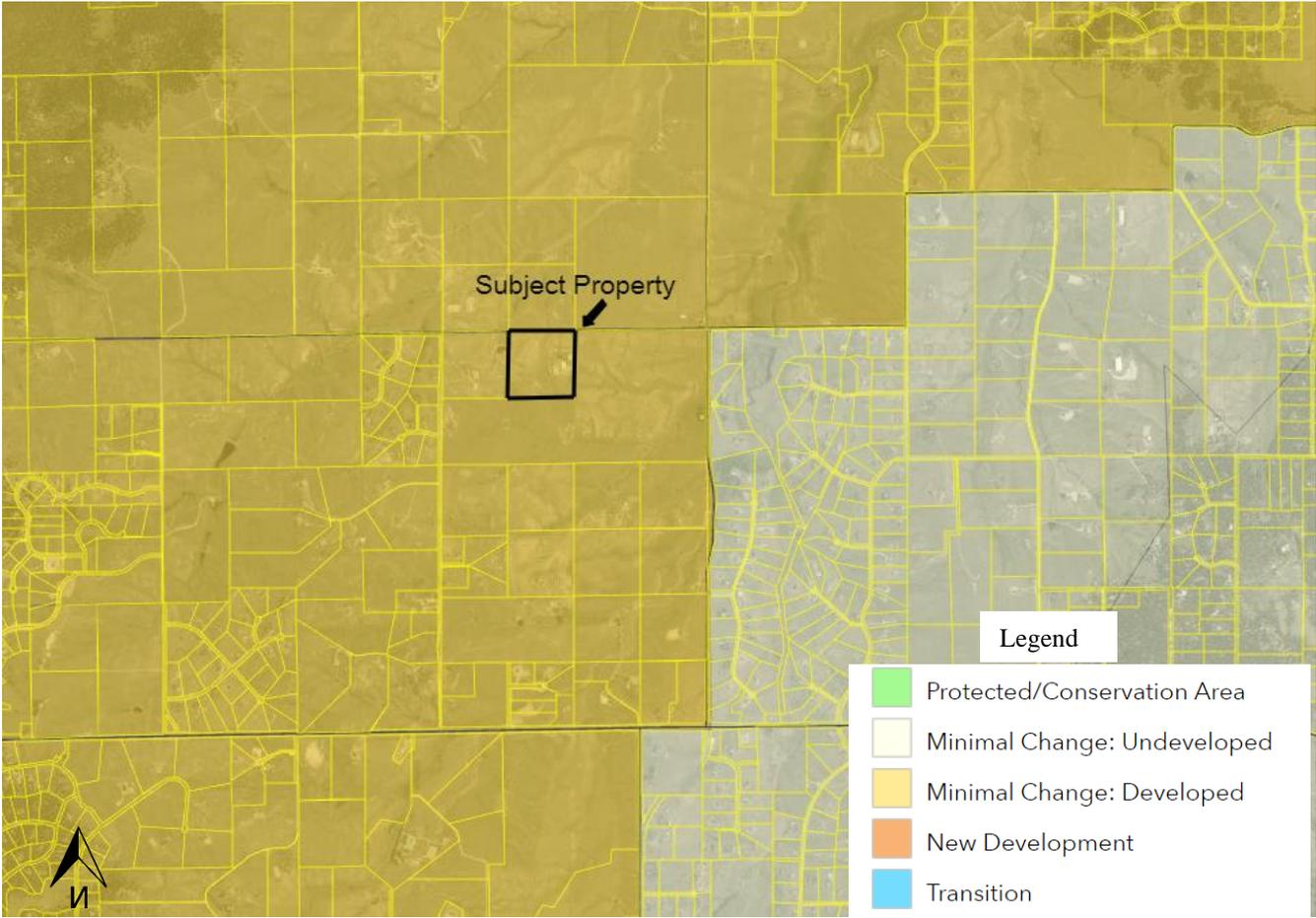
The proposed subdivision would create five (5) single-family detached residential lots. The proposed use and lot size are consistent with the character and intent of the Large-Lot Residential placetype. The five (5) lots are each proposed to be a minimum of 5 acres. By maintaining a larger lot size than the recommended 2.5 acres, which has been identified as suitable within the Large-Lot Residential placetype, the proposed subdivision is in line with preserving the rural character of the area. The increased lot size also accommodates the large electrical easement that bisects the property. Additionally, the proposed lot sizes are consistent with the surrounding properties, which vary in size but still maintain a density of one (1) dwelling unit per five (5) acres.

**b. Area of Change Designation:** Minimal Change: Developed

These areas have undergone development and have an established character. Developed areas of minimal change are largely built out but may include isolated pockets of vacant or underutilized land. These key sites are likely to see more intense infill development with a mix of uses



and scale of redevelopment that will significantly impact the character of an area. For example, a large amount of vacant land in a suburban division adjacent to a more urban neighborhood may be developed and change to match the urban character and intensity so as to accommodate a greater population. The inverse is also possible where an undeveloped portion of a denser neighborhood could redevelop to a less intense suburban scale. Regardless of the development that may occur, if these areas evolve to a new development pattern of differing intensity, their overall character can be maintained.



**Figure G.2: Area of Change Map**



**Analysis:**

The subject property is adjacent to rural residential properties on all sides. The properties to the north, south, east, and west of the subject property range in size from 240 acres to five (5) acres. These properties are used for single-family detached residential purposes.

The proposed preliminary plan to create five (5) rural residential lots is compatible with the surrounding lot sizes, which vary in size but are all a minimum of five (5) acres. The character of the surrounding area is consistent with the Area of Change designation, which identifies that existing underutilized land are likely to see more intense infill development with a mix of uses and scale of redevelopment that will significantly impact the character of an area. If these areas evolve to a new development pattern of differing intensity, their overall character can be maintained.

**c. Key Area Influences**

The subject property is not within a Key Area.

**3. Water Master Plan Analysis**

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

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

***Policy 1.1.1 – Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency, and conservation.***

***Goal 1.2 – Integrate water and land use planning.***

***Goal 4.3 – Collaborate with the State and other stakeholders to extend the economic life of the Denver Basin aquifers.***



The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The proposed development will not be served by a central water system. The following has been included for informational purposes only as it pertains to water demands and supplies in Region 2 for central water providers:

The property is located within Planning Region 2 of the Plan, which is an area anticipated to experience growth by 2040. The Plan identifies the current demand for Region 2 to be 7,532 acre-feet per year (AFY) (Figure 5.1) with a current supply of 13,607 AFY (Figure 5.2). The projected demand in 2040 is at 11,713 AFY (Figure 5.1) with a projected supply of 20,516 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 is 13,254 AFY (Figure 5.1) with a projected supply of 20,756 AFY (Figure 5.2) in 2060. This means that by 2060 a surplus of 7,502 AFY is anticipated for Region 2.

Water sufficiency has been analyzed with the review of the proposed preliminary plan. The augmentation decree for the property allows the subdivision to draw 2.55 acre-feet of water per year over a 300-year period from the Dawson Aquifer for the five (5) proposed lots. The applicant's water resources report indicates an estimated use of approximately 2.55 acre-feet per year.

The applicant's water resources report and augmentation plan include measures for recharging renewable water resources in the Dawson aquifer. The applicant has shown a sufficient water supply for the required 300-year period. The State Engineer and the County Attorney's Office have recommended that the proposed preliminary plan has an adequate water supply in terms of quantity and dependability. Please see the Water section below for a summary of the water findings and recommendations for the proposed preliminary plan. If High View Estates preliminary plan is approved, and a finding of water sufficiency for water quality, quantity, and dependability is made by the Board of County Commissioners, then it is anticipated that the applicant will request administrative approval by the Planning and Community Development Department Executive Director for all subsequent final plats.

## 6. Other Master Plan Elements

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

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Paso County Environmental Services were each sent a referral and have no outstanding comments.

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

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

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

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

No hazards were identified during the review of the preliminary plan.

### **2. Floodplain**

The property is not located within a defined floodplain as determined from review of the FEMA Flood insurance Rate Map panel number 08041C0325, dated December 7, 2018.

### **3. Drainage and Erosion**

The property is located within the East Cherry Creek Basin (CYCY0200) drainage basin, which is not included in the El Paso County Drainage Basin Fee program. Drainage and bridge fees will not apply at plat recordation. No public improvements are required for this project. Water quality and detention facilities are not required due to the nature and size of the lots.

### **4. Transportation**

Access to lots will be provided via a private driveway that intersects Walker Road. The applicant has requested a waiver from the Land Development Code to allow a private road instead of a public road. A deviation will be required to be submitted concurrent with the final plat submittal if the applicant would like to construct the access narrower than County Road Standards.

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The El Paso County 2016 Major Transportation Corridors Plan Update identifies roadway improvements for Walker Road. A traffic memo did not identify any improvements necessary because of this development. The applicant and future lot owners will be required to apply for driveway permit waivers.

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

## **H. SERVICES**

### **1. Water**

Sufficiency: [Click here to enter text.](#)

Quality: Sufficient

Quantity: Sufficient

Dependability: Sufficient

Attorney's summary: Water will be provided by individual onsite wells. The State Water 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 recommending a finding of sufficiency with regard to water quantity and dependability. El Paso County Public Health is recommending a finding of sufficiency with regard to water quality.

### **2. Sanitation**

Individual onsite wastewater treatment systems (OWTS) are proposed to serve the residential lots. The applicant submitted an OWTS report which indicated that the lots are suitable for the construction of these systems. El Paso County Public Health was sent a referral and has no outstanding comments.

### **3. Emergency Services**

The property is within the Black Forest Fire Protection District. The District was sent a referral and did have no outstanding comments.

### **4. Utilities**

Mountain View Electric Association (MVEA) will provide electrical service and Black Hills Energy (BHE) will provide natural gas service to the area included within the final plat. Both utility providers were sent referrals for the preliminary; MVEA has no outstanding comments and BHE did not provide a response.

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**5. Metropolitan Districts**

The property is not located within the boundary of a metropolitan district.

**6. Parks/Trails**

Fees in lieu of park land dedication will be due at the time of recording the final plat(s).

**7. Schools**

The site is within the boundaries of the Lewis-Palmer School District 38. Fees in lieu of school land dedication shall be paid to El Paso County for the benefit of Lewis-Palmer School District 38 at time of recording the final plat(s).

**I. APPLICABLE RESOLUTIONS**

Approval                                      Page 25  
Disapproval                                    Page 26

**J. STATUS OF MAJOR ISSUES**

There are no major outstanding issues

**K. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2020) staff recommends the following conditions and notations:

**CONDITIONS**

1. Applicable traffic, drainage and bridge fees shall be paid with each final plat.
2. Applicable school and park fees shall be paid with each final plat.
3. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.



4. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assigns that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the Countywide Transportation Improvement Fee Resolution (Resolution 19-471), as amended, at or prior to 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.
5. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.

#### **NOTATIONS**

1. Subsequent Final Plat Filings may be approved administratively by the Planning and Community Development Director.
2. Approval of the Preliminary Plan will expire after twenty-four (24) months unless a final plat has been approved and recorded or a time extension has been granted.
3. Preliminary Plans not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed to be withdrawn and will have to be resubmitted in their entirety.

#### **L. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified four adjoining property owners on August 18, 2022, for the Planning Commission meeting. Responses will be provided at the hearing.

#### **M. ATTACHMENTS**

Vicinity Map  
Letter of Intent  
Plat Drawing  
State Engineer's Letter  
County Attorney's Letter

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# El Paso County Parcel Information

PARCEL	NAME
5100000421	BRONES COLLIN G

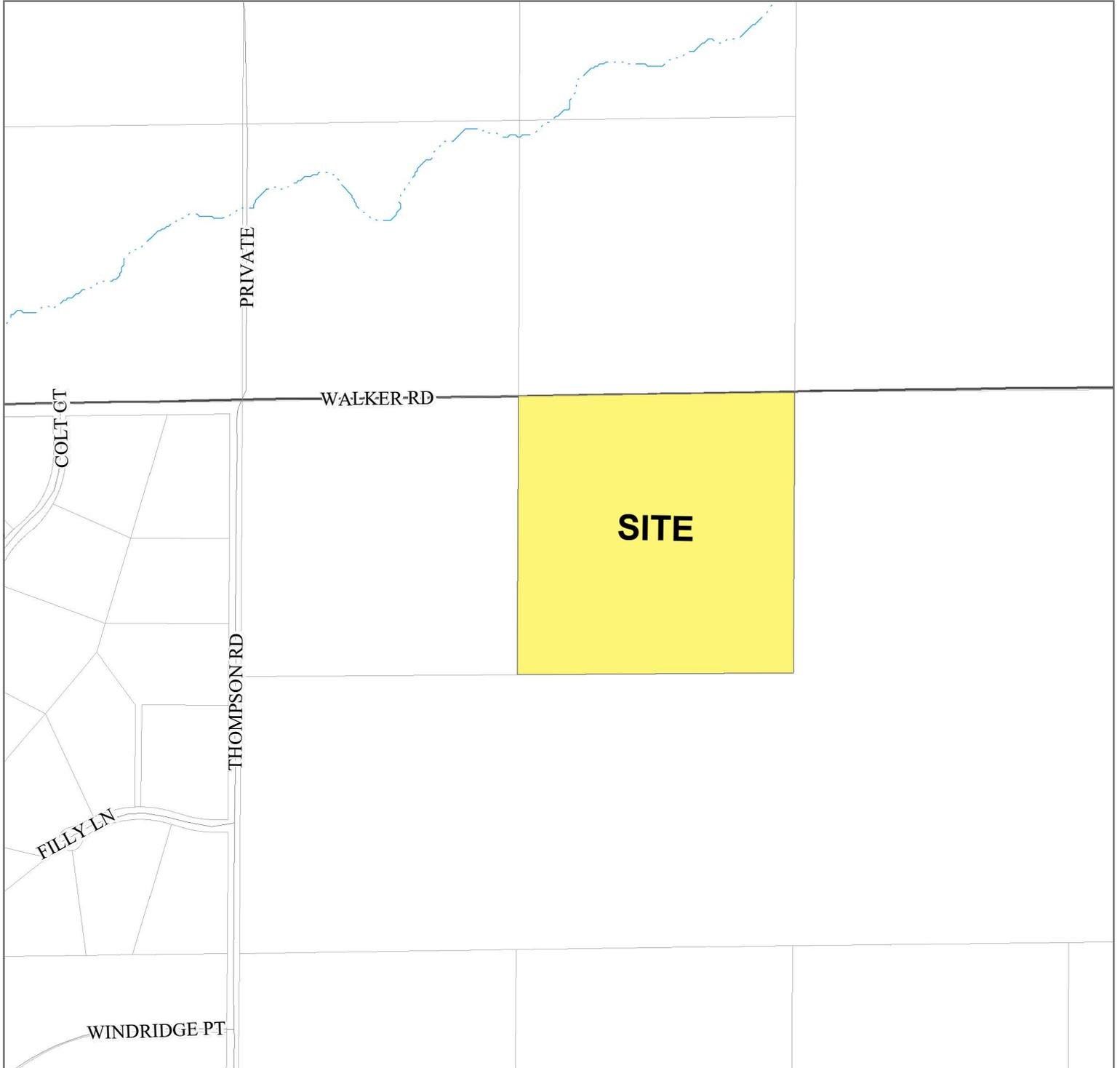
File Name: SP-22-006

Zone Map No.: --

ADDRESS	CITY	STATE
6665 WALKER RD	COLORADO SPRINGS	CO

ZIP	ZIPLUS
80908	1407

Date: August 12, 2022



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



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associated with the proposed access drive will not be included on this plan. This grading can be expected when the individual lots are later developed.

Utilities for the subdivided lots will include individual wells and onsite septic systems for each lot. One existing well will remain and new wells will need to be proposed for the subdivided lots. No connections to municipal water or sewer services are proposed.

**EXISTING AND PROPOSED FACILITIES:** There is an existing residence and other accessory buildings on the eastern portion of the site. Most of these structures will remain. No proposed structures are included in this application.

Due to the site being outside CSU's Electric Service Territory, connecting the proposed lots to a municipal sewer and/or water system is not required.

**WAIVER REQUESTS:** Prior to any development action, the property owner would like to request waivers related to private access from Walker Road to the proposed lots. The requested waivers include the following.

- Waiver 1: Waiver for private road (per definition, a driveway cannot serve more than 3 lots – LDC 8.4.4.E.2) where the owner proposes 5 lots.
- Waiver 2: Waiver for private roads to meet County standards (LDC 8.4.4.E.3) where the owner proposes private road design criteria similar to driveway criteria.

The intent of the waivers are to provide a reasonable private access to five rural residential lots without significant disturbance to the natural setting. These waivers only deal with private access and lot configuration and meet all other intent of the LDC.

Criteria for approval of waivers is found in LDC 7.3.3 and is as follows:

- *The waiver does not have the effect of nullifying the intent and purpose of the code.* The proposed waivers request a slight adjustment to the private access and lot configurations allowed for this specific project. All other aspects of the code remain in effect.
- *The waiver will not result in the need for additional subsequent waivers.* With the approval of the proposed waivers, no subsequent waiver requests are anticipated.
- *The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property.* Based on the negligible effect on the overall traffic LOS on Walker Road, these waivers will not be detrimental to the public safety, health or welfare or injurious to other property.

- *The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property.* The requested waivers are unique to this property in that the owners are not professional developers and are looking to sell the existing homestead and retain the additional four lots for their own personal use/development.
- *A particular non-economical hardship to the owner would result from a strict application of this Code.* Without the requested waivers, the requirements of a public road access to four lots would be detrimental to the site's natural terrain and vegetation characteristics. Significantly more land disturbance would be required without these waivers.
- *The waivers will not in any manner vary the zoning provisions of this Code.* The current zoning district is RR-5. All proposed lots meet the density and dimensional standards per LDC 5.4.2 and Table 5-4.
- *The proposed waiver is not contrary to any provision of the Master Plan.* The proposed five rural residential lots with limited access to Walker Road seem consistent with the intent of the El Paso County Policy Plan.

Upon approval of said waivers, a Final Plat for five lots will be submitted for the entire property.

**TRANSPORTATION:** Private driveways will provide access to the future access drive for the 5 proposed lots.

**TRAFFIC:** A traffic memo will not be required for this project.

**DRAINAGE:** A Final Drainage Report has been prepared for High View Estates. The purpose of this report is to identify and analyze the onsite and offsite drainage patterns and to ensure that post development runoff is routed through the site safely and in a manner that satisfies the requirements set forth by the El Paso County Drainage Criteria Manual.

**UTILITIES:** Private water supply wells and wastewater septic systems are existing or proposed for the proposed lots. Mountain View Electric has committed to provide electrical services to the proposed lots. Propane will be used for this subdivision.

**GEOLOGY AND SOILS:** A soil, geology and wastewater study has been prepared for the subdivision. This report found that the site was suitable for the proposed development as long as some common geologic hazards were mitigated.

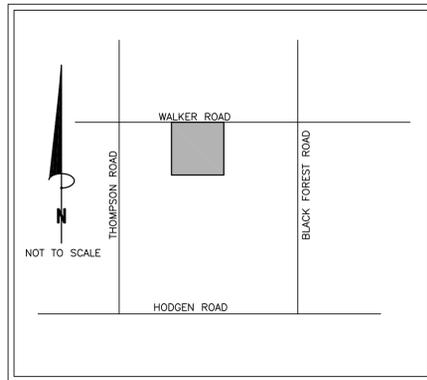
## **CRITERIA FOR APPROVAL:**

### **FINAL PLAT**

- This plat conforms with the goals, objectives, and policies of the Master Plan. The site is within the right by use for the current RR-5 zoning.
- This 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. These required items have been uploaded to EDARP and revisions will be made, if necessary. We are asking for a waiver that allows the private access to serve all five lots and that the access not be made to conform to county road standards.
- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of the Land Development Code. Private water supply wells are existing or proposed for each proposed lot and the State Engineer's Office has agreed that this water supply is adequate for this subdivision.
- Private wastewater septic systems are proposed for each proposed lot that comply 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.
- The proposed subdivision was evaluated for soil and topographic hazards and was found to be compatible with the identified hazards.
- Drainage will meet State and local standards. No drainage improvements are expected to be necessary as the increased runoff expected from this proposed site will not be significant.
- This plat provides legal and physical access to all of the proposed lots per the Land Development Code and Engineering Criteria Manual. All lots will have direct access to existing public roads through the future access drive and proposed access easement.
- Necessary services will be made available to serve the proposed subdivision. The site will be serviced by the Black Forest Fire Department and has been accepted into their fire district. Mountain View Electric has committed to provide electric services. Propane will be used for gas purposes. Private wells and private wastewater septic systems will be proposed on each lot.
- Methods for fire protection comply with Chapter 6 of the Land Development Code. A fire protection report and wildfire hazard mitigation report have been provided for this development.
- Offsite impacts are expected to be minimal and, therefore, offsite improvements should not be necessary for this project.

- The County is charging various fees to mitigate the impacts of this proposed subdivision.
- All applicable sections of Chapter 6 & 8 of the Land Development Code are met by this project.
- No commercial mining deposits have been identified within the proposed subdivision.
- A 50' ROW is being dedicated for Walker Road for this project.
- Road impact fees will be due at building permits for new construction on lots.

VICINITY MAP



# PRELIMINARY PLAN HIGH VIEW ESTATES

A SUBDIVISION OF A PORTION OF THE NORTHWEST QUARTER  
OF THE SOUTHEAST QUARTER OF SECTION 18,  
TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH P.M.,  
EL PASO COUNTY, COLORADO

**LEGAL DESCRIPTION:**

The Northwest Quarter of the Southeast Quarter of Section 18, Township 11 South, Range 65 West of the 6th Principal Meridian, except any portion lying within Walker Road.

Containing a calculated area of 1,710,761 square feet (39.273668 acres), more or less.

The following metes and bounds legal description is provided pursuant to the requirements of the El Paso County Planning and Community Department only and is not intended to replace the record legal description shown above.

Beginning at the southwest corner of said Northwest Quarter of the Southeast Quarter;

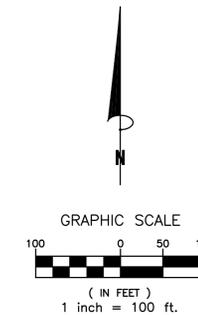
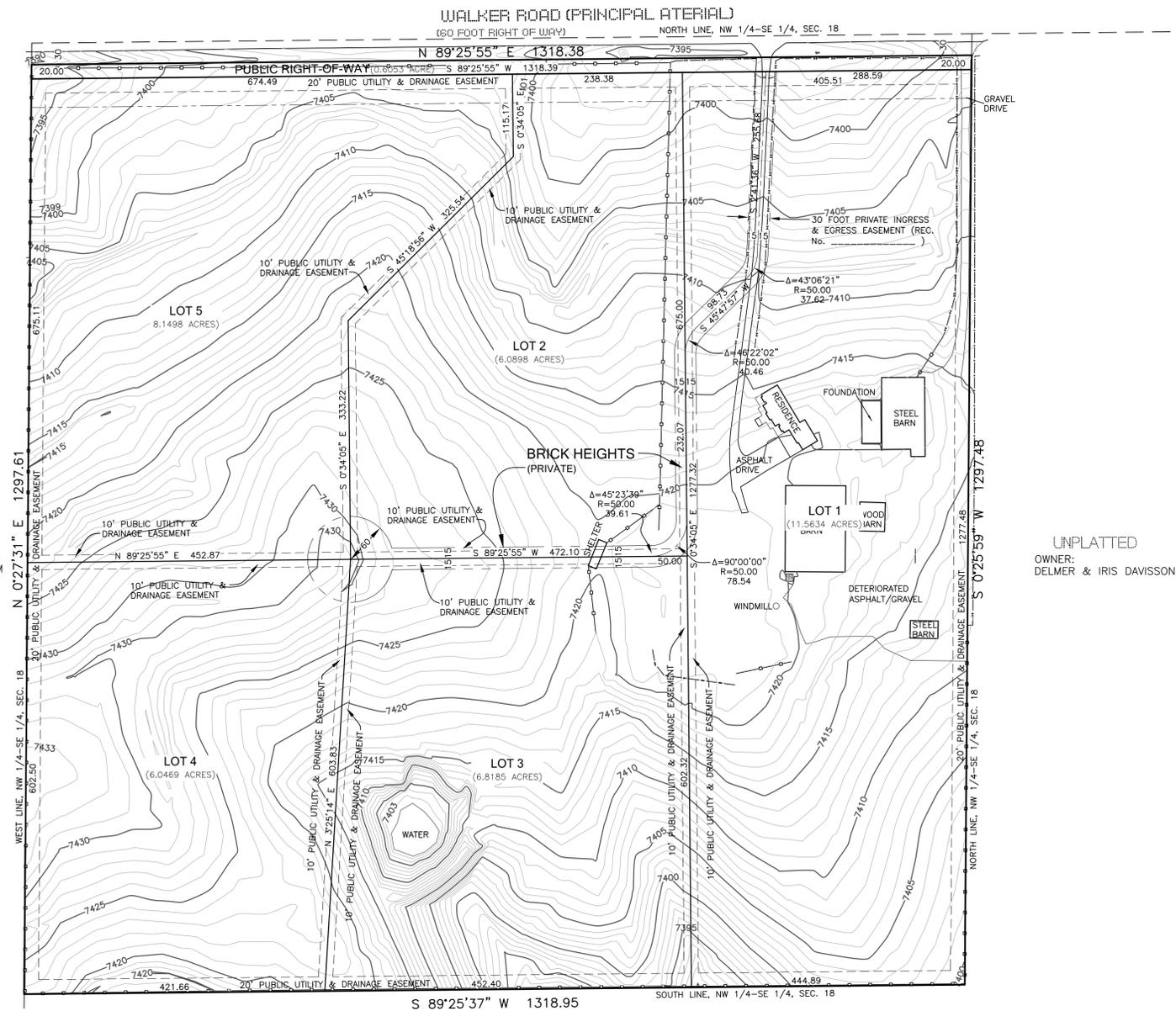
thence along the west line of said Northwest Quarter of the Southeast Quarter North 0 degree 27 minutes 31 seconds East, 1297.61 feet to the south line of Walker Road;  
thence along said south line North 89 degrees 25 minutes 55 seconds East, 1318.38 feet to the east line of said Northwest Quarter of the Southeast Quarter;  
thence along said east line South 0 degree 25 minutes 59 seconds West, 1297.48 feet to the southeast corner of said Northwest Quarter of the Southeast Quarter;  
thence along the south line of said Northwest Quarter of the Southeast Quarter South 89 degrees 25 minutes 37 seconds West, 1318.95 feet to the point of beginning.

UNPLATTED  
OWNER:  
RICHARD & KAREN BLOOM

UNPLATTED  
OWNER:  
DELMER & IRIS DAVISSON

**FLOODPLAIN:**

This property is located within Zone X (areas determined to be outside the 500-year flood plain) as established by FEMA per FIRM panel 08041C0305 G, effective date, December 7, 2018.



UNPLATTED  
OWNER:  
DELMER & IRIS DAVISSON

Owner of Record:  
Collin G. Brones  
Paul A. Smith  
6665 Walker Road  
Colorado Springs, CO 80908



COMPASS SURVEYING & MAPPING, LLC  
3249 WEST CAREFREE CIRCLE  
COLORADO SPRINGS, CO 80917  
719-354-4120  
WWW.CSAMLIC.COM

PCD FILE No. MS222

REVISIONS:	

PROJECT No. 21118  
JULY 26, 2022  
SHEET 1 OF 1



August 1, 2022

Kylie Bagley  
El Paso County Development Services Department  
[DSDcomments@elpasoco.com](mailto:DSDcomments@elpasoco.com)

**RE:** High View Estates Subdivision AKA 6665 Walker Road Minor Subdivision  
NW ¼ of the NE ¼, Sec. 18, T11S, R65W, 6<sup>th</sup> P.M.  
Water Division 1, Water District 8

Dear Kylie Bagley,

We have reviewed the additional information received by this office on July 26, 2022 regarding the above referenced referral. The Applicant is proposing to subdivide 40 acres into five lots. This office previously commented on the above referenced referral in a letter dated April 12, 2022, this letter supersedes the previous letter.

### Water Supply Demand

According to the submittal the estimated water requirements total 5 acre-feet annually (1.0 acre-feet/lot), for in-house use in 5 residences, irrigation of 1.28 acres of home gardens and lawns, and watering of 10 large domestic animals total.

### Source of Water Supply

The proposed source of water is individual on-lot wells, including the existing well currently operated under permit no. 87040-F, producing from the not-nontributary Dawson aquifer that will operate pursuant to the decree and plan for augmentation in Division 1 Water Court case no. 2021CW3119. The plan for augmentation approved in case no. 2021CW3119 allows for an average withdrawal of 5 acre-feet annually from the Dawson aquifer for a maximum of 300 years. According to the decreed augmentation plan 5 acre-feet per year will be withdrawn through five wells, including the existing well currently operated under permit no. 130940 (canceled by permit no. 87040-F) limited to 1 acre-foot per year per well to be used for indoor use, irrigation of lawn and garden and the watering of domestic animals and livestock.

Well permit no. 87040-F was issued on June 1, 2022 pursuant to section 37-90-137(4), C.R.S. to change the use of an existing well constructed under permit no. 130940 (canceled) to withdraw groundwater from the Dawson aquifer to be located on proposed Lot 1, High View Estates Subdivision. The well is permitted to withdraw 1 acre-foot per year for indoor use, irrigation of lawn and garden and the watering of domestic animals.

The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to 37-90-137(4)(b)(I), C.R.S., "Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years." Based on this allocation approach, the annual amounts of water decreed in 2021CW3119 are equal to one percent of the total amount, as determined



by rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

The *El Paso County Land Development Code*, Section 8.4.7.(B)(7)(b) states:

“(7) Finding of Sufficient Quantity

(b) Required Water Supply. The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of 300 years.”

The State Engineer’s Office does not have evidence regarding the length of time for which this source will “meet the average annual demand of the proposed subdivision.” However, treating El Paso County’s requirement as an allocation approach based on three hundred years, the proposed annual water demand equals the allowed average annual amount of withdrawal of 5 acre-feet per year, allowed by the augmentation plan. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

Applications for on lot well permits, submitted by an entity other than the current water right holder (Collin Brones), must include evidence that the applicant has acquired the right to the portion of water being requested on the application.

#### State Engineer’s Office Opinion

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

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

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory allocation approach, for the proposed 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 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 Ailis Thyne of this office at 303-866-3581 x8216.

Sincerely,

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

Joanna Williams, P.E.  
Water Resource Engineer

Ec: Subdivision file: 29145  
File permit no. 87040-F

# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

**Kenneth R. Hodges, County Attorney**

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August 12, 2022

High View Estates – Preliminary Plan  
SP-22-6

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

### **FINDINGS AND CONCLUSIONS:**

1. This is a subdivision proposal by Collin Brones and Paul Smith (“Applicant”) for a 5-lot subdivision on a parcel of 40 +/- acres of land (the “property”). There is an existing residence and existing well on the property which will continue to be utilized. The property is zoned RR-5 (Rural Residential).

#### Estimated Water Demand

2. Pursuant to the Water Supply Information Summary (“WSIS”), the water demand for the subdivision is 5.0 acre-feet/year, reflecting 0.25 acre-feet/lot for household use (1.25 acre-feet total), plus 3.2 acre-feet/year for irrigation and 0.55 acre-feet/year for stock watering equating to 1.0 acre-feet/year for each lot. Based on this total demand, Applicant must be able to provide a supply of 1,500 acre-feet of water (5.0 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement.

#### Proposed Water Supply

3. The Applicant has provided for the source of water to derive from individual on-lot wells in the not nontributary Dawson aquifer as provided in Findings of Fact, Conclusions of Law, Ruling of Referee and Decree, Division 1 Case No. 21CW3119 (“Case No. 21CW3119”, “Decree” or “Augmentation Plan”). The Decree was granted to Collin Brones on March 9, 2022.

The Decree adjudicated 3,800 acre-feet of Dawson-aquifer water underlying the 40-acre property.<sup>1</sup> Pursuant to the Augmentation Plan, the “Brones Wells will pump a maximum of 5.0 acre-feet of water per year from the Dawson aquifer. Indoor use will utilize an estimated 0.25 acre-feet of

<sup>1</sup> Note: The Decree also adjudicated water in the following aquifers: Denver (3,300 acre-feet), Arapahoe (1,730 acre-feet), and Laramie-Fox Hills (1,200 acre-feet).

water per year per residence, with the remaining 0.75 acre-feet per year pumping entitlement available for other uses on the Applicant's Property, including, irrigation of lawn and garden and the watering of domestic animals and livestock."

#### State Engineer's Office Opinion

4. In a letter dated August 1, 2022, the State Engineer stated the estimated water requirements are 5.0 acre-feet/year, which reflects 1.0 acre-feet/lot based on household use, irrigation of 1.28 acres of lawns and gardens and watering of 10 large domestic animals for the subdivision. The State Engineer noted that "[t]he plan for augmentation approved in case no. 2021CW3119 allows for an average withdrawal of 5 acre-feet annually from the Dawson aquifer for a maximum of 300 years." Further, the State Engineer identified an existing well on the property (Well Permit No. 130940) which will continue to be utilized on Lot 1. On 6/1/22, Applicant's well was re-permitted as Well Permit No. 87040-F.

Finally, the State Engineer provided their opinion that "pursuant to 30-28-136(1)(h)(l), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights. Our opinion that the water supply is adequate is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions."

#### Recommended Findings

5. Quantity and Dependability. Applicant's water demand for the High View Estates Subdivision is 5.0 acre-feet per year for a total demand of 1,500 acre-feet for the subdivision for 300 years. The Decree and Augmentation Plan in Case No. 21CW3119 permits withdrawal of 5.0 acre-feet/year (1,500 acre-feet total) of Dawson-aquifer water for a period of 300 years.

**Based on the water demand of 5.0 acre-feet/year for the High View Estates Subdivision and Case No. 21CW3119 permitting withdrawals in that amount, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the High View Estates Subdivision.**

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

7. Basis. The County Attorney's Office reviewed the following documents in preparing this review: The Water Supply Information Summary provided on July 19, 2022, a Water Resources Report from Monson, Cummins, Shohet & Farr, LLC dated March 11, 2022, the State Engineer's Office Opinion dated August 1, 2022, and Decree and Augmentation Plan in Case No. 21CW3119 issued on March 9, 2022. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. **Should the information relied upon be found to be incorrect, or should the below**

**requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.**

**REQUIREMENTS:**

A. Applicant and its successors and assigns shall comply with all requirements of the Decree and Augmentation Plan in Case No. 21CW3119. Water use shall not exceed 5.0 acre-feet annually for the 5-lot subdivision for a period of 300 years. Stream depletions shall be replaced with non-evaporative septic system return flows for a period of 300 years pursuant to the Court's approved augmentation plan.

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

C. Applicant shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of the Decree and Augmentation Plan in Case No. 21CW3119.

Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 1,500 acre-feet of non nontributary Dawson aquifer water and 1,500 acre-feet of nontributary Denver aquifer water pursuant to Case No. 21CW3119. The Covenants shall further identify that 300 acre-feet (1.0 AF/year) of Dawson aquifer water and 300 acre-feet of Denver aquifer water is allocated to each residential lot. Said reservation shall recite that this water shall not be separated from transfer of title to the property and shall be used exclusively for primary water supply.

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

3) Require non-evaporative septic systems and reserve return flows from the same. The Covenants shall require each lot owner to use a non-evaporative septic system to ensure that return flows from such systems are made to the stream system to replace actual deletions during pumping, shall reserve said return flows to replace depletions during pumping, and shall state hat said return flows shall not be separately sold, traded, assigned, or used for any other purpose. The Covenants more specifically shall require that each lot served have an occupied single-family dwelling that is generating return

flows from a non-evaporative septic system before any irrigation or animal watering is allowed. The Covenants shall also include the following or similar language to ensure that such return flows shall only be used for replacement purposes: "Return flows shall only be used for replacement purposes, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose."

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

"The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not Case No. 21CW3119 and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

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

6) Require well permits. The Covenants shall require that well permits be obtained pursuant to the requirements of Division 1 Case No. 21CW3119 and C.R.S. § 37-90-137.

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

"Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the High View Estates Subdivision pursuant to Case No. 21CW3119. Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney's Office. Any amendments must be pursuant to the Division 1 Water Court approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such adjudication."

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

“These Covenants shall not terminate unless the requirements of Case No. 21CW3119 are also terminated by the Division 1 Water Court and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

D. Applicant and its successors and assigns shall reserve in any deeds of the Property Dawson aquifer water in the decreed amount of 300 acre-feet (1.0 AF/year for 300 years) and Denver aquifer water in the decreed amount of 300 acre-feet per lot. Said reservation shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply.

E. Applicant and its successors and assigns shall convey by recorded warranty deed those reserved Dawson and Denver aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Dawson and Denver aquifers to satisfy El Paso County's 300-year water supply requirement.

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary supply (Dawson aquifer): “These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during pumping, for each of the lots of the High View Estates Subdivision. The water rights so conveyed and the return flows therefrom shall be appurtenant to each of the respective lots with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

F. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions, and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney's Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney's Office prior to recording the final plat. Said Declaration shall cross-reference Case No. 21CW3119 and shall identify the obligations of the individual lot owners thereunder.

G. Applicant and its successors and assigns shall record all applicable documents, including, but not limited to, Case No. 21CW3119, agreements, assignments, and warranty deeds regarding the water rights, and Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

H. Prior to recording the final plat – Applicant shall upload to eDARP the following:

1. A copy of Well Permit No. 87040-F;
2. A corrected Water Resources Report indicating on page 2, paragraph 3, that there are five individual wells in the Dawson aquifer (not three).

I. The following plat note shall be added that addresses the State Engineer’s admonition to advise landowners of potential limited water supplies in the Denver Basin:

“Water in the Denver Basin aquifers is allocated based on a 100-year aquifer life; however, for El Paso County planning purposes, water in the Denver Basin aquifers is evaluated based on a 300-year aquifer life. Applicant and all future owners in the subdivision should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than either the 100 years or 300 years used for allocation indicated due to anticipated water level declines. Furthermore, the water supply plan should not rely solely upon non-renewable aquifers. Alternative renewable water resources should be acquired and incorporated in a permanent water supply plan that provides future generations with a water supply.”

cc: Kylie Bagley, Planner II