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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

## SUMMARY MEMORANDUM

TO: El Paso County Board of County Commissioners  
FROM: Planning & Community Development  
DATE: 9/28/2023  
RE: MS226; McDaniels Road Minor Subdivision (AKA Zindorf Subdivision No.3)

### Project Description

A request by Greg Zindorf for approval of a 40-acre Minor Subdivision illustrating four (4) single-family lots in the RR-5 zoning district.

### Notation

Please see the Planning Commission Minutes from September 7, 2023, for a complete discussion of the topic and the project manager's staff report for staff analysis and conditions.

### Planning Commission Recommendation and Vote

Ms. Brittain Jack moved / Mr. Schuettpelz seconded to recommend approval of item MS226 utilizing the resolution attached to the staff report with ten (10) conditions, two (2) notations, and a recommended conditional finding of water sufficiency with regard to quality, quantity, and dependability. The motion was **approved (6-1)**. The item was heard as a regular item at the Planning Commission hearing. Public opposition was received.

### Discussion

Various members from the community spoke in opposition to this project due to flooding, maintenance for McDaniels Road and losing the character of the area. Ms. Brittain Jack expressed understanding for the opposition in relation to losing character of the area, however, mentioned this is private property and the property owner is allowed to do as they wish with the property. Mr. Smith expressed concerns about the floodplain within the property needing further investigation. Mr. Whitney mentioned that the zoning for the property was approved and the subsequent subdivision to follow makes sense.

### Attachments

1. Planning Commission Minutes from 9/7/2023.
2. Signed Planning Commission Resolution.
3. Planning Commission Staff Report.
4. Public Comments.
5. Draft BOCC Resolution.

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## **EL PASO COUNTY PLANNING COMMISSION**

### **MEETING RESULTS (UNOFFICIAL RESULTS)**

Planning Commission (PC) Meeting  
Thursday, September 7, 2023  
El Paso County Planning and Community Development Department  
2880 International Circle – Second Floor Hearing Room  
Colorado Springs, Colorado

#### **REGULAR HEARING, 9:00 A.M.**

**PC MEMBERS PRESENT AND VOTING:** SARAH BRITTAIN JACK, JAY CARLSON, BRANDY MERRIAM, ERIC MORAES, BRYCE SCHUETTPELZ, WAYNE SMITH, AND CHRISTOPHER WHITNEY.

**PC MEMBERS VIRTUAL AND VOTING:** NONE.

**PC MEMBERS PRESENT AND NOT VOTING:** JIM BYERS.

**PC MEMBERS ABSENT:** THOMAS BAILEY, BECKY FULLER, JEFFREY MARKEWICH, KARA OFFNER, AND TIM TROWBRIDGE.

**COUNTY STAFF PRESENT:** MEGGAN HERINGTON, JUSTIN KILGORE, JOSHUA PALMER, GILBERT LAFORCE, KYLIE BAGLEY, CARLOS HERNANDEZ MARTINEZ, DANIEL TORRES, ED SCHOENHEIT, ASHLYN MATHY, MIRANDA BENSON, AND LORI SEAGO.

**OTHERS PRESENT AND SPEAKING:** JENN EISENHART, WAYNE ROBINSON, GAIL ROBINSON, PATTY ERNST, MARGARET WEISHUHN, CHRIS JEUB, MATT DUNSTON, BARB KUNKEL, PAM RESNER, HEATHER TIFFANY, MIKE PROVENCAL, ALTON GANSKY, VICKI DAVIS, CORY TOWN, BRYAN CANAAN, JAKE VAN PELT, RIKKI VAN PELT, MELANIE SWEET, JOE BARAN, JANET SCHULTE, AND STEVE CLARK.

#### **1. REPORT ITEMS**

**A. Planning Department.** The next PC Hearing is Thursday, September 21, 2023, at 9:00 A.M.

#### **2. CALL FOR PUBLIC COMMENT FOR ITEMS NOT ON THE HEARING AGENDA.**

**Ms. Jenn Eisenhart** spoke about her difficult experience with a developer from a past project regarding utility improvements and following the approved design guidelines. She mentioned LDC Chapter 8 requirements. It was asked that she give her contact info to Mr. Kilgore so that he and Ms. Seago can investigate the situation and get back to her.

### 3. CONSENT ITEMS

A. Adoption of Minutes of meeting held August 17, 2023.

**PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (7-0).**

B. VR236

MATHY

**VACATION AND REPLAT  
POWERS CENTRE FILING NO. 3A**

A request by Oliver Watts Consulting for approval to Vacate and Replat one (1) lot into three (3) lots. The 5.55-acre property is zoned CR (Commercial Regional) and is located east and south of the intersection of Powers Boulevard and Palmer Park Boulevard. (Parcel No. 5406304050) (Commissioner District No. 2).

**NO PUBLIC COMMENT OR DISCUSSION.**

**PC ACTION: MORAES MOVED / BRITAIN JACK SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM NUMBER 3B, FILE NUMBER VR236 FOR A VACATION AND REPLAT, POWERS CENTRE FILING NO. 3A, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SIX (6) CONDITIONS, ONE (1) NOTATION, AND A RECOMMENDED FINDING OF CONDITIONAL SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (7-0).**

C. P233

MATHY

**MAP AMENDMENT (REZONE)  
16850 STEPLER ROAD - REZONE**

A request by Charlie Stewart for approval of a Map Amendment (Rezoning) of 36.38 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The property is located at 16850 Stepler Road, approximately one-half mile from the intersection of Settlers Ranch Road and Stepler Road. (Parcel No. 6100000485) (Commissioner District No. 1).

**PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM BY MR. WHITNEY.**

D. MS226

MATHY

**MINOR SUBDIVISION  
MCDANIELS ROAD MINOR SUBDIVISION**

A request by Greg Zindorf for approval of a 40-acre Minor Subdivision illustrating four (4) single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 22755 McDaniels Road, at the corner of McDaniels Road and Log Road (Parcel No. 3400000295) (Commissioner District No. 4).

**PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER PUBLIC REQUEST.**

E. P232

BAGLEY

**MAP AMENDMENT (REZONE)  
2020 N. ELLICOTT - CORDERO FIL. 2 REZONE**

A request by Angel Cordero for approval of a Map Amendment (Rezoning) of 16.59 acres from A-35 (Agricultural) to A-5 (Agricultural). The property is located at 2020 North Ellicott Highway and is 1.5 miles north of the intersection of Ellicott Highway and Highway 24. (Parcel No. 3400000482) (Commissioner District No. 4).

**PC ACTION: BRITAIN JACK MOVED / MERRIAM SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM NUMBER 3E, FILE NUMBER P232 FOR A MAP AMENDMENT (REZONE), 2020 N. ELLICOTT - CORDERO FIL. 2 REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (7-0).**

F. VA232

BAGLEY

**VARIANCE OF USE  
7135 TEMPLETON GAP - LANDSCAPING BUSINESS**

A request by Ben Fisk for approval of a Variance of Use on 5.00 acres to allow a contractors equipment yard in the RR-5 (Residential Rural) zoning district. The property is located at 7135 Templeton Gap Road and is 0.33 miles south of the intersection of East Woodmen Road and Templeton Gap Road. (Parcel No. 5307000005) (Commissioner District No. 2).

**PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM BY MR. CARLSON.**

**4. CALLED-UP CONSENT ITEMS:**

3C. P233

MATHY

**MAP AMENDMENT (REZONE)  
16850 STEPLER ROAD - REZONE**

A request by Charlie Stewart for approval of a Map Amendment (Rezoning) of 36.38 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The property is located at 16850 Stepler Road, approximately one-half mile from the intersection of Settlers Ranch Road and Stepler Road. (Parcel No. 6100000485) (Commissioner District No. 1).

**STAFF & APPLICANT PRESENTATIONS**

**Mr. Carlson** asked for the definition of Agricultural Stand and asked if produce could be both sold and stored.

**Ms. Mathy** answered that it could be any agricultural structure and doesn't specify the storage. She stated there should be a buffer between the stand and neighbors. Presentation continued.

**Mr. Whitney** asked if the area was surrounded by RR-5.

**Ms. Mathy** answered that it is surrounded by RR-5 and PUD.

**Mr. Whitney** asked how the lots are smaller than 5 acres if the zoning is RR-5.

**Ms. Mathy** answered that they may have been platted that way, which can happen for many reasons.

**Mr. Carlson** asked to be shown which parcels are less than 5 acres.

**Ms. Mathy** pointed several out on the slideshow image. Presentation continued.

**Mr. Whitney** clarified that even though they are only requesting to rezone currently, they could have the ability to subdivide later. Ms. Mathy confirmed. Presentation Continued.

**Mr. Kilgore** answered the earlier question regarding surrounding lot sizes. The adjacent properties are 3.82, 2.5, and 2.5 acres. Presentation Continued.

**Ms. Herington** provided clarification that the surrounding area is not entirely RR-5. She referred to an image in the presentation. The pink represents a PUD of 2.5-acre zoning.

**Mr. Whitney** referred to the staff report's analysis.

**Ms. Mathy** explained that different resources (GIS, Assessor, etc.) were showing different results, but the PUD is accurate.

**Mr. Carlson** asked about the zoning of the lot directly north of the subject property.

**Ms. Merriam** asked for the GIS overlay of the surrounding area.

**Ms. Mathy** showed the GIS of the zoning. The parcel immediately north is PUD.

**Ms. Merriam** asked if livestock is on the properties south and east of the subject property.

**Ms. Mathy** answered that the zoning is RR-5.

**Ms. Herington** added that livestock would be allowed on those properties, but PCD can't answer whether or not they're raising livestock.

**Mr. Whitney** stated he's familiar with the area and there is livestock. Presentation continued.

**Mr. Moraes** pointed out that the rezone map provided by the applicant shows RR-5 as the surrounding zoning.

**Mr. Noah Brehmer**, with Kimley Horn & Assoc., reiterated that there is a disconnect between the Assessor's Office and the current PUD zoning per GIS. The PUD is correct.

**NO PUBLIC COMMENTS. NO FURTHER DISCUSSION.**

**PC ACTION: BRITAIN JACK MOVED / SMITH SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM NUMBER 3C, FILE NUMBER P233 FOR A MAP AMENDMENT (REZONE), 16850 STEPLER ROAD -**

**REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH FIVE (5) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (6-1).**

**IN FAVOR:** BRITTAIN JACK, CARLSON, MORAES, SCHUETTPELZ, SMITH, AND WHITNEY.

**IN OPPOSITION:** MERRIAM.

**COMMENTS:** MS. MERRIAM is concerned about losing land in the eastern part of the County. It's part of the culture. MR. SCHUETTPELZ clarified that he felt comfortable recommending approval because the area is truly surrounded by RR-2.5 and PUD of that same size. This is a good transition.

**3D. MS226**

**MATHY**

**MINOR SUBDIVISION  
MCDANIELS ROAD MINOR SUBDIVISION**

A request by Greg Zindorf for approval of a 40-acre Minor Subdivision illustrating four (4) single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 22755 McDaniels Road, at the corner of McDaniels Road and Log Road (Parcel No. 3400000295) (Commissioner District No. 4).

**STAFF & APPLICANT PRESENTATIONS**

**Ms. Merriam** asked if each property would need their own well and septic systems. (Carlos confirmed) She then asked if septic systems would affect the floodplain.

**Ms. Seago** explained that the State Engineer's Office issues the well permits and determines location. The County Public Health Department issues septic system permits and determines location.

**Mr. Carlson** asked if driveways could cross the floodplain.

**Mr. Hernandez Martinez** answered that he doesn't think they can. Grading within a floodplain is deferred to the PPRBD Floodplain Administrator and is typically not allowed.

**Ms. Herington** added that the floodplain is in a "no-build" area identified on the plat which would mean that no roads or driveways are allowed within that area.

**Mr. Carlson** clarified then that if homes were built on the south side of the floodplain, they would not be able to access Log Road to the north.

**Mr. Hernandez Martinez** agreed and stated they would need access from McDaniels Road.

**Mr. LaForce** stated he needed to make a correction. He stated "no-build" refers to structures. Roads and/or driveways could be allowed but would need additional permitting from the PPRBD Floodplain Administrator. It's not generally recommended because someone could be stranded in their home if they're not able to cross their driveway during a flood. There is no ECM criterion that says they can't do it.

**Ms. Herington** reiterated that from the Planning perspective, when single-family home site plans are reviewed by PCD, they *are* evaluated with the floodplain and "no-build" designation in mind.

She stated PCD would have a say in the site of the homes and whether they cross the floodplain. It is PCD's intent that the homes should not need to cross the floodplain to access the road.

**Mr. Carlson** stated that he is concerned that someone in the future could propose subdividing the lots further (for example, cutting each lot in half). He asked if the newly created lots could be granted access to any other road besides McDaniels Road to the north.

**Ms. Herington** stated that if someone was proposing a subdivision in the future, they would need to go through this same process and that topic would be explored at that time.

**Mr. Whitney** asked if the property was currently zoned RR-5. (Ms. Mathy confirmed.) He further asked if the area is surrounded by A-35 zoning. (Ms. Mathy confirmed.)

**Mr. Carlson** clarified that the rezoning was already approved.

**Ms. Mathy** confirmed and further stated that the proposed lots exceed the RR-5 5-acre minimum.

**Mr. Carlson** asked what the word "illustrated" means within the context used for this project. Is that implying there would be a later change to the number of lots.

**Ms. Mathy** used the word "shown". She further stated that the 4 lots currently proposed are also what is shown on the applicant's Final Plat. They are each under 10 acres.

**Ms. Herington** mentioned that the lot sizes are under 10 acres each, so they would not easily be able to further subdivide as Mr. Carlson was asking. Presentation continued.

**Mr. Smith** asked how much area is available on which to build a home under the assumption that home sites will be restricted to the north of the floodplain on the western lot.

**Mr. Guman**, with William Guman & Assoc., stated he did not have the exact amount of square footage available, but there should be plenty of space to accommodate a home of a similar size to the existing home on the far eastern lot. There's no way to know where a future owner will propose to build a home, but it cannot be within the floodplain.

**Ms. Herington** asked Ms. Mathy to clarify the next steps in the process before homes are built.

**Ms. Mathy** explained that after this Minor Subdivision, individuals may pull building permits and bring site plans to the PCD admin staff for review. Nothing further is presented to PC/BOCC.

**Mr. Guman** added that the PPRBD Floodplain Administrator will also review the plans. Presentation continued.

**Mr. Byers** asked if the existing driveway will be relocated or if there is a proposed access easement. If the land is subdivided, that driveway would go through a neighboring lot.

**Mr. Guman** stated a new driveway will be built.

## **PUBLIC COMMENTS**

**Mr. Wayne Robinson** stated that McDaniels Road was recently out of service for 3 weeks due to a 16' deep, 28' long washout. He stated that all the water that comes from the north runs through the eastern proposed lots.

**Ms. Gail Robinson** stated that the proposed lots would access McDaniels road along her pasture. She stated that when they purchased their property, it was surrounded by 40-acre lots. She discussed the past zoning changes in the area. There are subdivided parcels but there are also large-acreage parcels. McDaniels Road washed out in June of 2023. She stated that people would need to build driveways on bridges if they put their homes south of the floodplain. She thinks the Master Plan calls for the area to be preserved.

**Mr. Moraes** clarified that the Planning Commission failed to make a motion regarding the McDaniels rezone in November of 2022, resulting in no recommendation being sent to the BOCC.

**Ms. Patty Ernst** stated she raises cattle and horses in the area. She spoke about zoning. There are RR-5 5-acre lots on Hwy 94 in the Mayberry subdivision. She opposed those rezones. When there was flooding on the subject parcel, the flooding also went across Log Road. She disagrees with the size of the parcels due to the floodplain. She discussed the overall acreage being different than the buildable acreage. She doesn't think the land should be subdivided into 4 lots.

## **DISCUSSION**

**Mr. Moraes** asked if there is any type of warning the County issues to a potential buyer that a property contains a floodplain.

**Ms. Seago** answered that it's depicted on the plat which is recorded as public record. A potential property owner doing their due diligence should easily find that information.

**Ms. Brittain Jack** commented that Ms. Robinson has her own 40 acres that she can do with as she wishes. This application is about someone else's private property.

**PC ACTION: BRITTAIN JACK MOVED / SCHUETTPELZ SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM NUMBER 3D, FILE NUMBER MS226 FOR A MINOR SUBDIVISION, MCDANIELS ROAD MINOR SUBDIVISION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TEN (10) CONDITIONS, TWO (2) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (6-1).**

**IN FAVOR:** BRITTAIN JACK, CARLSON, MERRIAM, MORAES, SCHUETTPELZ, AND WHITNEY.

**IN OPPOSITION:** SMITH.

**COMMENTS:** Mr. Smith thinks floodplain concerns need to be further investigated. Mr. Whitney commented that zoning concerns are not part of the consideration regarding the subdivision request.



**VARIANCE OF USE  
7135 TEMPLETON GAP - LANDSCAPING BUSINESS**

A request by Ben Fisk for approval of a Variance of Use on 5.00 acres to allow a contractors equipment yard in the RR-5 (Residential Rural) zoning district. The property is located at 7135 Templeton Gap Road and is 0.33 miles south of the intersection of East Woodmen Road and Templeton Gap Road. (Parcel No. 5307000005) (Commissioner District No. 2).

**STAFF & APPLICANT PRESENTATIONS**

**Mr. Carlson** asked about the location of the driveway.

**Mr. Hernandez Martinez** referenced a map in the presentation to show the driveway on Templeton Gap Road. Presentation continued.

**Mr. Carlson** asked about the City zoning on the property to the south.

**Ms. Bagley** stated she would research the City's zoning while the applicant presents. (The applicant addressed the answer during their presentation. The southern area is zoned PUD AO, and the western area is zoned C6.) Presentation continued.

**Mr. Carlson** asked about the current layout of the lot. Does it match the proposed site plan?

**Mr. Fisk**, the applicant, answered that most of the lot matches the site plan and meets all setbacks.

**Mr. Schuettepelz** asked why rezoning was not an option.

**Mr. Fisk** stated City services (e.g., water) are not yet available. As the southern parcel is developed, it may become an option.

**Mr. Schuettepelz** asked how lacking City services prevented rezoning. Can he operate with his well and septic systems?

**Mr. Fisk** mentioned the cost of bringing the water line to his property.

**Mr. Schuettepelz** clarified that he's not talking about annexation, he is asking why rezoning to commercial within the County isn't an option.

**Ms. Bagley** explained that if the applicant wanted to rezone to commercial, he would need to apply for a commercial well. That could also allow for greater commercial development to move into the area near the existing residential. By pursuing a Variance of Use, that surrounding residential area is protected.

**NO PUBLIC COMMENTS****NO FURTHER DISCUSSION**

**PC ACTION: MERRIAM MOVED / MORAES SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM NUMBER 3F, FILE NUMBER VA232 FOR A VARIANCE OF USE, 7135 TEMPLETON GAP - LANDSCAPING BUSINESS, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND THREE (3) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (7-0).**

## 5. REGULAR ITEMS

### A. MS233

**BAGLEY**

#### **MINOR SUBDIVISION GUNNERS RIDGE**

A request by Drew Makings for approval of a 38.83-acre Minor Subdivision illustrating four (4) single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 12172 Goodson Road and is directly northwest of the intersection of Goodson Road and Ayer Road. (Parcel No. 5214000014) (Commissioner District No. 2).

#### **STAFF & APPLICANT PRESENTATIONS**

**Mr. Moraes** asked for clarification regarding the requested waiver from the LDC.

**Ms. Bagley** clarified that the letter of intent indicates no waiver, but the applicant does need to request a waiver. This was caught during the review process. The applicant was not asked to resubmit a new letter of intent. She apologized that the waiver was not part of the PC report packet and ensured the BOCC would be presented with the waiver request. Presentation continued.

**Mr. Moraes** asked if lining the three smaller lots on the eastern side had been considered. Would that have forgone requesting the waiver?

**Mr. Drew Makings**, the applicant, stated that it may have forgone the waiver, but would not have allowed for buildable lots due to the powerline easements along the eastern side of the parcel.

#### **NO PUBLIC COMMENTS**

#### **DISCUSSION**

**Mr. Moraes** asked to review the criteria of approval for a waiver from the LDC (Section 7.3.3). As he looks through the criteria, he isn't sure the request meets criteria number 5.

**Mr. Makings** stated that one of the requirements was to have a shared driveway. If the subdivided lots were moved to the east, it would not be possible to meet that requirement.

**PC ACTION: SCHUETTEL MOVED / SMITH SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM NUMBER 5A, FILE NUMBER MS233 FOR A MINOR SUBDIVISION, GUNNERS RIDGE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH EIGHT (8) CONDITIONS, TWO (2) NOTATIONS, ONE (1) WAIVER, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER**

**QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (6-1).**

**IN FAVOR:** BRITAIN JACK, CARLSON, MERRIAM, SCHUETTPELZ, SMITH, AND WHITNEY.

**IN OPPOSITION:** MORAES.

**COMMENTS:** Mr. Moraes stated he did not think the criteria of approval for the waiver were met, so he could not vote in favor of the application.

## **5. REGULAR ITEMS**

**B. AL2217**

**HOWSER**

### **SPECIAL USE COLORADO KIDS RANCH PUMPKIN PATCH**

A request by Colorado Pumpkin Patch, LLC for approval of a Special Use on 40.52 acres to allow agritainment activities with additional conditions in the RR-5 (Residential Rural) zoning district. The property is located at 18065 Saddlewood Road. Agritainment is a permitted use by right in the RR-5 zoning district; however, agritainment which does not comply with the provisions of the Land Development Code shall require Special Use approval. (Parcel No. 611600001) (Commissioner District No. 1).

#### **STAFF PRESENTATION**

**Mr. Carlson** asked if the applicant could still operate the pumpkin patch with a 50-car limit if this proposal is not approved.

**Mr. Kilgore** confirmed. They may need to adjust the site plan, but it would remain approved.

**Mr. Carlson** stated the tulip festival was retroactively denied.

**Mr. Kilgore** confirmed and clarified that a future tulip festival could be approved with a 50-car limit. The presentation continued.

**Mr. Carlson** asked if the property had access to Hwy 105.

**Mr. Kilgore** stated it does not. Traffic gains access through the subdivision. Presentation continued.

**Mr. Moraes** asked if access to Hwy 105 would have been allowed if they were proposing a subdivision.

**Mr. Torres** answered that it would not likely meet the requirements of the ECM, but a deviation request would need to be submitted to analyze the specific details. There is a subdivision just north of this location that has temporary access to Hwy 105. That plat identifies that Hwy 105 access shall be closed once access is provided from another road to the northeast.

**Mr. Moraes** stated the western red line on the presentation image looks like it is covering something.

**Mr. Torres** stated it's an existing driveway that does not connect to Hwy 105. Presentation continued.

**Mr. Carlson** clarified during presentation of the conditions/notations that PCD could retract approval of the Special Use if the applicant is found to be in violation.

**Mr. Kilgore** stated that would be at the discretion of the BOCC. PCD could not directly rescind approval, it would need to go through a process.

**Mr. Moraes** asked how long that process takes. Is it a longer timeframe than these events occur?

**Mr. Kilgore** answered that he doesn't have an exact amount of time because it involves the Code Enforcement procedure. Once a complaint is received, the officer goes out to observe, issues a notice of violation, and they give the property owner time to remedy the situation. If it's not resolved, the Executive Director issues a letter, which escalates to the BOCC. It takes time.

**Mr. Moraes** commented that the agritainment events are short-term.

**Mr. Kilgore** agreed and noted the background slides of the presentation did show that multiple Code Enforcement cases were closed because the event had discontinued during that process. Presentation continued.

**Mr. Whitney** clarified that the applicant could host their events with 50 cars today. (Mr. Kilgore confirmed.) Mr. Whitney further clarified that the current request is to host their events with up to 325 cars. (Mr. Kilgore confirmed.) Mr. Whitney asked what effect the 120-day requirements outlined in the proposed conditions of approval would have on hosting this year's pumpkin patch event.

**Mr. Kilgore** answered that his understanding is that the applicant is requesting approval of this proposal prior to hosting this year's pumpkin patch event so they can operate under this Special Use approval of 325 cars and work on the necessary improvements (Site Development Plan and screening improvements) in a tiered system afterwards to get where they need to be for the following season.

**Mr. Whitney** clarified that approval of this proposal with the existing conditions/notations would take effect for the 2024 season. This year's pumpkin patch event would proceed with 325 cars and no improvements. By next year, they will need to meet the outlined conditions.

**Mr. Kilgore** confirmed and made note of condition 4; roadway improvements prior to 9/1/2024.

## **APPLICANT PRESENTATION**

**Mr. Moraes** asked how the number of 325 was decided as the maximum number of cars.

**Ms. Ruiz**, with Vertex Consulting, answered that they evaluated the highest number of cars they experienced recently (275) and added a buffer.

**Mr. Carlson** pointed out that it was mentioned several times during the presentation that events are only currently taking place for 6 weeks and 2 weekends during the year. He asked if the applicant could host events at the proposed capacity throughout the entire year if this proposal is approved.

**Ms. Ruiz** stated that could be correct; theoretically, they could be in operation all year.

**Mr. Carlson** asked if there is anything keeping people from parking on the public roads and walking into the event if the event meets the capacity of 325 cars.

**Ms. Ruiz** answered that terms within the LDC for Special Use specify that all parking must be on-site. Off-site parking could result in revocation of the approval.

**Mr. Kilgore** stated that they would expect people to park on-site.

**Mr. Carlson** proposed a scenario where people may be turned away from the parking lot due to the set limit. If that family then parked on the public road and walked into the event, what would happen? That could happen because there's nothing to keep people from parking on the road.

**Mr. Kilgore** stated he would defer to Code Enforcement to answer that question.

**Mr. Moraes** asked if the traffic generation table during the applicant's presentation was using the assumption of 325 vehicles. (Ms. Ruiz confirmed.) He then asked how May 15<sup>th</sup> relates to the annual tulip festival.

**Ms. Ruiz** answered that it may fluctuate depending on when the bloom occurs, but May 15<sup>th</sup> is typically the first weekend of the tulip festival.

## **PUBLIC COMMENTS IN SUPPORT**

**Ms. Margaret Weishuhn** is concerned that the cars may be limited to 50. There are workers at every amenity. After employee parking, that wouldn't leave many spaces for visitors. Limiting parking would shut down the pumpkin patch. There are pros and cons to the location but it should be in the country. People know about the pumpkin patch and travel to it every year. The Chapmans run Awana and help neighbors. She stated the pumpkin patch is good for families.

**Mr. Chris Jeub** stated that traffic and congestion were commonly mentioned in the letters of opposition, but he didn't observe any problems on his frequent travels to Denver while taking Hwy 105. He thinks trust should be put in the traffic studies. He mentioned the Master Plan and stated it encourages agricultural business like the pumpkin patch. He stated the sacrifice the Chapmans are presenting to maintain this type of business is encouraging to him. He urged the PC to "make this work" through the bumps in the road and to approve the 325 parking spots for the limited time it would be used to keep the pumpkin patch as part of the County.

**Mr. Matt Dunston** stated the pumpkin patch is a key feature of the area. He stated that parties with musicians at Limbach Park in Monument have more than 50 cars gathered. When thinking of the region, he thinks about Monument Academy, churches, golf courses, and the YMCA. He thinks the pumpkin patch is in the perfect location. He spoke about the background of the property. The pumpkin patch honors agrarian roots. He referenced Ms. Ruiz' comments regarding the BOCC adopting the 50-car limit. He stated the past BOCC acknowledged that some could exceed that 50-car limit when it makes sense and meets the criteria. He stated PC and BOCC typically review land-use items that deviate from what has historically been there, but he thinks this proposal (to allow up to 325 cars) keeps what has historically been there. He added that it may not be for the PC to

discuss, but \$750,000 (the applicant's estimated cost of improvements) is a lot of money. He thinks the County should help with that cost.

**Ms. Barb Kunkel** stated she supports investing in kids, teenagers, and the future. She stated the pumpkin patch is important to the kids in the community. She likes the hands-on learning and environment. She has a tradition that all families from her martial arts school go to the pumpkin patch together. Their group alone would exceed 50 cars. The Chapmans are looking for a solution that sustains the business and the farm with a win-win to the community and their family. The pumpkin patch has become a local tradition for many people of all ages.

**Ms. Pam Resner** is disappointed that a solution was not agreed upon before getting to this point. She works at the pumpkin patch. She mentioned that the Master Plan addresses tourism, which the pumpkin patch increases. People come from surrounding towns and cities. The business trains future workers who then go out in the community and share their experience. Kids learn service and community interaction. She stated it's a healthy, safe place to gather for teens. She stated the Master Plan identifies employment in the area should be promoted. She stated youth programs, schools, and businesses gather at the pumpkin patch to strengthen connections, which promotes the health, safety, and wellness of the community.

**Ms. Heather Tiffany** shared that her daughters both work at the pumpkin patch and love being there. She referenced a moment earlier in public hearing where a woman was opposed to the subdivision of 40 acres near her; Ms. Brittain Jack stated that the owner of the 40 acres can use it how they want. She stated the Chapmans are choosing to use their land in this way and they should be able to use it how they'd like.

## **PUBLIC COMMENTS IN OPPOSITION**

**Mr. Mike Provencal** stated that this neighborhood is an equestrian residential neighborhood. He doesn't understand how a business license was issued within a residential neighborhood. He has observed their business growing and a changed limit in their parking. He stated that he sees this as a company wanting to make more money at the neighborhood's expense. He stated that while he was walking his dog on Canterbury Dr last pumpkin patch season, he encountered a friend and her daughter riding horses. The traffic disregarded the speed limit and ignored the pedestrians and horseback riders so that they had to go into the shoulder to avoid being hit. He doesn't think a business like this belongs in their neighborhood.

**Mr. Alton Gansky** stated the Canterbury Dr is a narrow winding road with many hills. There are inadequate shoulders and steep drop-offs. When there is two-way car traffic, it becomes very dangerous for anyone walking dogs or riding horses. He stated there is a need for dust control and mitigation. Dust can linger in the air for up to 10 days. He researched articles on carcinogens caused by traffic. Traffic needs to slow down. He stated there are 4 entrances to the neighborhood that lead to Canterbury Dr which was not meant for heavy two-way traffic. He thinks someone is going to get hurt. Spraying water on the road to mitigate dust is going to cause the wells to run dry. All 4 roads within the subdivision would need to be paved, or the pumpkin patch would need to be given access to Hwy 105. He can't go outside when they are having events.

**Ms. Vicki Davis** stated she no longer feels safe walking down her own street. The children can no longer ride their bikes and neighbors with horses can no longer ride on the roads. She stated the pumpkin patch is an amazing thing, but they're not taking the neighborhood and families into consideration. They have never followed the existing 50-car limit and have not been held accountable. She doesn't believe they will follow a 325-car limit or keep events limited to 6 weeks and 2 weekends as they declare.

**Mr. Cory Town** lives at the intersection of Canterbury and Saddlewood. He supports the activities promoted by the pumpkin patch but he stated that the effect it's having on his property during the events is terrible. He does not oppose the agritainment permit as it exists with a 50-car limit because that is what he believes to be reasonable when they only have access through the residential community. He understood traffic would increase when this began 5 years ago, but the limit has been exceeded many times. He is concerned for the safety of children and people walking or riding horseback in the community. He mentioned the excessive amount of dust caused by traffic on dirt roads that are not meant for the high volume of use. He also mentioned the fire risk; there is only one entrance/exit on a small dirt driveway with no access to Hwy 105. There are no fire hydrants in the Canterbury subdivision. He observed people littering trash, and once saw someone flick a cigarette butt from their car window as he was blocked from exiting his driveway. He stated cars already park along Saddlewood (as was discussed earlier in the hearing). He stated that he has continuously had to pick up trash on his property along Saddlewood.

**Mr. Bryan Canaan** (Gave presentation, slideshow attached.) Topics included argued compatibility with the Master Plan: large-lot residential should preserve the rural aesthetic, businesses should not be located on a rural residential dirt road, and there should be compatibility with the character of the existing developed area. Semi-trucks deliver pumpkins to the property because they're not grown on-site. Topics also included the quantity and scale of commercial-style events (year-round), the high number of people visiting the property, not meeting the State's definition of "agritourism", and attractions not being agricultural in nature as defined by State legislation.

**Mr. Jake Van Pelt** (Gave presentation, photos attached.) Topics included: Traffic putting their kids in danger, the dust causing hazardous breathing conditions, and the events overburdening the community infrastructure and environment.

**Ms. Rikki Van Pelt** (Gave presentation, photos attached.) Topics included how she believes the application does not meet 2 Special Use criteria of approval; number 2, The Special Use will be in harmony with the character of the neighborhood and will generally be compatible with the existing and allowable land uses in the surrounding area; and number 6, The Special Use will not otherwise be detrimental to the public health, safety, and welfare of the present or future residents of El Paso County. The community is a quiet equestrian neighborhood. The dust caused by the high volume of traffic on the dirt road is affecting her health. Events held on the property have not been following the existing regulations. The scale of traffic is causing unsafe conditions.

**Ms. Melanie Sweet** (Gave presentation, photos attached.) Topics included: The existing roads being used for the high volume of traffic, the safety of pedestrians, and the safety of her family. The traffic and street parking blocked access to her own property. She supports agriculture, but

the reality of what is taking place on the subject property is dangerous. Livestock were once allowed to open graze. The current use is not preserving the land.

**Mr. Joe Baran** stated he was almost hit by cars twice on Canterbury Drive last fall during weekday pumpkin patch events. After that happened, he counted 51 cars traveling south and 29 cars traveling north on Canterbury within 15 minutes. He stated it's unsafe within his neighborhood.

**Ms. Janet Schulte** stated she was disappointed by the applicants' failure to address the safety measures that they will take moving forward. She reiterated that the applicant has not complied with the initial agritainment permit. She doesn't have confidence that the proposed 5-year public improvement mitigation plan will be followed. The traffic issue makes it unsafe for residents. There is no screening proposed along the east side of the property.

**Mr. Steve Clark** (on the phone) mentioned that most letters received in support are not residents that have to live with the excessive traffic in their covenant-controlled subdivision. He stated this type of proposal would not be allowed within other covenant-controlled subdivisions like Broadmoor. He reiterated the discussion regarding unsafe traffic. He stated the proposed fencing for mitigation would destroy the open, rural aesthetic. Without Hwy 105 access, he is opposed to the application.

## **DISCUSSION**

**Mr. Craig Dossey**, with Vertex Consulting, addressed the public comments. He stated that the neighborhood being described as a residential equestrian neighborhood is "categorically wrong" because the LDC does not limit the use to residential or equestrian. He stated it is not a residential equestrian neighborhood. He addressed the agritainment use within the neighborhood and mentioned that the State made sure to define agritainment as a land-use type. He stated the Chapmans are not exceedingly profitable. They cannot control the behavior of traffic, but they are proposing safe improvements. He disagrees with County staff's traffic improvement assessment because he thinks the intersection is already functioning at an acceptable level of service. Dust caused by cars would be addressed when the road improvements are completed, and he stated the dust being caused by the activities is less than it would be if they were farming the land. Addressing the concerns that high levels of traffic for events will be year-round; it could be. He stated that anyone who runs a business and is expected to put in the financial investment that the County is requiring would need to host events year-round to see a return. He stated he's not sure horses should be allowed on the neighborhood roads. They're public-maintained roads. Mr. Chapman tried to get access off Hwy 105 but the County denied the deviation. He disagreed that the Master Plan calls for businesses to gain access off a major roadway because it specifically says, "located on", not "accesses onto". The business is adjacent to Hwy 105. Access points onto arterial roads are limited. He stated agritainment is more in-line with the character of the area than single-family development because agriculture predates residential. Regarding the allegations of disregard for the rules, he stated that Mr. Kilgore's timeline showed a history of compliance and that litigation for non-compliance was never initiated. He stated County staff gave the Chapmans bad information and once Mr. Chapman realized his business needed to grow and that he was not in compliance, he realized he needed to make improvements. He stated that residents set out speed and counting strips and found that speeding was not an issue. Screening was not proposed on the east side of the property because a fence would not block anything due to topography. The homes on the east



side are higher in elevation and it would take a taller structure than a standard fence to be effective, which would increase the cost to Mr. Chapman. He mentioned that the neighbor across the driveway from the Chapmans sent in a letter of support. He then reiterated comments made by those in support of the agritainment use. He stated the modified conditions that they proposed in their presentation make a compromise that the applicant can meet. He stated the Chapmans would never be able to afford the road improvements if they were limited to 50 cars.

**Ms. Merriam** asked if a partnership with law enforcement to address traffic was explored.

**Mr. Dossey** stated Mr. Chapman didn't anticipate his business growing like it did. There's no way to anticipate the number of cars each day. He thinks Mr. Chapman would be open to hiring law enforcement, but that depends on cost.

**Mr. Whitney** asked for Mr. Dossey's rebuttal to the assessment that the events are no longer agricultural in nature, no longer agritainment, but are more of an amusement park.

**Mr. Dossey** answered that he doesn't think there's a great definition of agritainment. He stated that when agritainment was drafted in the LDC, they looked to the State for a definition but that wasn't a lot of help. He stated that not every accessory land-use is going to be captured explicitly in the definitions, but that doesn't mean it's not compatible with the principal use. A pumpkin patch by itself may be boring. Some of the attractions are necessary to maintain the business, however there's a fine line between what is necessary for the business and it turning into something else. That's why the site plan is reviewed.

**Mr. Whitney** stated that was his understanding from the comments of opposition; while it began with the right idea, it has morphed into something different.

**Mr. Dossey** replied that it happens with Variance of Use and Special Use applications; a slide into something different. However, the site plan and the letter of intent are enforceable documents. If it's not within those documents, it's not allowed on the property.

**Mr. Moraes** asked if there's an admission fee for the events on the property.

**Mr. Dossey** verified with the applicant that there is an admission fee.

**Mr. Moraes** then stated that the use seems to be sliding into the "Amusement Center, Outdoor" definition from the LDC. There are several similarities. He thinks there can be a case that it falls under outdoor amusement center when it goes from a fall festival and a tulip festival to year-round events to make money.

**Mr. Dossey** stated that applicants depend on PCD staff to determine what the use is.

**Mr. Moraes** commented that a citizen could go to PCD staff and say it's not agritainment anymore. If PCD staff agrees, it could become a Code Enforcement issue.

**Mr. Smith** asked if the pursuit of access to Hwy 105 had been exhausted. He asked if there was a way to appeal the denial of access.

**Mr. Dossey** answered that when he was the Planning Director in the past, it was his belief that any decision he made should be able to be appealed to the BOCC. He then stated that when they asked if they could appeal the engineering department's denial, they were told no. He stated there is no avenue for them to appeal.

**Ms. Herington** added that the County Engineer is in attendance and can give more information of the reasoning behind the denial for access off Hwy 105. Things have changed since Mr. Dossey was the Director. The County Engineer and Engineering are both now under Public Works.

**Mr. Dossey** stated he wanted to correct Ms. Herington and the County Engineer was in a different department when he was Director and he could not override the County Engineer.

**Mr. Carlson** reminded the audience that the PC decision is a recommendation to the BOCC and not a final decision.

**Mr. Moraes** asked what PCD staff thought of the applicant's proposed conditions of phasing.

**Mr. Carlson** asked if there were now 10 conditions of approval.

**Mr. Kilgore** clarified that the applicant's representation has proposed 10 conditions. PCD staff's 4 recommended conditions are the compromise between the applicant's request and what is required by Code. He stated the application is still going back and forth with review comments and Ms. Ruiz just submitted a revised Letter of Intent (that is before the board). He stated the application has not been addressed to PCD staff's satisfaction.

**Mr. Moraes** noted that the limit of 325 cars is not listed in the 4 conditions on the resolution.

**Mr. Kilgore** stated that could be added. Normally there is a condition of approval that refers to the letter of intent, but that hasn't been finalized at this point.

**Mr. Moraes** agreed that it normally refers to the letter of intent, but the conditions presented refer to the site plan, which he does not see limiting the cars to 325. He referred to the rebuttal comment that the applicant can't control the behavior of the drivers and comparisons to traffic in other areas of Colorado Springs, but a major difference in this area is the lack of sidewalks. Canterbury Dr and Saddlewood Rd are local roads, not arterials or collectors. When he looks at the ECM definition for local roads, it says, "accesses shall not be allowed to compromise the safety, health or welfare of roadway users." The roadway users are vehicles, pedestrians, and, in this area, horseback riders. The applicant spoke on levels of service, which is all about traffic and turning movements, but nothing about safety. The criteria of approval for Special Use talks about hazards. He reiterated that the Special Use request is about increased cars over 50, not agritainment. The applicant's rebuttal was mostly about the agritainment, not the increase in cars. He stated that he reads the criteria of approval by replacing the term "special use" with "more than 50 vehicles". For example, will *more than 50 vehicles* create traffic hazards in the surrounding area? He wonders if the increase in the number of cars can be allowed incrementally. For example, allow up to 100 cars to see how it is going, or the increase in allowed vehicles will only be permitted until a certain date and then will be reevaluated. He suggested increments for if more events are added and the requested 325 cars is no longer 6 weeks of the year but 30 weeks of the year. As it is presented now, it's going from 50 allowed cars to 325 allowed cars on the property, which he thinks is too far regarding safety on a local roadway.

**Mr. Whitney** clarified that Mr. Moraes would read the fourth criteria of approval as, "The allowance of 325 cars will not create unmitigated traffic congestion or traffic hazards in the surrounding area..."

**Mr. Moraes** answered that he would use the phrase, "anything more than 50" because that's what is already allowed.

**Ms. Merriam** asked again if law enforcement should be guiding people during events. Is law enforcement the proper use for public safety?

**Mr. Moraes** responded that the idea is doable but hasn't been part of the plans submitted by the applicant. Providing law enforcement as a mitigating solution has not been included or offered in the application. The concern is not Hwy 105, but after the traffic is in the neighborhood.

**Ms. Merriam** asked if PCD staff considered law enforcement.

**Mr. Kilgore** answered that PCD cannot compel the applicant to hire off-duty law enforcement. He wasn't part of PCD when this project began, but he usually suggests to applicants that it would be in their best interest to involve law enforcement when hosting major events.

**Mr. Carlson** asked Ms. Seago what the PC should consider as the request because he sees different language in paperwork in front of him, including differing conditions and notations.

**Ms. Seago** answered that she understands the focus of the discussion has been a limit of 325 cars, though that is not part of the conditions. PC can add that to the conditions. The PC is considering agritainment under added parameters.

**Mr. Carlson** clarified that the added parameters are the conditions and notations.

**Ms. Seago** confirmed. The conditions and notations are up to the PC.

**Mr. Carlson** sought clarification on what is being requested.

**Ms. Herington** added that it's difficult because there is no approved site development plan. The number 325 came from the traffic study, which triggered the roadway improvements needing to be installed. The County is not recommending a limit of 325 cars, just saying that the number 325 was used in the traffic study to determine roadway improvements. The site development plan will show how many parking spots on-site are being requested, which drives the limit of vehicles. She suggested that if the PC wants to add a condition of approval to include a limit to the number of vehicles, PCD staff would need to have a site plan to look at to determine that possibility.

**Mr. Kilgore** agreed and added that Ms. Seago or the PC can come up with added recommended conditions for the BOCC.

**Mr. Schuettpelz** added that in addition to the potential limit on the number of vehicles, the PC is also considering the conditions regarding the timeline of the required improvements. PCD made recommendations and the applicant has come back with a suggested 5-year span. He compared the situation to when other developers come in with proposals; they're not given negotiated timelines to make improvements.

**Mr. Moraes** stated he didn't think the request was ready for "prime time". He referred to the PCD recommended conditions of approval. The applicant didn't seem to have objections to number 1, but there is no site plan presented. How can they vote on the recommendation if they don't have a site plan in front of them?

**Ms. Herington** answered that a site plan as referenced in condition number 1 is included with the packet and shows the general location of fencing, etc. Condition number 2 specifies that a site *development* plan is required within 120 days. The site development plan gives more specific details.

**Mr. Moraes** understood.

**Mr. Carlson** clarified that if they approve of what they have presented before them, it would be after this year's pumpkin patch before improvements are made.

**Mr. Kilgore** advised that the BOCC will consider this application on 9/14/2023 at 1:30 p.m.

**Mr. Dossey** clarified that the site development plan doesn't get reviewed by the PC or BOCC. The site plan is tied to the Special Use and is reviewed by the BOCC, and the site development plan is reviewed administratively. Regarding the discussion of hiring officers or off-duty law enforcement as traffic mitigation, he stated the County told them it was not a viable option and physical improvements to the roads were still required. He stated they've tried to mitigate the traffic impact but can only work within what the engineers and regulations tell them to do.

**Ms. Brittain Jack** mentioned a previous project that had multiple agencies collaborating.

**Mr. Dossey** mentioned that part of the solution for that project was to lease parking space from another nearby business. He stated that he discussed with the applicant, and Mr. Chapman is agreeable to setting the parking limit at 325 and delineating the spaces so the County can verify.

**Mr. Whitney** stated he would feel better about having a defined number included in the conditions instead of leaving it open to anything over 50 vehicles.

**Mr. Josh Palmer**, the County Engineer, spoke with Ms. Merriam to clarify what she meant when suggesting uniformed traffic control.

**Ms. Merriam** clarified that law enforcement has its own definition of public safety, and since public safety is listed in the LDC criteria, she is unsure if the County has a definition of public safety and if PCD needs to coordinate with law enforcement.

**Mr. Palmer** gave details about the discussion that took place between his department and the applicant. He stated they had discussed the possibility of using a temporary work zone as an alternative to the requirement for turn lanes or other improvements to Hwy 105. When Mr. Dossey mentioned that the idea was shot down, it wasn't done to dissuade uniformed traffic control as a mitigation factor to the neighborhood. They only denied using work zone conditions as an alternative to the requirement to install turn lanes on Hwy 105. His primary concern regarding any improvement in the area is its impact on Hwy 105 because it is an arterial roadway. He listed types of concerns that are evaluated. He mentioned that something not considered

within the discussion on level of service was the traffic already using the two-lane road. He stated there are no turn lanes or shoulders, so as traffic is leaving or turning into the neighborhood, it backs up and causes delays. He explained that depending on how far the back-up goes, it could cause site-distance issues and cause accidents. Part of the discussion with the applicant included work zone conditions (flaggers, traffic control, etc.) but it was not appropriate. He stated that uniformed traffic control may still be an option that could be pursued further, but it's more applicable to the safety concerns (speeding, parking, unsafe driving, etc.).

**Ms. Merriam** asked if Mr. Palmer is indicating there are other options that have not been evaluated.

**Mr. Palmer** stated he does not recall if uniform traffic control was specifically discussed but it could be an option. He does not see it as a viable option to get around the requirement for intersection improvements on Hwy 105. He added that the County is open to additional traffic control measures within the neighborhood (signage, reinforcement, etc.). One of those options could be uniformed traffic control but he's unsure of their availability.

**Ms. Brittain Jack** mentioned another area on Hwy 105 that has no traffic control and asked about its mitigation.

**Ms. Seago** questioned the relevance of the issue.

**Ms. Brittain Jack** clarified that she's asking about access off Hwy 105.

**Mr. Palmer** answered that it would be mitigated by installing turn lanes.

**Ms. Brittain Jack** further clarified that there are other instances along Hwy 105 where access has been granted and she wonders if the rules apply the same to everyone.

**Ms. Seago** responded that because her example involves a school, it was not required to go through the same site development plan process with the County. She added that if they had been required to go through the same process, Ms. Brittain Jack may not be experiencing the traffic situation she described.

**Mr. Palmer** agreed and added there is a project in the works on Hwy 105 to mitigate traffic issues.

**Mr. Carlson** reiterated that the applicant has agreed to an added condition limiting the vehicle count to 325. If applicable, he reminded anyone making a motion to include that detail if they choose.

***(A motion was made with no modification to the County's recommended conditions or notations)***

**Mr. Moraes** agreed that the pumpkin patch is great for the community and the County, but he is considering the application as it has been presented. He believed the incremental conditions suggested by the applicant were reasonable. He would have liked to see an incremental gain in the number of vehicles allowed to see how it works, especially with the history of violations. Though they are discussing the intersections, they are not focusing on the safety within the Canterbury neighborhood. He is not in support of the motion.

**Mr. Whitney** clarified that Ms. Brittain Jack did not include an added condition of approval to limit the number of parked vehicles at 325. (She did not.)

**Mr. Carlson** explained that the way the motion was made, they would be recommending approval of the Special Use to allow more than 50 cars. They would not be recommending a limit on the number of vehicles or anything else.

**PC ACTION: BRITTAIN JACK MOVED / MERRIAM SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM NUMBER 5B, FILE NUMBER AL2217 FOR SPECIAL USE, COLORADO KIDS RANCH PUMPKIN PATCH, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH FOUR (4) CONDITIONS AND THREE (3) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION FAILED (2-5), RESULTING IN A RECOMMENDATION FOR DENIAL.**

**IN FAVOR:** BRITTAIN JACK AND MERRIAM.

**IN OPPOSITION:** CARLSON, MORAES, SCHUETTELZ, SMITH, AND WHITNEY.

**Ms. Merriam** stated she believes that both sides have another way to address the issue but there's an answer in there. She stated that she voted in support of the motion because she thinks there needs to be more options available than were discussed.

**Mr. Schuettzelz** stated that in addition to earlier comments, he disagreed with the timeframe proposed to make the necessary improvements. The applicant stated they wouldn't be able to complete the improvements in the recommended time, but he believes 5 years is too long. He doesn't think the discussion of turning traffic adequately addresses the nature of the problem. Regarding the criteria of approval, he stated the added traffic *does cause* an undue burden.

**Mr. Carlson** agreed that the pumpkin patch is fantastic for the community, but it is causing a negative impact on the neighborhood. He doesn't think the BOCC or State intended that a venue should be routed through a residential neighborhood when they promoted agritainment. Other pumpkin patches that he can think of are more remote and when people are exiting, they have easier access to major roads. He hopes they can find a solution but thinks that directing the proposed number of people through a neighborhood will be tough to get done.

**C. NON-ACTION ITEMS - NONE.**

**MEETING ADJOURNED** at 3:09 P.M.

**Minutes Prepared By:** Miranda Benson

FINAL PLAT (RECOMMEND APPROVAL)

Brittain Jack moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. MS-22-006

MCDANIELS ROAD MINOR SUBDIVISION (AKA ZINDORF SUBDIVISION NO.3)

WHEREAS, Greg Zindorf did file an application with the El Paso County Planning and Community Development Department for approval of a final plat for the Zindorf Subdivision No. 3 for the 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 September 7, 2023; 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 proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;
6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations; and

7. For the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, when approving a minor subdivision, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (as amended):

1. The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
2. The subdivision is consistent with the purposes of the Land Development Code ("Code");
3. The subdivision is in conformance with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analysis, studies, reports, plans, designs, documents, and other supporting materials.
4. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code.
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of the Code.
6. All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)].
7. Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual ("ECM") are provided by the design.
8. 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.
9. Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County and in compliance with the Code and the ECM.
10. The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features



in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.

11. Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.
12. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.
13. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the 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 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 SIA so the impacts of the subdivision will be adequately mitigated.
16. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. § 34-1-302(1), et seq.].

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

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Greg Zindorf for a minor subdivision final plat of the Zindorf Subdivision No.3 be approved by the Board of County Commissioners with the following conditions and notations:

#### CONDITIONS

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

3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Park fees in lieu of land dedication for regional parks region 4 in the amount of \$1,840 and there are no urban park fees associated with this project. The regional park fees shall be paid at the time of plat recordation.
9. Fees in lieu of school land dedication in the amount of \$740.00 shall be paid to El Paso County for the benefit of Ellicott School District 22 at the time of plat recording.
10. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated August 28, 2023, as provided by the County Attorney's Office.

#### NOTATIONS

1. Final plats not recorded within 24 months of Board of County Commissioners approval shall be deemed expired, unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

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.

Schuettpelz seconded the adoption of the foregoing Resolution.

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

Thomas Bailey	aye / no / non-voting / recused / <u>absent</u>
Sarah Brittain Jack	<u>aye</u> / no / non-voting / recused / absent
Jim Byers	aye / no / <u>non-voting</u> / recused / absent
Jay Carlson	<u>aye</u> / no / non-voting / recused / absent
Becky Fuller	aye / no / non-voting / recused / <u>absent</u>
Jeffrey Markewich	aye / no / non-voting / recused / <u>absent</u>
Brandy Merriam	<u>aye</u> / no / non-voting / recused / absent
Eric Moraes	<u>aye</u> / no / non-voting / recused / absent
Kara Offner	aye / no / non-voting / recused / <u>absent</u>
Bryce Schuettpelz	<u>aye</u> / no / non-voting / recused / absent
Wayne Smith	aye / <u>no</u> / non-voting / recused / absent
Tim Trowbridge	aye / no / non-voting / recused / <u>absent</u>
Christopher Whitney	<u>aye</u> / no / non-voting / recused / absent

The Resolution was adopted by a vote of <sup>10-1</sup> to by the El Paso County Planning Commission, State of Colorado.

DONE THIS 7th day of September 2023 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By:   
Thomas Bailey, Chair  
Jay Carlson, Vice-Chair

EXHIBIT A

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 14 SOUTH,  
RANGE 63 WEST OF THE 6TH P.M., COUNTY EL PASO, STATE OF COLORADO.

SAID TRACT CONTAINS 39.67 ACRES OF LAND, MORE OR LESS.

**COMMISSIONERS:**  
**CAMI BREMER (CHAIR)**  
**CARRIE GEITNER (VICE-CHAIR)**

**HOLLY WILLIAMS**  
**STAN VANDERWERF**  
**LONGINOS GONZALEZ, JR.**

**PLANNING & COMMUNITY DEVELOPMENT**

**TO: El Paso County Planning Commission**  
**Thomas Bailey, Chair**

**FROM: Ashlyn Mathy, Planner I**  
**Carlos Hernandez, Engineer I**  
**Meggan Herington, AICP, Executive Director**

**RE: Project File Number: MS-22-006**  
**Project Name: McDaniels Road Minor Subdivision**  
**(AKA Zindorf Subdivision No. 3)**  
**Parcel Number: 3400000295**

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
Greg Zindorf Z Investments 731 North Weber Street Suite 10 Colorado Springs, CO 80903	William Guman & Associates, Ltd. Bill Guman bill@guman.net (719) 633-9700

**Commissioner District: 4**

<b>Planning Commission Hearing Date:</b>	<b>9/7/2023</b>
<b>Board of County Commissioners Hearing Date:</b>	<b>9/28/2023</b>

**EXECUTIVE SUMMARY**

A request by Greg Zindorf has been made for approval of a 40-acre Minor Subdivision illustrating four (4) single-family lots in the RR-5 zoning district. The property is zoned RR-5 (Residential Rural), and is located at 22755 McDaniels Road, which is at the corner of McDaniels Road and Log Road.

**A. WAIVERS/DEVIATIONS/AUTHORIZATION**

**Waiver(s)/Deviation(s):** None associated with this project.



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

## **B. APPROVAL CRITERIA**

In approving a final plat, the BoCC shall find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code ("Code") (As Amended):

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
- The subdivision is consistent with the purposes of the Code.
- The subdivision is in conformance with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analysis, 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 the 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 the 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 the Code and the Engineering Criteria Manual ("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 and in compliance with the Code and the ECM.

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- The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, 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 the Code.
- The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the 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 of the Code.
- 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 extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. § 34-1-302(1), et seq.].

**C. LOCATION**

North:	A-35 (Agricultural)	Single Family Residential
South:	A-35 (Agricultural)	Single Family Residential
East:	A-35 (Agricultural)	Single Family Residential
West:	A-35 (Agricultural)	Single Family Residential

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## D. BACKGROUND

The property was zoned A-35 (Agricultural) on March 24, 1999, when zoning was first initiated for this portion of the County. The property was approved for a rezone to the RR-5 (Residential Rural) zoning district at the Board of County Commissioners hearing on November 15, 2022. The applicant is currently proposing a minor subdivision of the parcel into four lots.

## E. ANALYSIS

### 1. Land Development Code Compliance

The final plat application meets the final plat submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the El Paso County Land Development Code (As Amended).

### 2. Zoning Compliance

The property being subdivided into four, 9.36-acre lots meets the minimum lots size requirements of RR-5, being 5 acres. Additionally, the current structures on lot being a residential home meet the property setbacks requirements, being 25 feet from all property lines. There are plans for proposed single family homes, they are intended to be at the front of each lot and will not be close to the floodplain areas. The floodplain runs throughout the four lots, however there are notes on the plat that depict no structures or fencing within the floodplain areas.

## F. MASTER PLAN COMPLIANCE

### 1. Your El Paso County Master Plan

#### a. Placetype Character: Rural

*The Rural placetype comprises rangeland, farms, and other agricultural uses. The primary land use in this placetype is agriculture however residential uses such as farm homesteads and estate residential are allowed as support uses. Residential lot development within the Rural placetype typically cover 35 acres or more per two units with the minimum lot area consisting of 5-acres per unit. The Rural placetype covers most of the eastern half of the County.*

*Rural areas typically rely on well and septic and parcels for residential development tend to be substantial in size. Rural areas are remotely located and distant from high activity areas or dense suburban or urban places, making access to regional transportation routes, such as Highway 24 and Highway 94, vital to the quality of life for rural community residents.*

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*The agricultural lands that Rural areas contain represent a valuable economic resource and unique lifestyle that should be preserved. The Rural placetype includes agricultural lands which represent a valuable economic resource and allow for a unique lifestyle that should be preserved. As growth occurs, some Rural areas may develop and transition to another placetype, however leapfrog development should be discouraged, by pro-actively permitting changing areas contiguous to existing development to another placetype.*

**Recommended Land Uses:**

Primary

- *Agriculture*
- *Parks/Open Space*
- *Farm/Homestead Residential*

Supporting

- *Estate Residential (Minimum 1 unit/5-acres)*
- *Institutional*

**Analysis:**

This proposal is supported by the Master Plan due to the lot sizes exceeding the minimum lot size of the supporting land use of 5-acres. These lots can be used for residential and agricultural uses. Additionally, development is to be expected in the Rural placetype, and these lots have the potential to be developed. In the surrounding area, there is Large-Lot Residential with smaller parcels. This subdivision is still within the character of the area. Lastly, these lots are large enough that more than exceeds the minimum setbacks for the zoning district and does not dramatically increase density to the area.

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

*The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall there will be no change to the prioritized rural and natural environments.*



**Analysis:**

This area of change designation does state a lack of development with a presence of natural areas, the surrounding area of this subdivision falls with in this area of change due to large lots. However, new development is expected to occur, and this proposal would be classified as new development, yet the lots are still large enough to not dramatically change the character. The proposed lots are large enough to match the “rural” area and provide opportunities for farming or agricultural uses, while exceeding the minimum lot size for the zoning district.

**c. Key Area Influences:** The property is not located within a key area.

**d. Other Implications (Priority Development, Housing, etc.)**

Not applicable to this project.

**2. Water Master Plan Analysis**

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

***Goal 3.1** – Promote cooperation among water providers to achieve increased efficiencies on infrastructure.*

***Goal 5.4** – Promote the long-term use of renewable water.*

***Goal 5.5** – Identify any water supply issues early on in the land development process.*

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 4c of the Plan, which is an area anticipated to experience growth by 2040. The following information pertains to water demands and supplies in Region 4c for central water providers:

The Plan identifies the current demand for Region 4c to be 2,970 acre-feet per year (AFY) (Figure 5.1) with a current supply of 2,970 AFY (Figure 5.2). The projected demand in 2040 for Region 4c is at 3,967 AFY (Figure



5.1) with a projected supply of 3,027 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region is 4c is at 4,826 AFY (Figure 5.1) with a projected supply of 3,027 AFY (Figure 5.2) in 2060. This means that by 2060 a deficit of 1,799 AFY is anticipated for Region 4c.

### 3. Other Master Plan Elements

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

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

Please see the Parks Section below for information regarding conformance with The El Paso County Parks Master Plan (2022).

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.

### 2. Floodplain

According to FEMA Flood Insurance Rate Maps, 08041C0810G and 08041C0807G, most of the property is in FEMA Floodplain Zone AE with a small corner section in Floodplain Zone A. There is a channel traversing the property from the northwest to the southeast. An analysis discussing the stability of the channel, current conditions, and water flows was included in the subdivision's final drainage report. The analysis concluded that the channel is currently stable, and no channel stabilization or drainageway improvements are required. The floodplain and channel are in a drainage easement identified as a no-build area on the plat.

### 3. Drainage and Erosion

The property is located within the Ellicott Consolidated Drainage Basin (CHBS1200). There are currently no basin or bridge fees assessed with development in this basin.

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According to the final drainage report the proposed subdivision is expected to have a total site imperviousness of 2.9% and increase flows by 0.4 cfs. Per the drainage report these increases are negligible and will not adversely affect downstream properties. Flows will follow historic patterns and drain towards the southeast corner of the property. A grading and erosion control plan was not required with this application.

#### **4. Transportation**

Access for the proposed subdivision will be provided off McDaniels Road. McDaniels Road is classified as a county maintained rural local gravel road. An existing driveway off McDaniels Road and 3 new driveways from McDaniels Road will provide access for the new lot(s). Lot owners shall apply for individual driveway access permits prior to the start of construction.

Per ECM Appendix B.1.2.D a traffic impact study was not required due to the low traffic generated. The expected average daily traffic is 40 trips.

The subdivision is adjacent to Log Road which is classified as county owned and maintained rural local gravel road. The 2016 Major Transportation Corridors Plan Update (MTCP) shows Log Road being improved to a 2-lane rural major collector. The subdivision is dedicating 30' of right-of-way for McDaniels Road and 45' of right-of-way for Log Road.

Road Impact Fees per (Resolution No. 19-471), as amended, is applicable to the subdivision. The fees shall be collected at the time of building permit approval.

### **H. SERVICES**

#### **1. Water**

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 has made a recommendation for a finding of sufficiency with regards to water quantity and dependability. El Paso County Public Health has made a favorable recommendation regarding water quality sufficiency.

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**2. Sanitation**

Wastewater is provided by an onsite water treatment system.

**3. Emergency Services**

The property is within the Ellicott Fire Protection District.

**4. Utilities**

Mountain View Electric Association, Inc.

**5. Metropolitan Districts**

Ellicott Metropolitan

**6. Parks/Trails**

Fees in lieu of park land dedication in the amount of \$1,840 for regional fees and \$0.00 for urban park fees will be due at the time of recording the final plat.

**7. Schools**

Fees in lieu of school land dedication in the amount of \$740.00 shall be paid to El Paso County for the benefit of Ellicott School District No. 22 at the time of plat recording.

**I. APPLICABLE RESOLUTIONS**

See attached resolution.

**J. STATUS OF MAJOR ISSUES**

No major 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 (As Amended) staff recommends the following conditions and notations:

**CONDITIONS**

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer’s Office that all ad valorem taxes

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applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.

3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Park fees in lieu of land dedication for regional parks region 4 in the amount of \$1,840 and there are no urban park fees associated with this project. The regional park fees shall be paid at the time of plat recordation.
9. Fees in lieu of school land dedication in the amount of \$740.00 shall be paid to El Paso County for the benefit of Ellicott School District 22 at the time of plat recording.

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10. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated August 28, 2023, as provided by the County Attorney's Office.

## **NOTATIONS**

1. Final plats not recorded within 24 months of Board of County Commissioners approval shall be deemed expired, unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

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

The Planning and Community Development Department notified eight (8) adjoining property owners on August 18, 2023, for the Planning Commission meeting. Responses will be provided at the hearing.

## **M. ATTACHMENTS**

Map Series  
Letter of Intent  
Plat Drawing  
State Engineer's Letter  
County Attorney's Letter  
El Paso County Public Health Recommendation Letter  
Draft Resolution



# Map Exhibit

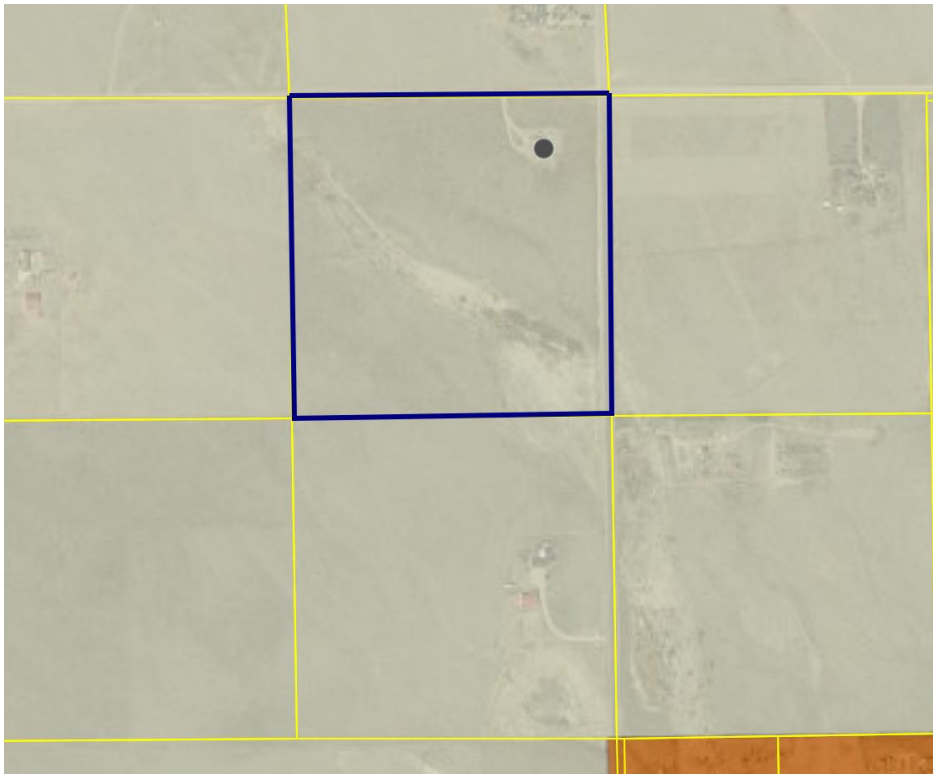
## MS-22-006

Placetype:



- Rural
- Large-Lot Residential
- Suburban Residential
- Urban Residential
- Rural Center
- Regional Center
- Employment Center
- Regional Open Space
- Mountain Interface
- Military
- Utility
- Incorporated Area

Area of Change:



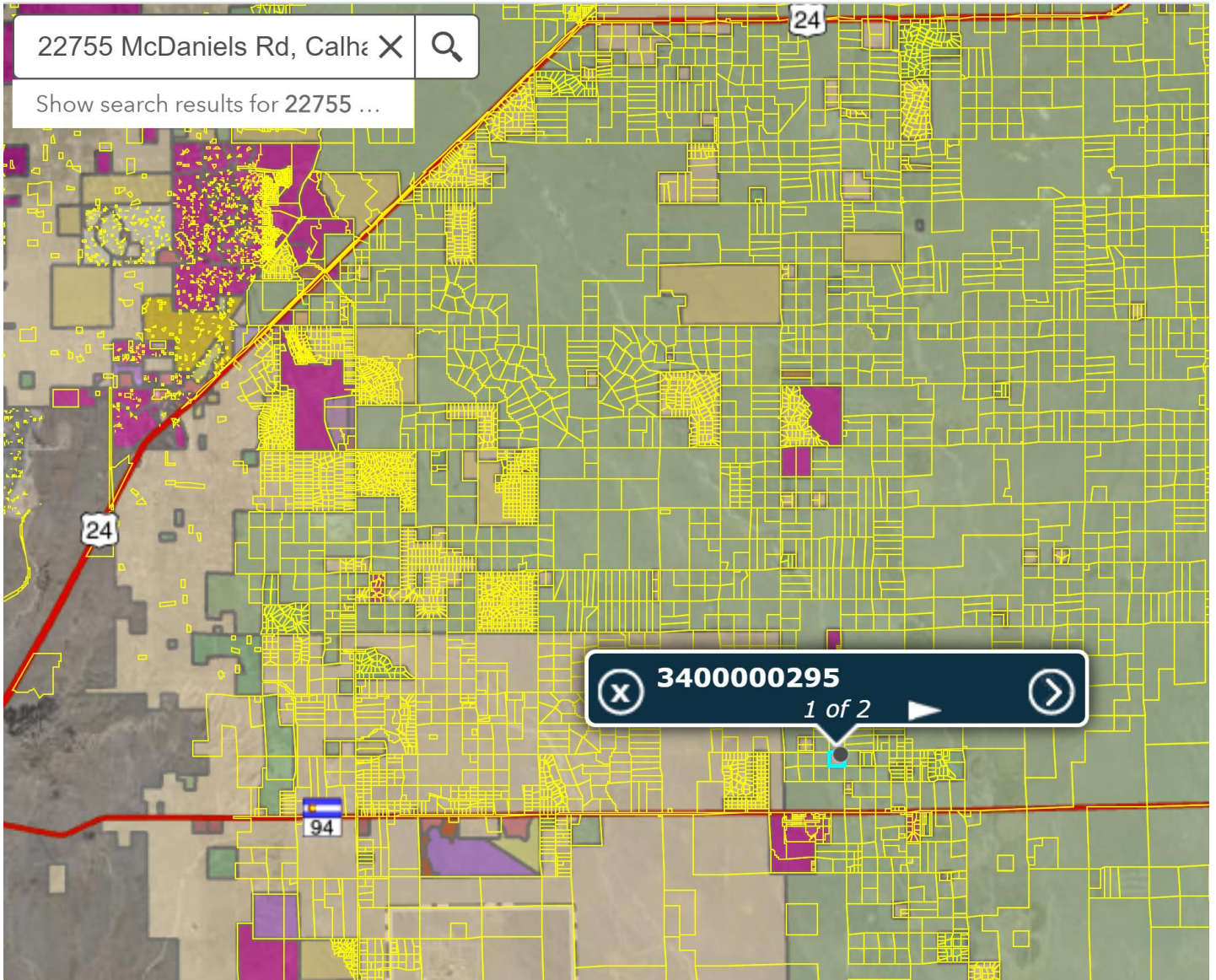
- Protected/Conservation Area
- Minimal Change: Undeveloped
- Minimal Change: Developed
- New Development
- Transition



Key Area:

The property is not located within a key area.

Aerial:





# William Guman & Associates, Ltd.

Bill Guman, RLA, ASLA | Principal  
Colorado Springs City Councilman 1993-2001  
Colorado Springs Planning Commissioner 1992-1993  
Regional Building Commissioner 1997-2001

URBAN PLANNING | COMMUNITY DESIGN | LANDSCAPE ARCHITECTURE | ENTITLEMENT

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<http://www.gumanltd.com/>

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## EL PASO COUNTY

### LETTER OF INTENT FOR: 2275 McDANIELS ROAD MINOR SUBDIVISION

TSN # 3400000295

ORIGINAL ZONE: A-35, REZONED TO RR-5, NOV. 16, 2022 FILE # P226

MINOR SUBDIVISION FILE # MS226

#### □ OWNER/APPLICANT, AND PLANNING CONSULTANT:

##### Owner/Applicant:

Z Investments, LLC  
Greg Zindorf  
209 S 21 Street  
Colorado Springs, CO 80904  
(719) 332-0599  
greg@zinvestment.net

##### Planner:

William Guman & Associates, Ltd.  
Bill Guman, RLA/ASLA  
731 North Weber Street, Suite 10  
Colorado Springs, CO 80903  
(719) 633-9700  
bill@guman.net

##### El Paso County Planner:

Matthew Fitzsimmons, AICP, Senior Planner  
El Paso County Development Services  
2880 International Circle  
Colorado Springs, CO 80910  
(719) 520-6442

#### PROJECT LOCATION/DESCRIPTION AND HISTORY OF PROPERTY:

The 22755 McDaniels Road property for this Final Plat application is located in El Paso County in Peyton, CO, approximately 22 miles east of downtown Colorado Springs, situated west of North Log Road and south of McDaniels Road. The site is bordered by McDaniels Road to the north. It is approximately 700 feet west of North Log Road, 1 mile west of North Ellicott Highway and 1 mile north of state highway 94.

According to the 2021 Your El Paso County Master Plan, the Placetype of this development is “Rural”. The primary land use in this Placetype is agriculture, however, residential uses such as farm homesteads and estate residential are allowed as support uses. Residential lot development, within the Rural Placetype, typically covers 35 acres or more per two units with the minimum lot area consisting of 5 acres per unit. This Rural Placetype covers most of the eastern half of the county.

A rezone of this property is being sought concurrently with the Minor Subdivision. The zoning would be changed from the current A-35 agricultural zoning to RR-5, residential rural. In accordance with County standards, the minimum lot size proposed within the property will exceed five (5) acres.

Pursuant to the rezone, the applicant proposes to develop the site as four (4) new lots. A single-family detached residential dwelling unit that recognizes and respects the character of the surrounding rural area will be provided on each. The total acreage of the proposed 22755 McDaniels Road development is approximately forty (40) acres.

Currently, there is an existing, single family residence with an accompanying shed on the property. This residence and shed are to remain in place as the easternmost of the four lots. With our proposed lot configuration, the existing shed is forty-two (42) feet outside of the proposed lot’s western setback, while the existing residence is sixty-nine (69) feet outside of the proposed lot’s western setback. The shed is one hundred and forty-two (142) feet from the front setback along McDaniels Road, and the residence is one hundred and fifty-two (152) feet from the front setback along McDaniels Road.

Infrastructure to serve the new lots, including driveways, drainage improvements, and utilities will all be constructed in compliance with applicable county standards, regulations and criteria in effect at the time of this application. This is in keeping with the rural character of the surrounding Calhan, Ellicott and Falcon communities.

Surrounding properties are rural, single family homesites and farm homesteads. Land use within these properties has traditionally been used as ranchland, with some farming. Two parcels one half mile to the east are A-5 zoning with single family homes on the property, an exception to the general A-35 zoning predominant in the area.

### **DEVELOPMENT REQUEST**

The Owner and Applicant request approval of a Final Plat for the development of 4 rural residential single family residential lots on approximately 40 acres (e.g. .1 DU/Acre density).

**TOTAL NUMBER OF ACRES IN THE PROJECT AREA:** 40 acres single family residential.

**TOTAL NUMBER OF ACRES WITHIN THIS APPLICATION:** 40 acres.

### **JUSTIFICATION FOR REQUEST**

This request is consistent with the purposes of the Your El Paso Master Plan. The Final Plat is in conformance with subdivision design standards and establishes an adequate level of compatibility with surrounding areas of the site already constructed and other known surrounding areas currently proposed for development.

### **EXISTING AND PROPOSED IMPROVEMENTS**

Electric and telecommunication service points-of-connection will be extended from the roadway to all new lots. No extension of natural gas service from a utilities provider is sought. On site propane tanks will provide gas for the residences. Water will be provided via wells. Individual septic systems will be provided via an On Site Wastewater Treatment system (OSWT) prepared by the Owner in accordance with El Paso County Department of Health policy guidelines.

Grading and earthmoving activities will be limited to residential driveways, drainage and utility construction areas. Individual lot owners will assume responsibility for grading their respective lot; no 'overlot' grading is proposed to occur over most of the site.

As such, prior to construction of proposed residences, lot-specific subsurface soil investigations will be performed to determine whether or not shallow groundwater, hydro-compacted soils, and/or potentially expansive soils are present on the lot, and to determine an appropriate foundation design, basement or crawl-space suitability, and/or lot-specific recommendations are necessary to mitigate these conditions. Language requiring lot-specific subsurface soil investigation will appear as a Note on the Final Plat.

## **ADHERENCE WITH THE 2021 YOUR EL PASO MASTER PLAN, AND WATER MASTER PLAN**

*Land Use & Development, Core Principle: Manage growth to ensure a variety of compatible land uses that preserve all character areas of the County.*

The 2021 Your El Paso Master Plan (the “Master Plan”) addresses issues directly related to the Final Plat and development of the 22755 *McDaniels Road* development. The policies specifically related to the Final Plat request include:

**Goal 1.1 - *Ensure compatibility with established character and infrastructure capacity***

The Final Plat proposed for the new single family rural residential lots is compatible with the existing adjacent rural residential lots in the McDaniels Road corridor. New lots will be similar in character to existing lots and roads serving the new lots will be compatible with the types of rural roadways in nearby adjacent neighborhoods.

**Goal 1.4 – *Continue to encourage policies that ensure “development pays for itself”.***

22755 McDaniels Road is proposed as a development of single family rural residences within a non-urban density area (Rural Placetype) of the Elbert community. Utilities and road infrastructure needed to serve the new lots, such as new roads, drainage and detention facilities, erosion control, etc. will be constructed as part of this development.

***Housing & Communities, Core Principle: Preserve and develop neighborhoods with a mix of housing types.***

**Goal 2.2 – *Preserve the character of rural and environmentally sensitive areas.***

The subdivision design with RR-5 zoning for the site is harmonious and compatible with the rural character of adjacent and nearby neighborhoods that are zoned A-35, and A-5. The Applicant proposes to avoid overlot grading across the 40 acre site, and instead will limit grading to driveways and drainage infrastructure in keeping with the established land use character of surrounding sub-areas of the county. Low density will help to sustain the appearance and unique environmental conditions of adjacent properties.

***Transportation & Mobility, Core Principle: Connect all areas of the County with a safe and efficient multimodal transportation system.***

**Goal 4.1-*Establish a transportation network that connects all areas to one another, emphasizing east-west routes, reducing traffic congestion, promoting safe and efficient travel.***

The design of this subdivision will relocate the existing home’s driveway to the east. This will allow the development of four equally sized lots for the residents. The three (3) proposed residences will have driveways off McDaniels Road for access. The increased traffic load from the additional three homes is minimal.

***Community Facilities & Infrastructure, Core Principle: Continue to coordinate with local and regional agencies to provide well-managed, high-quality community facilities and services.***

**Goal 5.3 – *Ensure adequate provision of utilities to manage growth and development.***

Concerning utilities, 22755 McDaniels Road has been provided a commitment letter for delivery of electrical service by Mountain View Electrical Association. Individual propane tanks will provide natural gas to the homes. On-site wells will provide water. Wastewater will be accommodated by individual on-site wastewater treatment systems. Based upon evaluation by our environmental and geotechnical engineers, it has been determined that the site is suitable for individual on-site wastewater treatment systems without contamination of surface and subsurface water systems.

**Goal 5.4-*Use best management practices to protect water quality, conserve water, minimize impacts of flooding, and beautify El Paso County.***

The submitted drainage report specifically details a four step process to minimize adverse impacts of development. The process includes reducing runoff volume, stabilizing drainageways, treating the water quality capture volume (WQCV), and consider the need for Industrial Commercial best management practices (BMPs). A grading and erosion control plan and a stormwater management report have been submitted with the FDR.

***Environment & Natural Resources, Core Principle: Prioritize and protect the County's natural environment.***

**Goal 9.2- *Promote sustainable best practices with regard to development and infrastructure.***

The area surrounding the property has sufficient carrying capacity to support the new development with regard to roadway capacity, water supply, septic suitability, educational facilities, and organized structural fire protection. Commitment Letters from entities that would supply this development with essential services have been submitted with this Minor Subdivision application.

The subdivision design, which includes 9.7 acre home sites, ensures that development of this site will remain compatible and contiguous with existing rural residential areas. With a density of .1 DU/Ac, 22755 McDaniels Road is compatible with numerous other subdivisions adjacent to and within a 2 mile radius of the property.

**GAS SERVICE**

Gas service will be provided by individual propane tanks adjacent to residences.

**WATER SERVICE**

The following information was provided by request of El Paso County per the El Paso County Water Master Plan, Chapter 7, Implementation:

**Water Quality, Quantity and Dependability:**

A water resources report and water supply information summary have been provided to the County for this development.

The water resource report provides data for the Planning Commission and the Board of County Commissioners (BoCC) to determine whether the proposed water supply is sufficient in terms of quality, quantity and dependability for the proposed subdivision. The report includes adequate documentation that the proposed water supply is sufficient in terms of quantity, dependability and quality for the proposed subdivision.

**Water Service:**

Water shall be provided via four on-site wells.

The on-site existing well case number is 227502 Arapahoe (existing – serves existing residence). The designated basin is the Upper Black Squirrel within the Upper Black Squirrel Management District. The water source on-site originates from the Upper Arapahoe (NNT) and Laramie-Fox Hills (NNT).

- The Upper Arapahoe provides a total appropriated volume of 578 acre feet, with a 100 year annual appropriation of 5.78 acre feet per year. The 300 year annual appropriation is 1.93 acre feet per year.
- The Laramie-Fox Hills provides a total appropriated volume of 1176 acre feet, with a 100 year annual appropriation of 11.76 acre feet per year. The 300 year annual appropriation is 3.92 acre feet per year.

Based on the 300 year annual appropriation:

**Water Supply and Demand Summary**

<b>LOTS</b>	<b>Total Supply (AF/Year)</b>	<b>Total Demand (AF/Year)</b>
4	5.85	1.34

**Water Quality:**

The water quality in the Arapahoe aquifer in this area has been typically suitable for residential potable use. Water samples were obtained from the existing well (well permit #227502) constructed via an exterior water tap serving the existing residence (22755 McDaniels Road). Water samples were obtained from this tap on July 16<sup>th</sup> 2021, with the water quality testing performed by Colorado Analytical Laboratories and ACZ Laboratories, per the El Paso County Land Development Code section 8.4.7(B). Final

results from this water quality testing were received on August 26<sup>th</sup>, 2021. All results were found to be below primary and secondary Maximum Contaminant Limits (MCLs).

Because of the absence of any and all evidence of fecal contamination in the form of *E. Coli* or Total Coliform, or that all sampled and analyzed constituents were below all primary and secondary standards the proposed water source emanating from the Arapahoe Aquifer is deemed safe for public consumption.

### **TRANSPORTATION IMPACT STUDY GUIDELINES**

No Transportation Impact Study (TIS) is required for this project based upon the El Paso County Engineering Criteria Manual (ECM). Per ECM appendix B.1.2.D, the following criteria are satisfied:

#### Vehicular Traffic:

(1) Daily vehicle trip-end generation is less than 100 or the peak hour trip generation is less than 10. Response: With the addition of three (3) single-family residences, this threshold will not be met, or exceeded.

(2) There are no additional proposed minor or major roadway intersections on major collectors, arterials, or State Highways. Response: No additional proposed minor or major roadway intersections are proposed from the property.

(3) The increase in the number of vehicular trips does not exceed the existing trip generation by more than 10 peak hour trips or 100 daily trip ends. Response: The addition of the three (3) single-family residences will neither meet nor exceed these thresholds.

(4) The change in the type of traffic to be generated (i.e., the addition of truck traffic) does not adversely affect the traffic currently planned for and accommodated within, and adjacent to, the property. Response: The limited development ensures there will be no change in traffic/vehicle type in comparison to the surrounding properties.

(5) Acceptable LOS on the adjacent public roadways, accesses, and intersections will be maintained. Response: The level of service will remain as is.

(6) No roadway or intersection in the immediate vicinity has a history of safety or accident problems. Response: The limited use (residential/ranchland/agricultural) has provided a safe roadway adjacent to the property.

(7) There is no change of land use with access to a State Highway. Response: There is no State Highway in the project vicinity.



- Pedestrian Traffic: Paved pedestrian facilities exist or will be constructed on, or adjacent to, the site; or, the proposed use will not generate any new pedestrian traffic. Response: The proposed use will not generate any new pedestrian traffic.
- Bicycle Traffic: Paved bicycle lanes or paths exist or will be constructed on, or adjacent to, the site; or, the proposed use will not generate any new bicycle traffic. Response: The proposed use will not generate any new bicycle traffic.

### **ROAD IMPACT FEES**

Per resolution 19-471 Road Impact Fees are applicable and due for this project. The fee will be assessed on the three (3) proposed homes. The fee is due at the land use approval, which can be at the time of building permit for each house. Each lot owner / subdivider is responsible for paying the road impact fee. The fee type is PPRBD.

### **COMMUNITY OUTREACH EFFORTS**

As part of the initial submittal, contact was made to the neighbors of the proposed subdivision:

- Rodney J. Fannin and Terri J. Fannin. Mailing address: 23155 McDaniels Road, Calhan, CO 80808-8875
- Dennis L. Hughes and Connie L. Hughes. Mailing address: 22545 McDaniels Road, Calhan, CO 80808-8834
- Lowell Lambrecht and Darla Lambrecht. Mailing address: 22550 McDaniels Road, Calhan, CO 80808-8834
- Wol Son Lee. Mailing address: 1857 N. Circle Drive, Colorado Springs, CO 80909-2410
- Jason Plumley and Jennifer A. Scalia-Plumley. Mailing address: 1210 Log Road, Calhan, CO 80808-8818
- Robinson Family Rev Living Trust, Leonard Dwaine Robinson, trustee and Carol Jo Robinson, trustee. Mailing address: 1550 North Log Road, Calhan, CO 80808-7831
- Bobbie Stull and Ron Stull. Mailing address: 19890 Book Drive, Colorado Springs, CO 80930-9509
- Ora Owen Wheeler, Jr., Cheryl Ann Burkett, Carol Lea Burnside. Mailing address: 16215 East McCara Court, Peyton, CO 80831

The letter advised the neighbors that the 40 acre site was being subdivided into four (4) lots, each being approximately ten (10) acres in size. We also mentioned that a rezone was sought for the property from A-35(Agricultural, 35 acre) to RR-5 (Rural residential district, 5 acre minimum).

The letter stated that the justification for the rezone was to provide much needed housing for the residents of El Paso County. The additional three homes, it stated, would have little impact on the existing infrastructure.

The letter also informed the neighbors that water would be provided via individual wells, and that individual septic systems would address wastewater generated.

A poster was placed in clear view along McDaniels Road informing passers-by of public hearings for the Planning Commission and the Board of County Commissioners, in compliance with County posting procedures.

At both presentations, there were neighbors in attendance who sought clarification and information regarding the proposed subdivision.

After the rezone approval by the Board of County Commissioners, we were approached by neighboring homeowners. We had a productive and genial discussion with them, informing them that there had been a thorough review process during our submittals to the County, and that we had complied with every aspect of the review. I believe that they left assured that the project would have minimal impact on their lives.

**END**

# ZINDORF SUBDIVISION NO. 3

## LOCATED IN THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 11, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M. EL PASO COUNTY, COLORADO

**KNOW ALL MEN BY THESE PRESENTS:**

THAT Z INVESTMENTS, LLC, BEING THE OWNERS OF THE FOLLOWING DESCRIBED TRACT OF LAND:

**TO WIT:**

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., COUNTY EL PASO, STATE OF COLORADO.

SAID TRACT CONTAINS 39.67 ACRES OF LAND, MORE OR LESS.

**DEDICATION:**

THE UNDERSIGNED OWNERS HAVE CAUSED SAID PARCEL TO BE REPLATTED INTO LOTS, A TRACT AND EASEMENTS AS SHOWN ON THE PLAT. THE UNDERSIGNED DO HEREBY GRANT UNTO THE COUNTY OF EL PASO THOSE EASEMENTS AS SHOWN ON THE PLAT. THE SOLE RIGHT AND AUTHORITY TO RELEASE OR CONVEY ALL OR ANY SUCH EASEMENTS SHALL REMAIN EXCLUSIVELY VESTED IN THE COUNTY OF EL PASO. ALL EASEMENTS SHALL RETAIN THE RIGHT OF INGRESS AND EGRESS FOR CONSTRUCTION AND MAINTENANCE OF IMPROVEMENTS. NO PERMANENT STRUCTURES EXCEPT FENCING UPON COUNTY APPROVAL SHALL BE ALLOWED ON ANY EASEMENT. THIS TRACT OF LAND AS HERIN PLATTED SHALL BE KNOWN AS "ZINDORF SUBDIVISION NO 3", EL PASO COUNTY, COLORADO.

GREG W. ZINDORF, MANAGER, Z INVESTMENTS LLC

STATE OF COLORADO }  
COUNTY OF EL PASO } ss

ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, A.D., BY GREG W. ZINDORF, MANAGER, Z INVESTMENTS LLC, A COLORADO LIMITED LIABILITY COMPANY.

WITNESS MY HAND AND OFFICIAL SEAL:

MY COMMISSION EXPIRES: \_\_\_\_\_ NOTARY PUBLIC (SEAL)

**SUMMARY:**

4 LOTS	37.43 ACRES	94.4%
ROW Dedication	2.24 ACRES	5.6%
<b>TOTAL</b>	<b>39.67 ACRES</b>	<b>100.00%</b>

**FEES:**

DRAINAGE FEE:	_____
BRIDGE FEE:	_____
SCHOOL FEE:	_____
PARK FEE:	_____

**OWNER/SUBDIVIDER:**

GREG W. ZINDORF, MANAGER  
Z INVESTMENTS LLC  
P.O. BOX 51005  
COLORADO SPRINGS, CO 80949  
(719) 332-0599

**RECORDING:**

STATE OF COLORADO }  
COUNTY OF EL PASO } ss

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN MY OFFICE AT \_\_\_\_\_ O'LOCK \_\_\_\_\_ M., THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, A.D., AND IS DULY RECORDED UNDER RECEPTION NUMBER \_\_\_\_\_ OF THE RECORDS OF EL PASO COUNTY, COLORADO.

FEE: \_\_\_\_\_

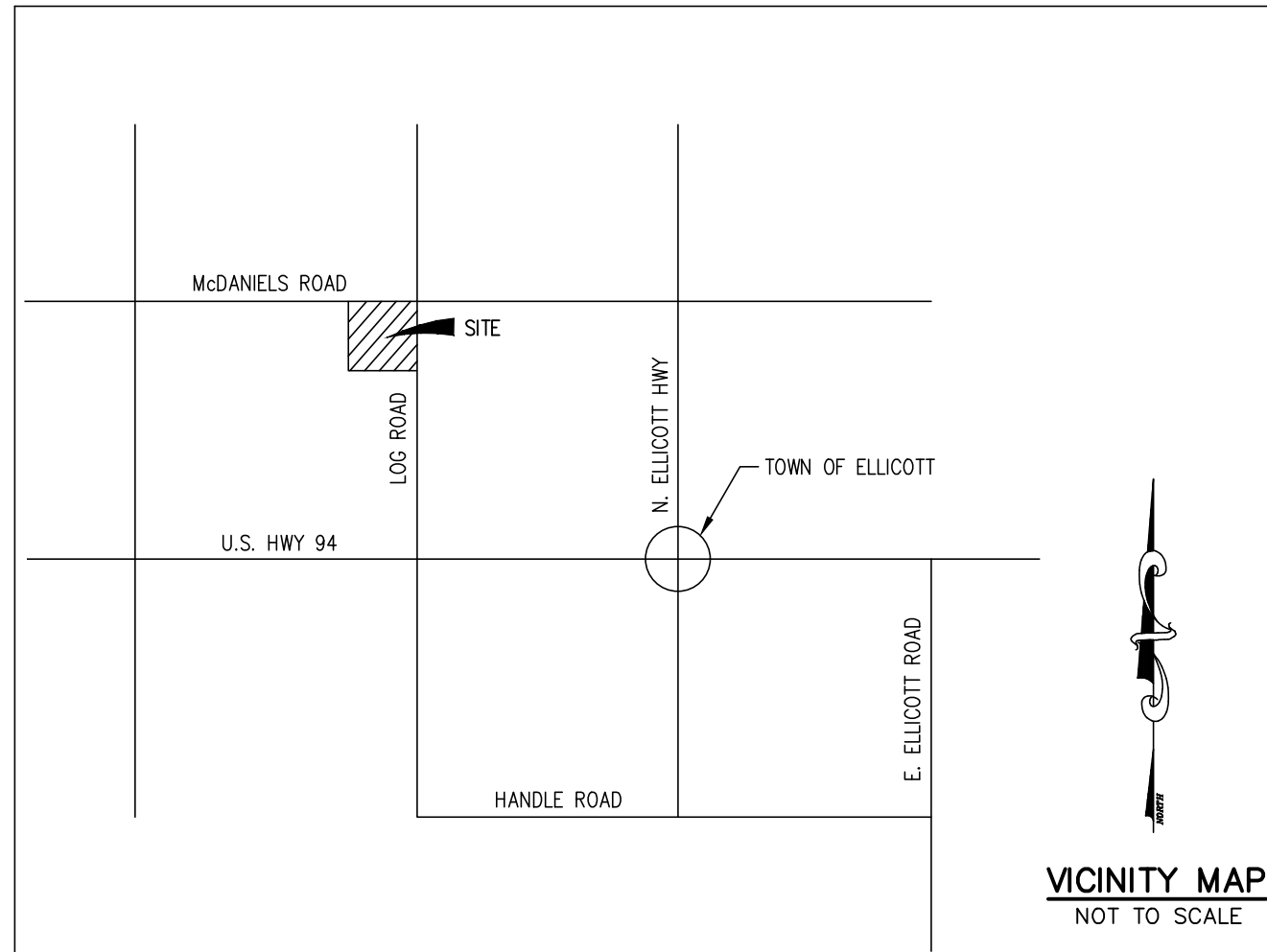
BY: \_\_\_\_\_ EL PASO COUNTY CLERK AND RECORDER

**EASEMENTS:**

UNLESS OTHERWISE INDICATED, ALL SIDE LOT LINES ARE HEREBY PLATTED WITH A TEN FOOT (10') PUBLIC UTILITIES AND DRAINAGE EASEMENT, ALL REAR LOT LINES ARE HEREBY PLATTED WITH A TWENTY FOOT (20') PUBLIC UTILITIES AND DRAINAGE EASEMENT AND ALL FRONT LOT LINES ARE HEREBY PLATTED WITH A FIFTEEN FOOT (15') PUBLIC IMPROVEMENTS, PUBLIC UTILITIES AND DRAINAGE EASEMENT. THE SOLE RESPONSIBILITY FOR MAINTENANCE OF ALL HEREIN DESCRIBED EASEMENTS IS HEREBY VESTED WITH THE INDIVIDUAL PROPERTY OWNERS.

**FLOODPLAIN CERTIFICATION:**

ACCORDING TO NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP NUMBER 08041C0810G AND 08041C0807G (EFFECTIVE DATE OF DECEMBER 7, 2018), A PORTION OF THE SUBJECT PROPERTY IS LOCATED IN SPECIAL FLOOD HAZARD AREA SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD ZONE A, NO BASE FLOOD ELEVATIONS DETERMINED. A PORTION OF THE SUBJECT PROPERTY IS LOCATED IN FLOOD AREA ZONE AE, WITH BASE FLOOD ELEVATIONS DETERMINED, THE FLOODWAY IS THE CHANNEL OF A STREAM PLUS ANY ADJACENT FLOODPLAIN AREAS THAT MUST BE KEPT FREE OF ENCRUSTATION SO THAT THE 1% ANNUAL CHANCE FLOOD CAN BE CARRIED WITHOUT SUBSTANTIAL INCREASE IN FLOOD HEIGHTS. THE REMAINDER OF THE SUBJECT PROPERTY LIES WITHIN OTHER AREAS, ZONE X, AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN. NO STRUCTURES ARE PERMITTED WITHIN THE DESIGNATED FLOODPLAIN AREAS.



**SURVEYOR CERTIFICATION:**

I, ERIC R. SIMONSON, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE ON SEPTEMBER 8, 2021, BY ME OR UNDER MY DIRECT SUPERVISION AND THAT ALL MONUMENTS EXIST AS SHOWN HEREON; THAT MATHEMATICAL CLOSURE ERRORS ARE LESS THAN 1:10,000; AND THAT SAID PLAT HAS BEEN PREPARED IN FULL COMPLIANCE WITH ALL APPLICABLE LAWS OF THE STATE OF COLORADO DEALING WITH MONUMENTS, SUBDIVISION OR SURVEYING OF LAND AND ALL APPLICABLE PROVISIONS OF THE EL PASO COUNTY LAND DEVELOPMENT CODE.

I ATTEST THE ABOVE ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.



ERIC R. SIMONSON, COLORADO PLS NO. 38560  
FOR AND ON BEHALF OF:  
RAMPART SURVEYS, INC.  
P.O. BOX 5101  
WOODLAND PARK, CO 80866  
(719) 687-0920

**NOTE:**

ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

**BOARD OF COUNTY COMMISSIONERS CERTIFICATE:**

THIS PLAT FOR ZINDORF SUBDIVISION NO. 3 WAS APPROVED FOR FILING BY THE EL PASO COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023, SUBJECT TO ANY NOTES SPECIFIED HEREON AND ANY CONDITIONS INCLUDED IN THE RESOLUTION OF APPROVAL. THE DEDICATIONS OF LAND TO THE PUBLIC (STREETS, TRACTS AND EASEMENTS) ARE ACCEPTED, BUT PUBLIC IMPROVEMENTS THEREON WILL NOT BECOME THE MAINTENANCE RESPONSIBILITY OF EL PASO COUNTY UNTIL PRELIMINARY ACCEPTANCE OF THE PUBLIC IMPROVEMENTS IN ACCORDANCE WITH THE REQUIREMENTS OF THE LAND DEVELOPMENT CODE AND ENGINEERING CRITERIA MANUAL, AND THE SUBDIVISION IMPROVEMENTS AGREEMENT.

CHAIR, BOARD OF COUNTY COMMISSIONERS \_\_\_\_\_ DATE \_\_\_\_\_

**PCD DIRECTOR CERTIFICATE:**

PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR \_\_\_\_\_

**NOTE:**

THIS SUBDIVISION IS SURROUNDED BY AGRICULTURAL LAND. PROPERTY OWNERS MAY BE IMPACTED BY SOUNDS, SMELLS AND/OR ACTIVITIES ASSOCIATED WITH ACTIVE AGRICULTURAL PRACTICES. PURSUANT TO ARTICLE 3.5 TITLE 35, C.R.S., IT IS THE DECLARED POLICY OF THE STATE OF COLORADO TO CONSERVE, PROTECT, AND ENCOURAGE THE DEVELOPMENT AND IMPROVEMENT OF ITS AGRICULTURAL LAND FOR THE PRODUCTION OF FOOD AND OTHER AGRICULTURAL PRODUCTS. COLORADO IS A "RIGHT TO FARM" STATE PURSUANT TO C.R.S. 35-3.5-101, ET SEQ. LANDOWNERS, RESIDENTS AND VISITORS MUST BE PREPARED TO ACCEPT THE ACTIVITIES, SIGHTS, SOUNDS AND SMELLS OF AGRICULTURAL OPERATIONS AS A NORMAL AND NECESSARY IMPACT OF LIVING IN A COUNTY WITH A STRONG RURAL CHARACTER AND A HEALTHY AGRICULTURAL SECTOR. STATE LAW PROVIDES THAT RANCHING, FARMING OR OTHER AGRICULTURAL ACTIVITIES AND OPERATIONS SHALL NOT BE CONSIDERED SO LONG AS OPERATED IN CONFORMANCE WITH THE LAW AND IN A NON-NEGLECT MANNER. THEREFORE, ALL MUST BE PREPARED TO ENCOUNTER NOISES, ODORS, LIGHTS, MUD, DUST, SMOKE, CHEMICALS, MACHINERY ON PUBLIC ROADS, LIVESTOCK ON PUBLIC ROADS, STORAGE AND DISPOSAL OF MANURE AND THE APPLICATION BY SPRAYING OR OTHERWISE OF CHEMICAL FERTILIZERS, SOIL AMENDMENTS, HERBICIDES, PESTICIDES, AND ONE OR MORE OF WHICH MAY NATURALLY OCCUR AS A PART OF LEGAL AND NON-NEGLECT AGRICULTURAL OPERATIONS.

**NOTES:**

1) ALL BEARINGS USED HEREIN ARE BASED UPON GPS OBSERVATIONS USING RTK AT 180 EPOCHS, A BEARING OF 50°22'11", A DISTANCE OF 1326.15 FEET BETWEEN THE NORTHEAST CORNER OF SECTION 11, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., AS MONUMENTED BY A 2-1/2" ALUMINUM CAP STAMPED "RAMPART PLS 38560" AND THE SOUTHEAST CORNER OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 11, AS MONUMENTED BY A 2-1/2" ALUMINUM CAP STAMPED "PLS 10384", AS SHOWN ON DEPOSITED ALTA/NSPS LAND TITLE SURVEY UNDER RECEPTION NUMBER 222900383 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER.

2) THIS PLAT DOES NOT CONSTITUTE A TITLE SEARCH BY RAMPART SURVEYS FOR EITHER OWNERSHIP OR EASEMENTS OF RECORD. FOR EASEMENTS OF RECORD SHOWN HEREON, RAMPART SURVEYS RELIED ON AN ALTA COMMITMENT ISSUED BY STEWART TITLE GUARANTY COMPANY, COMMITMENT NUMBER: 220291 (COMMITMENT DATE: JANUARY 25, 2022 AT 8:00 A.M.) AS PROVIDED TO RAMPART SURVEYS BY THE CLIENT, FOR ALL MATTERS OF RECORD. NO OTHER EASEMENTS OF RECORD ARE SHOWN EXCEPT AS FOUND THEREIN. THE NUMBERS USED BELOW CORRESPOND WITH THE NUMBERS USED ON SCHEDULE B, PART II EXCEPTIONS IN THE ABOVE REFERENCED COMMITMENT:

1. THRU 8. STANDARD EXCEPTIONS - RAMPART SURVEYS DID NOT ADDRESS THESE ITEMS.

9. THE PROPERTY IS SUBJECT TO A RIGHT OF WAY AND EASEMENT GRANTED TO EL PASO COUNTY TELEPHONE COMPANY IN INSTRUMENT RECORDED MAY 17, 1971 IN BOOK 2408 AT PAGE 849. (NOT PLOTTABLE)

10. THE PROPERTY IS SUBJECT TO A RIGHT OF WAY AND EASEMENT GRANTED TO EL PASO COUNTY TELEPHONE COMPANY IN INSTRUMENT RECORDED NOVEMBER 24, 2003 AT RECEPTION NO. 203274858. (AS SHOWN HEREON)

11. THE PROPERTY IS SUBJECT TO A RIGHT OF WAY AND EASEMENT GRANTED TO MOUNTAIN VIEW ELECTRIC ASSOCIATION, INC. IN INSTRUMENT RECORDED FEBRUARY 9, 2004 AT RECEPTION NO. 204022897. (AS SHOWN HEREON)

12. THE PROPERTY IS SUBJECT TO TERMS, AGREEMENTS, PROVISIONS, CONDITIONS AND OBLIGATIONS AS CONTAINED IN QUITCLAIM DEED CONVEYING MINERAL RIGHTS FROM RHONDA L. WALKER TO Z INVESTMENTS, LLC RECORDED ON JANUARY 12, 2021 AT RECEPTION NO. 221006829. (NOT PLOTTABLE)

3) ALL LINEAL UNITS DEPICTED ON THIS SUBDIVISION PLAT SURVEY ARE U.S. SURVEY FEET.

4) ALL STRUCTURAL FOUNDATIONS SHALL BE LOCATED AND DESIGNED BY A PROFESSIONAL ENGINEER, CURRENTLY REGISTERED IN THE STATE OF COLORADO.

5) WATER WILL BE PROVIDED BY INDIVIDUAL ON-SITE WELLS AND WASTEWATER SERVICE WILL BE PROVIDED BY INDIVIDUAL ON-SITE SEPTIC SYSTEMS. INDIVIDUAL WELLS ARE THE RESPONSIBILITY OF EACH OWNER. PERMITS FOR INDIVIDUAL WELLS MUST BE OBTAINED FROM THE STATE ENGINEER WHO BY LAW HAS THE AUTHORITY TO SET CONDITIONS FOR THE ISSUANCE OF THESE PERMITS.

6) THE ADDRESSES EXHIBITED ON THIS PLAT ARE FOR INFORMATIONAL PURPOSES ONLY. THEY ARE NOT THE LEGAL DESCRIPTION AND ARE SUBJECT TO CHANGE.

7) ALL PROPERTY OWNERS ARE RESPONSIBLE FOR MAINTAINING PROPER STORM DRAINAGE IN AND THROUGH THEIR PROPERTY. PUBLIC DRAINAGE EASEMENTS AS SPECIFICALLY NOTED ON THIS PLAT SHALL BE MAINTAINED BY THE INDIVIDUAL LOT OWNER UNLESS OTHERWISE INDICATED. STRUCTURES, FENCES, MATERIALS OR LANDSCAPING THAT COULD IMPEDE THE FLOW OF RUNOFF SHALL NOT BE PLACED IN DRAINAGE EASEMENT.

8) ACCESS: NO DRIVEWAY SHALL BE ESTABLISHED UNLESS AN ACCESS PERMIT HAS BEEN GRANTED BY EL PASO COUNTY.

9) BUILDING SETBACKS TO BE: FRONT YARD - 25', SIDE YARD - 25', AND REAR YARD - 25' UNLESS OTHERWISE NOTED.

10) MAXIMUM BUILDING HEIGHT: 30 FEET.

11) MAILBOXES SHALL BE INSTALLED IN ACCORDANCE WITH ALL EL PASO COUNTY AND UNITED STATES POSTAL SERVICE REGULATIONS.

12) AN EVALUATION OF SHALLOW GROUNDWATER IS REQUIRED BEFORE THE ISSUANCE OF BUILDING PERMITS, TO DETERMINE THE NEED FOR DRAIN SYSTEMS, FOR SHALLOW FOUNDATIONS, AND THE FEASIBILITY OF BASEMENT, OR OTHER BELOW-GRADE HABITABLE AREAS, IF DESIRED.

13) 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 EL PASO COUNTY ROAD IMPACT FEE PROGRAM RESOLUTION (RESOLUTION NO. 19-471), OR ANY AMENDMENTS THERETO, AT OR PRIOR TO THE TIME OF BUILDING PERMIT SUBMITTALS. THE FEE OBLIGATION, IF NOT PAID AT FINAL PLAT RECORDING, SHALL BE DOCUMENTED ON ALL SALES DOCUMENTS AND PLAT NOTES TO ENSURE THAT A TITLE SEARCH WOULD FIND THE FEE OBLIGATION BEFORE THE SALE OF THE PROPERTY.

**NOTES (cont.):**

14) 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 LISTED SPECIES (e.g., PREBLE'S MEADOW JUMPING MOUSE).

15) NO LOT OR INTEREST THEREIN, SHALL BE SOLD, CONVEYED OR TRANSFERRED WHETHER BY DEED OR CONTRACT, NOR SHALL BUILDING PERMITS BE ISSUED, UNTIL AND UNLESS EITHER THE REQUIRED PUBLIC AND COMMON DEVELOPMENT IMPROVEMENTS HAVE BEEN CONSTRUCTED AND COMPLETED AND PRELIMINARILY ACCEPTED IN ACCORDANCE WITH THE SUBDIVISION IMPROVEMENTS AGREEMENT BETWEEN THE APPLICANT/OWNER AND EL PASO COUNTY AS RECORDED UNDER RECEPTION NO. \_\_\_\_\_ IN THE OFFICE OF THE CLERK AND RECORDER OF EL PASO COUNTY, COLORADO OR, IN THE ALTERNATIVE, OTHER COLLATERAL IS PROVIDED TO MAKE PROVISION FOR THE COMPLETION OF SAID IMPROVEMENTS IN ACCORDANCE WITH THE EL PASO COUNTY LAND DEVELOPMENT CODE AND ENGINEERING CRITERIA MANUAL. ANY SUCH ALTERNATIVE COLLATERAL MUST BE APPROVED BY BOARD OF COUNTY COMMISSIONERS OR, IF PERMITTED BY THE SUBDIVISION IMPROVEMENTS AGREEMENT, BY THE PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR AND MEET THE POLICY AND PROCEDURE REQUIREMENTS OF EL PASO COUNTY PRIOR TO THE RELEASE BY THE COUNTY OF ANY LOTS FOR SALE, CONVEYANCE OR TRANSFER.

16) THERE SHALL BE NO DIRECT ACCESS TO LOG ROAD.

17) INDIVIDUAL LOT PURCHASERS ARE RESPONSIBLE FOR CONSTRUCTING DRIVEWAYS, INCLUDING NECESSARY DRAINAGE CULVERTS FROM MCDANIELS ROAD PER LAND DEVELOPMENT CODE SECTION 6.3.3.C.2 AND 6.3.3.C.3. DUE TO THEIR LENGTH, SOME OF THE DRIVEWAYS WILL NEED TO BE SPECIFICALLY APPROVED BY THE ELLIOTT FIRE DISTRICT.

18) INDIVIDUAL WELLS ARE THE RESPONSIBILITY OF EACH PROPERTY OWNER. PERMITS FOR INDIVIDUAL WELLS MUST BE OBTAINED FROM THE STATE ENGINEER WHO BY LAW IS THE AUTHORITY TO SET CONDITIONS FOR THE ISSUANCE OF THESE PERMITS.

19) WATER IN THE DENVER BASIN AQUIFERS IS ALLOCATED BASED ON A 100-YEAR AQUIFER LIFE; HOWEVER, FOR EL PASO COUNTY PLANNING PURPOSES, WATER IN THE DENVER BASIN AQUIFERS IS EVALUATED BASED ON A 300-YEAR AQUIFER LIFE. APPLICANTS AND ALL FUTURE OWNERS IN THE SUBDIVISION SHOULD BE AWARE THAT THE ECONOMIC LIFE OF A WATER SUPPLY BASED ON WELLS IN A GIVEN DENVER BASIN AQUIFER MAY BE LESS THAN EITHER THE 100 YEARS OR 300 YEARS INDICATED DUE TO ANTICIPATED WATER LEVEL DECLINES. FURTHERMORE, THE WATER SUPPLY PLAN SHOULD NOT RELY SOLELY UPON NONRENEWABLE AQUIFERS. ALTERNATIVE RENEWABLE WATER RESOURCES SHOULD BE ACQUIRED AND INCORPORATED IN A PERMANENT WATER SUPPLY PLAN THAT PROVIDES FUTURE GENERATIONS WITH A WATER SUPPLY.

20) SEWAGE TREATMENT IS THE RESPONSIBILITY OF EACH INDIVIDUAL PROPERTY OWNER. THE EL PASO COUNTY DEPARTMENT OF HEALTH AND ENVIRONMENT MUST APPROVE EACH SYSTEM AND, IN SOME CASES, THE DEPARTMENT MAY REQUIRE AN ENGINEER DESIGNED SYSTEM PRIOR TO PERMIT APPROVAL. THESE SYSTEMS MAY COST MORE TO DESIGN, INSTALL AND MAINTAIN.

21) NO STRUCTURES, FENCES OR THE STORAGE OF MATERIALS ARE PERMITTED WITHIN THE DESIGNATED "FLOODPLAIN".

22) THE FOLLOWING REPORTS HAVE BEEN SUBMITTED IN ASSOCIATION WITH THE FINAL PLAT FOR THIS SUBDIVISION AND ARE ON FILE AT THE COUNTY DEVELOPMENT SERVICES DEPARTMENT: DRAINAGE REPORT, WATER RESOURCES REPORT, OTWS REPORT, SOILS AND GEOLOGY REPORT, FIRE PROTECTION REPORT AND WETLANDS ANALYSIS REPORT.

23) THIS PROPERTY IS LOCATED WITHIN A DESIGNATED FEMA FLOODPLAIN AS DETERMINED BY THE FLOOD INSURANCE RATE MAP, COMMUNITY MAP NUMBERS 08041C0810G AND 08041C0807G (EFFECTIVE DATE OF DECEMBER 7, 2018). NO STRUCTURES ARE PERMITTED WITHIN THE DESIGNATED FLOODPLAIN AREAS.

24) ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO C.R.S. 18-4-508.

25) SOIL AND GEOLOGY CONDITIONS: THE FOLLOWING LOTS HAVE BEEN FOUND TO BE IMPACTED BY GEOLOGIC HAZARDS: MITIGATION MEASURES AND A MAP OF THE HAZARD AREA CAN BE FOUND IN THE SOIL, GEOLOGY AND WASTEWATER STUDY BY RMG ENGINEERS/ARCHITECTS, DATED DECEMBER 20, 2021 (AMENDED NOVEMBER 21, 2022), AVAILABLE AT THE EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT.

DOWNSLOPE CREEP:  
ROCKFALL CREEP:  
ROCKFALL RUNOUT ZONE:  
POTENTIALLY SEASONALLY HIGH GROUNDWATER:  
OTHER HAZARD:  
IN AREAS OF HIGH GROUNDWATER: DUE TO HIGH GROUNDWATER IN THE AREA, ALL FOUNDATIONS SHALL INCORPORATE AN UNDERGROUND DRAINAGE SYSTEM.

DATE OF REVISION: AUGUST 1, 2023  
DATE OF REVISION: MARCH 14, 2023  
DATE OF REVISION: FEBRUARY 28, 2023  
DATE OF REVISION: NOVEMBER 28, 2022  
DATE OF PREPARATION: FEBRUARY 2, 2022

ZINDORF SUB. NO. 3 - NE1/4 NE1/4, SEC. 11,  
T14S, R63W OF THE 6th P.M., EL PASO COUNTY, COLORADO

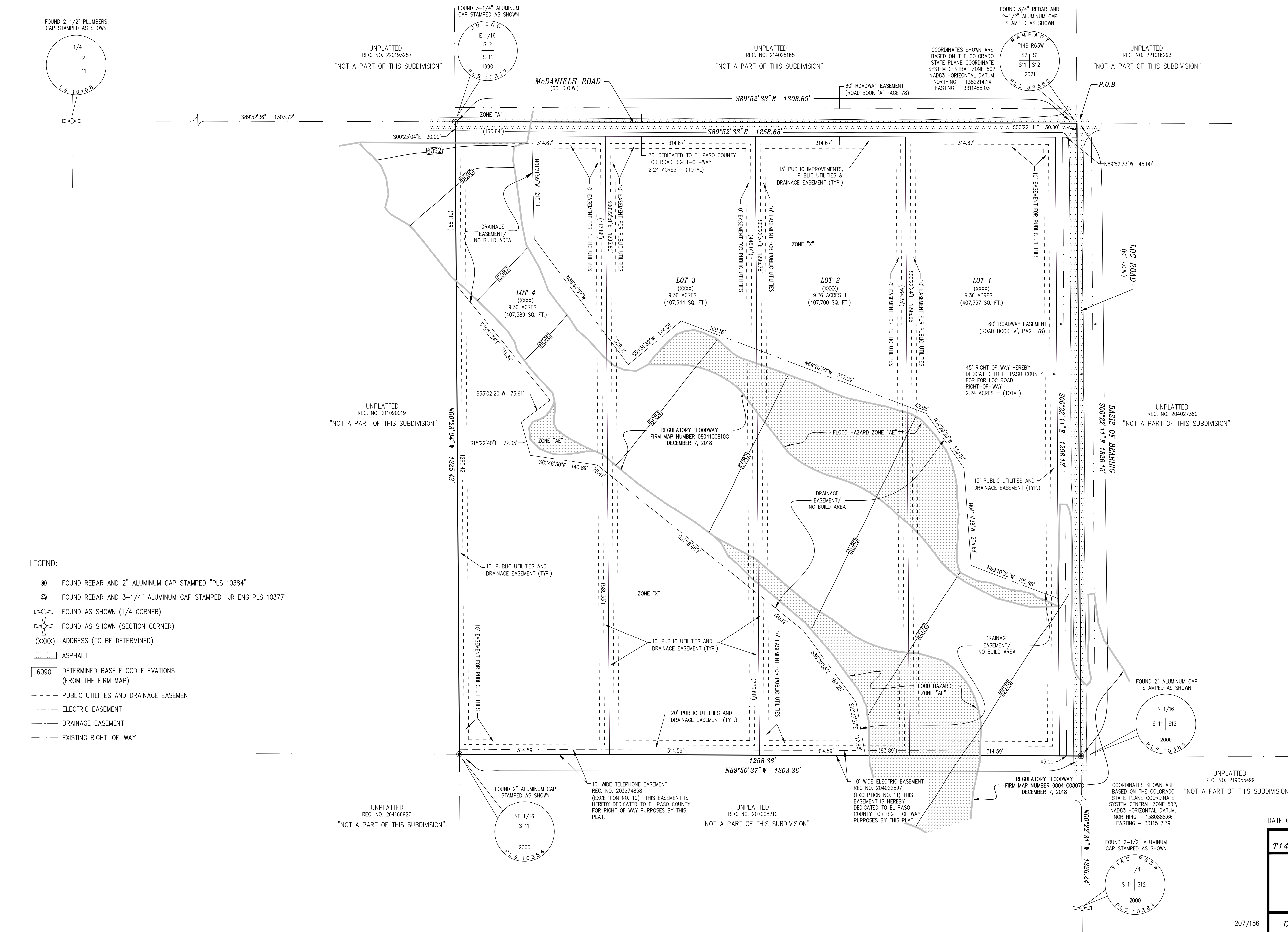


P.O. Box 5101 Woodland Park, CO. 80866 (719) 687-0920

DRAWING: 21497 FP.DWG PAGE 1 OF 2

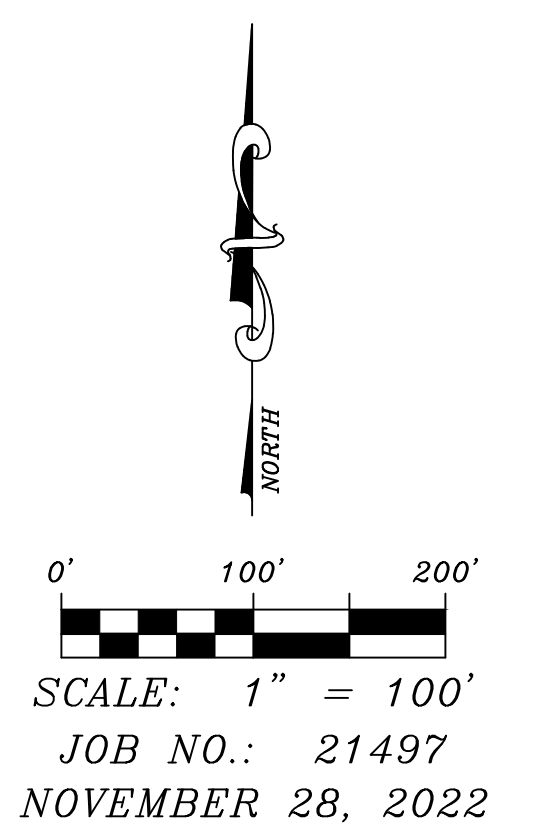
# ZINDORF SUBDIVISION NO. 3

## THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 11, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M. EL PASO COUNTY, COLORADO



**LEGEND:**

- FOUND REBAR AND 2" ALUMINUM CAP STAMPED "PLS 10384"
- ⊙ FOUND REBAR AND 3-1/4" ALUMINUM CAP STAMPED "JR ENG PLS 10377"
- ⊕ FOUND AS SHOWN (1/4 CORNER)
- ⊕ FOUND AS SHOWN (SECTION CORNER)
- (XXXX) ADDRESS (TO BE DETERMINED)
- ASPHALT
- 6090 DETERMINED BASE FLOOD ELEVATIONS (FROM THE FIRM MAP)
- PUBLIC UTILITIES AND DRAINAGE EASEMENT
- ELECTRIC EASEMENT
- DRAINAGE EASEMENT
- EXISTING RIGHT-OF-WAY



DATE OF REVISIONS: FEBRUARY 28, 2023

**ZINDORF SUB. NO. 3 - NE1/4 NE1/4, SEC. 11,  
T14S, R63W OF THE 6th P.M., EL PASO COUNTY, COLORADO**

**RAMPART SURVEYS, LLC**

P.O. Box 5101 Woodland Park, CO. 80866 (719) 687-0920

DRAWING: 21497 FP.DWG PAGE 2 OF 2



August 9, 2022

Matthew Fitzsimmons  
El Paso County Planning and Community Development  
2880 International Circle, Suite 110  
Colorado Springs, SO 80910

**Re: McDaniels Road Minor Subdivision**  
**EA Number 21157, File Number MS225**  
NE1/4 of the NE1/4 of Sec. 11, T14S, R63W, 6<sup>th</sup> P.M.  
Upper Black Squirrel Creek Designated Basin  
Water Division 2, Water District 10  
CDWR Reference No. 30426

Dear Mr. Fitzsimmons:

We have reviewed the above referenced proposal to replat and subdivide a 39.67-acre property described in the NE1/4 of the Ne1/4 of Section 11, Township 14 South, Range 63 West, 6<sup>th</sup> P.M. located at 22755 McDaniels Road, into four single-family lots, one of which has an existing residence.

### Water Supply Demand

According to the submittal the estimated water requirements total 1.34 acre-feet annually (0.335 acre-feet/lot), for: in-house use and irrigation of 1,325 square-feet of lawns and gardens.

### Source of Water Supply

The proposed source of water is individual on-lot wells producing from the not-nontributary Arapahoe aquifer that will operate pursuant to the Determination of Water Right No. 4252-BD and Replacement Plan No. 4252-RP, including well permit no. 227502 for the lot with the existing well. The Replacement Plan No. 4252-RP allows for an average diversion of 0.335 acre-feet annually for a maximum of 300 years. The subdivision lies within the allowed place of use of Determination of Water Right no. 4252-BD, and the proposed uses are uses allowed by that Determination and Replacement Plan. Well permit no. 227502 was issued July 25, 2000 for the withdrawal of an average annual amount of 1.0 acre-feet for use in one single-family dwelling and livestock. This well should be repermited under C.R.S. 37-90-107(7) and 4252-BD.

The remaining three lots will be serviced by individual on-lot wells producing from the not-nontributary Arapahoe aquifer that will operate pursuant to the Determination of Water Right No. 4252-BD. These wells will have an average diversion of 0.335 acre-feet annually for a maximum of 300 years. The subdivision lies within the allowed place of use of Determination of water Right no. 4252-BD and the proposed uses are uses allowed under that Determination. The 4% replacement water will be replaced using return flows from the four residences and are estimated at 0.13 acre-feet per year, which will meet the 4% requirement of 0.013 acre-foot per year per residence.

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 37-90-107(7)(a), C.R.S., "Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years." Based on this allocation approach, the annual amounts of water determined in 4252-BD are equal to one percent of the total amount, as determined by rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.



The *El Paso County Land Development Code*, 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 these sources will “meet the average annual demand of the proposed subdivision.” However, treating El Paso County’s requirement as an **allocation** approach based on three hundred years, the allowed average annual amount of withdrawal of 5.78 acre-feet/year from the Arapahoe aquifer would be reduced to one third of that amount, or 1.93 acre-feet/year. As a result, the water may be withdrawn in those annual amounts for a maximum of 300 years.

Applications for on lot well permits, submitted by entities other than the Applicant of the change of Determination of Water Right must submit evidence that the Applicant has acquired the right to the portion of the water being requested in the application.

**State Engineer’s Office Opinion**

Based upon the above and pursuant to section 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.

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 on the subdivided land is equal to the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision.

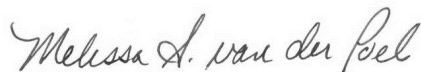
Our opinion is qualified by the following:

The Ground Water Commission 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 aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100 year aquifer life. The county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 100 years (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.

If you or the applicant have any questions, please contact me at (303) 866-3581 ext. 8208 or at [Melissa.Vanderpoel@state.co.us](mailto:Melissa.Vanderpoel@state.co.us)

Sincerely,



Melissa A. van der Poel, P.E.  
Water Resource Engineer

Ec: Referral No. 30426

County Attorney

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

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

August 28, 2023

MS-22-6                      Zindorf Subdivision No. 3

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

**WATER SUPPLY REVIEW AND RECOMMENDATIONS**

Project Description

1. This is a proposal for approval of the Zindorf Subdivision No. 3, a subdivision application by Greg Zindorf, Z investments (“Applicant”) for a 4-lot subdivision on a parcel of 39.67 acres of land (the “property”). There is one existing home on the property. A rezone of this property is being sought concurrently with the minor subdivision. The property is currently zoned A-35 (Agriculture) and would be changed to RR-5 (Residential).

Estimated Water Demand

2. Pursuant to the *Water Supply Information Summary* (“WSIS”), the water demand for the subdivision of 39.67 acres into 4 residential lots is comprised of 0.26 acre-feet of indoor household use per home for a total of 1.04 acre feet for the four lots; .075 acre-feet per lot for irrigation for a total of .300 acre-feet for the 4 lots, for a total demand of .335 acre-feet per year per lot or 1.34 acre-feet per year total for the 4 lots. Based on this total demand, Applicant must be able to provide a supply of 402 acre-feet of water (1.34 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement.

Proposed Water Supply

The Applicant has provided for the source of water to derive from one or more individual on-lot wells withdrawing from the not-nontributary Arapahoe aquifer as provided in Determination of Water Right No. 4252-BD (“Determination”). The Determination allocated 578 acre-feet of water in the Arapahoe aquifer to the property. Replacement Plan No. 4252-RP (“Replacement Plan”) allows

**ASSISTANT COUNTY ATTORNEYS**

NATHAN J. WHITNEY                      STEVEN A. KLAFFKY                      LORI L. SEAGO                      BRYAN E. SCHMID                      DOREY L. SPOTTS  
CHRISTOPHER M. STRIDER                      TERRY A. SAMPLE                      STEVEN W. MARTYN                      MERI GERINGER

the Applicant to withdraw from four wells on the property an annual amount of water from the Arapahoe aquifer of 1.34 acre-feet for a 300-year allocation. Each well may withdraw 0.335 acre-feet of water annually for domestic, irrigation, agricultural, livestock, replacement, commercial, industrial, and fish and wildlife purposes.

The Replacement Plan requires that return flows be provided from individual on-lot septic systems.

#### State Engineer's Office Opinion

4. In a letter dated August 9, 2022, the State Engineer stated that the lots will be serviced by individual on-lot wells producing from the not-nontributary Arapahoe aquifer that will operate pursuant to the Determination of Water Right No. 4252-BD and Replacement Plan No. 4252-RP. The allowed average annual amount of withdrawal per well for the subdivision shall not exceed 0.335 acre-feet for a maximum of 300 years. The well currently serving the existing residence must be re-permitted.

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

#### Recommended Findings

5. Quantity and Dependability. Applicant's water demand for Zindorf Subdivision No. 3 is 1.34 (0.335 acre-feet per lot per year) acre-feet per year for a total demand of 402 acre-feet for the subdivision for 300 years. Under Determination of Water Right No. 4252-BD, Applicant has the right to use up to 578 acre-feet from the Arapahoe aquifer, and Replacement Plan No. 4252-RP allows the withdrawal of 1.34 acre-feet per year for a total of 4 lots based on a 300-year allocation for use within the subdivision.

**Based on the water demand of 1.34 acre-feet/year (402 acre-feet total) for the Zindorf Subdivision No. 3 and the right to withdraw Arapahoe aquifer water in that amount, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the Zindorf Subdivision No. 3.**

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: a *Water Resources Report* dated April 2022, the Water Supply Information Summary, the State Engineer's Office Opinion dated August 9, 2022, Determination of Water Right No. 4252-BD and Replacement Plan No. 4252-RP entered on November 3, 2021. 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 Colorado Ground Water Commission Determination of Water Right No. 4252-BD and the Replacement Plan No. 4252-RP, including that water withdrawn from the Arapahoe aquifer shall not exceed 1.34 acre-feet total per year for up to 300 years. The allowed annual amount of groundwater to be withdrawn from each well is .335 acre-feet (1.34 acre-feet total).

B. The County prefers that when there is a replacement plan, Applicant create a homeowners' association ("HOA") for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water determinations for the property. For a four-lot subdivision such as this, however, in which the replacement of post-pumping depletions is not required, Applicant may elect to solely rely on the covenant provisions required below and forego creation of an HOA.

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 Determination of Water Right No. 4252-BD and the Replacement Plan No. 4252-RP.

Covenants shall specifically address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 402 acre-feet of not-nontributary Arapahoe aquifer water pursuant to Determination of Water Right No. 4252-BD to satisfy El Paso County's 300-year water supply requirement for the 4 lots of the Zindorf Subdivision Filing 3. The Covenants shall further identify that 100.5 acre-feet (0.335 acre-feet/year) of Arapahoe aquifer water is allocated to each residential lot.

2) Advise of responsibility for costs. The Covenants shall advise the lot owners and their successors and assigns of their obligations regarding the costs of operating the plan for replacement, which include the installation and/or maintenance of totalizing flow meters.

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

whole or in part for any other purpose. Lot owners must follow all applicable laws, rules, regulations, court orders, and permit conditions related to return flows.”

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

“The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not Determination of Water Right No. 4252-BD and the Replacement Plan No. 4252-RP and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

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

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

“Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Zindorf Subdivision No. 3 pursuant to Determination of Water Right No. 4252-BD and the Replacement Plan No. 4252-RP. Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney’s Office. Any amendments must be pursuant to the Colorado Ground Water Commission approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such determination.”

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

“These Covenants shall not terminate unless the requirements of Determination of Water Right No. 4252-BD and the Replacement Plan No. 4252-RP are also terminated by the Colorado Ground Water Commission and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

D. Applicant and its successors and assigns shall reserve in any deeds of the Property Arapahoe aquifer water in the decreed amount of 100.5 acre-feet (0.335 acre-feet annually) per 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 and replacement supply.

E. Applicant and its successors and assigns shall convey by recorded warranty deed these reserved Arapahoe aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Arapahoe aquifer underlying the respective lots to satisfy El Paso County’s 300-year water supply requirement. Sufficient water rights are 100.5 acre-feet (0.335 acre-feet/year x 300 years) from the Arapahoe aquifer for each residential lot.

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary supply (Arapahoe 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 Zindorf Subdivision No. 3. 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 Determination of Water Right No. 4252-BD and the Replacement Plan No. 4252-RP and shall identify the obligations of the individual lot owners thereunder.

G. Applicant and its successors and assigns shall record all applicable documents, including but not limited to Determination of Water Right No. 4252-BD and the Replacement Plan No. 4252-RP, 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. Applications for well permits submitted by persons other than the Applicant must include evidence that the permittee has acquired the right to the portion of the water being requested.

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."

J. Prior to recording the final plat, Applicant shall upload a corrected Water Supply Information Summary to eDARP that identifies the water supply source in Section 10 as the Arapahoe aquifer, not the Upper Dawson, and adds the Determination and Replacement Plan case numbers.

cc: Ashlyn Mathy, Project Manager, Planner



Prevent • Promote • Protect

Environmental Health Division  
1675 W. Garden of the Gods Road  
Suite 2044  
Colorado Springs, CO 80907  
(719) 578-3199 *phone*  
(719) 578-3188 *fax*  
[www.elpasocountyhealth.org](http://www.elpasocountyhealth.org)

### **McDaniels Road Minor Subdivision, MS-22-6**

**Please accept the following comments from El Paso County Public Health regarding the project referenced above:**

- **The existing 40-acre developed lot is proposed to have four total lots. All lots are approximately 9.7 acres in size. The 4 new lots will be served water from private wells, and new onsite wastewater treatment systems (OWTS) are proposed for wastewater service.**
- **There is a finding for sufficiency in terms of water quality based on the acceptable water sample results submitted by Colorado Analytical Laboratories dated 14 July 2021, and ACZ Laboratories, Inc. dated 26 August 2021.**
- **The 20 December 2021, Soil, Geology, and Wastewater Study completed by RMG Engineering, found the site suitable for the installation of onsite wastewater treatment systems (OWTS). In some cases, a professional engineer designed system may be required.**
- **Radon resistant construction building techniques/practices are encouraged in this area. The EPA has determined that Colorado, and specifically the El Paso County area, have higher radon levels than other areas of the country.**

**Mike McCarthy  
El Paso County Public Health  
719.332-5771  
[mikemccarthy@elpasoco.com](mailto:mikemccarthy@elpasoco.com)  
16 September 2022**

## Ashlyn Mathy

---

**From:** Meggan Herington  
**Sent:** Wednesday, September 6, 2023 10:45 AM  
**To:** Ashlyn Mathy  
**Subject:** FW: subdivided property

Ashlyn, this email came to Commissioner Gonzales. Please add this letter of opposition to the record and provide in the packet to the PC and BoCC.



**Meggan Herington, AICP**

Executive Director

El Paso County Planning and Community Development

719-520-7941

<https://planningdevelopment.elpasoco.com>

>  
>> On Apr 3, 2022, at 7:25 PM, Jason <[rojoburn@gmail.com](mailto:rojoburn@gmail.com)> wrote:  
>>  
>>  
>> Sir,  
>> We are writing to bring a matter to your attention. There is a 40 acre parcel located at 22755 McDaniels Rd in Ellicott. The current owner of the parcel, Z Investments is petitioning to county to change the zoning to RR-5 to allow subdivision of the property into four 10 acre lots.  
>> We are writing to ask to please look at all the aspects of this before voting. We have a number of concerns. We live directly south of this parcel.  
>> This parcel is part of a trust agreement that states the parcel cannot be subdivided into smaller parcels. Interestingly, while we have a recorded copy of this agreement, it does not show up on the McDaniels property on the county recording website.  
>> The proposed subdivision calls for three additional wells and septic. This is potentially hazardous for our current water supply. As almost the entirety of the property is located in a flood zone, more specifically the property is in an old river bottom, we hope county health would not issue septic permits for this project.  
>> The county has a hard enough time maintaining the roads in our area. While three additional homes does not seem like much, the additional use of the road will only add to the already strained resources of the maintenance department.  
>> Z Investments is asking for the zoning change to "provide much needed housing for residents of El Paso County." They are talking about building three additional houses. How does this help? With the new Mayberry subdivision being built within one mile, this request of three houses to help the housing situation in El Paso county seems silly.  
>> The firm representing Z Investments, William Guman and Associates, in the certified letter we received has not shown due diligence in the letter itself. The letter has no signature. The letter states they are letting us know they are requesting a zoning change for property located at 20990 Jones Rd; however, the tiny map detail shows the McDaniels property of 22755 McDaniels Rd. We emailed the contact on the letter, Mr. Ed Morgan. He informed us the address in our letter is not correct, it is the McDaniels property. He also says they have reviewed the FEMA map from December 2018 and the flood zone area is a "no build on our conceptual plans." Our concern with the letter is simply this: if they cannot get the address correct on correspondence, how can we have faith they will have work done properly? While this may seem trivial, as our water supply is potentially affected, what assurances do we have other small details won't be ignored or overlooked?  
>> As you can see, we have numerous concerns regarding this project.  
>>

>> Thank you for your time. We understand once a hearing date is set, we will be notified.

>>

>> Jason and Jennifer Plumley

>> 1210 Log Rd

>> Calhan, CO 80808

**From:** Jason Plumley <rojoburn@gmail.com>  
**Sent:** Tuesday, September 5, 2023 8:35 PM  
**To:** PCD Hearings  
**Subject:** Subdivision on McDaniels road

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Begin forwarded message:

**From:** Jason Plumley <rojoburn@gmail.com>  
**Date:** September 5, 2023 at 8:33:33 PM MDT  
**To:** LonginosGonzalezJr@elpasoco.com  
**Subject:** Subdivision on McDaniels road

Mr. Gonzales Jr-

Is there anyway to prevent this subdivision from being approved? Based on the documents provided, the bulk of the property is in a flood area. When the area flooded in June, the flood map was spot on. Where are they going to put three more wells and three more septic? Parts of McDaniels road washed out and drained across the property. What type of damage is going to come from three more culverts?

We've talked about the road before, but again, when the county is having a hard time maintaining the road with the current traffic, how can they maintain with additional traffic?

We see all the provided documents, but it really feels as though the hearing is just a formality and the project will just be rubber stamped and approved.

We strongly oppose this subdivision, but we are unable to take off work to voice our options. As our county commissioner, can't you speak for us, your constituents?

Thank you,  
Jason and Jennifer Plumley  
1210 Log Rd  
Calhan, CO



RESOLUTION NO. 23-

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

APPROVE MINOR SUBDIVISION FINAL PLAT  
MCDANIELS ROAD MINOR SUBDIVISION (AKA ZINDORF SUBDIVISION NO.3) (MS226)

WHEREAS, Greg Zindorf did file an application with the El Paso County Planning and Community Development Department for approval of a Final Plat for the Zindorf Subdivision No. 3 for the 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 September 7, 2023, 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 September 28, 2023; 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 proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
6. The subdivision is consistent with the purposes of the Land Development Code ("Code").

7. The subdivision is in conformance with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analysis, 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)(a)] and the requirements of Chapter 8 of the Code.
9. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of the Code.
10. 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)].
11. Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual ("ECM") are provided by the design.
12. 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.
13. Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County and in compliance with the Code and the ECM.
14. The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.
15. Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.

16. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.
17. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.
18. Off-site impacts were evaluated, and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code.
19. 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.
20. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of El Paso County, Colorado, hereby approves the Minor Subdivision Final Plat application for the McDaniels Road Minor Subdivision (AKA Zindorf Subdivision No.3);

BE IT FURTHER RESOLVED that the following conditions and notation 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 subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service

regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.

6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Park fees in lieu of land dedication for regional parks region 4 in the amount of \$1,840 and there are no urban park fees associated with this project. The regional park fees shall be paid at the time of plat recordation.
9. Fees in lieu of school land dedication in the amount of \$740.00 shall be paid to El Paso County for the benefit of Ellicott School District 22 at the time of plat recording.
10. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated August 28, 2023, as provided by the County Attorney's Office.

NOTATION

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.

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

DONE THIS 28th day of September 2023 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

By: \_\_\_\_\_  
Chair

By: \_\_\_\_\_  
County Clerk & Recorder

EXHIBIT A

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 14 SOUTH,  
RANGE 63 WEST OF THE 6TH P.M., COUNTY EL PASO, STATE OF COLORADO.

SAID TRACT CONTAINS 39.67 ACRES OF LAND, MORE OR LESS.