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PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Thomas Bailey, Chair

FROM: Kylie Bagley, Planner III
Ed Schoenheit, Engineer I
Meggan Herington, AICP, Executive Director

RE: Project File Number: SF2215
Project Name: Pair-A-Dise Subdivision Filing No. 1
Parcel Number: 71360-02-005

OWNER:	REPRESENTATIVE:
Aaron Atwood 515 Struthers Loop Colorado Springs, CO 80921	MVE Attn: David Gorman 1903 Lelaray Street, Suite 200 Colorado Springs, CO 80921

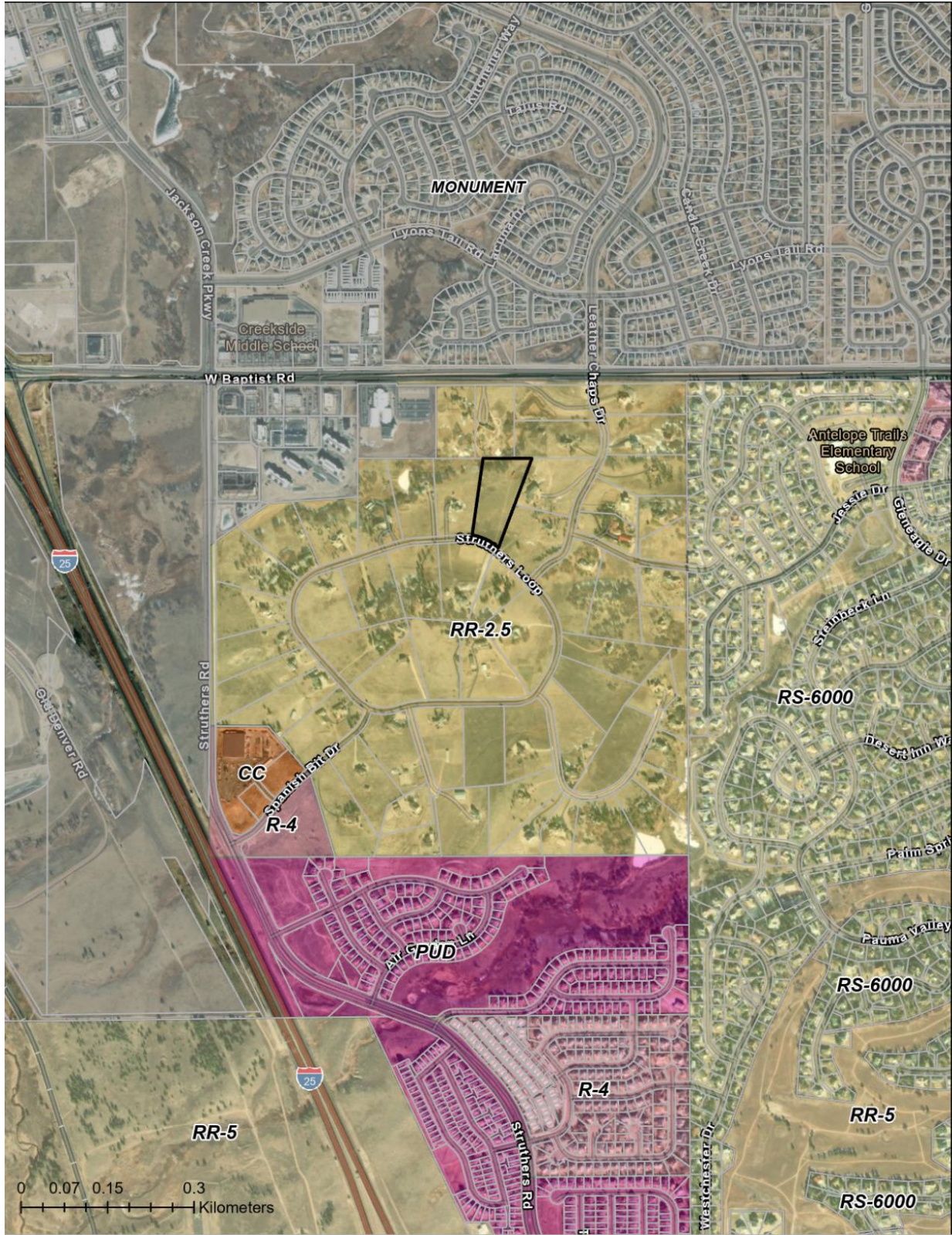
Commissioner District: 3

Planning Commission Hearing Date:	3/7/2024
Board of County Commissioners Hearing Date:	3/28/2024

EXECUTIVE SUMMARY

A request by Aaron Atwood for approval of a 5.04-acre Minor Subdivision creating two single-family lots. The property is zoned RR-2.5 (Residential Rural) and is located at 515 Struthers Loop, one-third of a mile south of the intersection of West Baptist Road and Leather Chaps Road.





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A. WAIVERS AND AUTHORIZATION

Waiver(s):

The applicant requests the following waiver of the LDC:

Section 8.4.3.B “Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC.” It is proposed that lot 2 gain access by way of an access easement connecting Lot 1 to Struthers Loop along the easterly property boundary. The responsibility and maintenance of the access drive shall be carried out by the owners of Lots 1 and 2 in accordance with a private access maintenance agreement.

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

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

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

B. APPROVAL CRITERIA

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

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;

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- The subdivision is consistent with the purposes of this Code;
- The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;
- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code (this finding may not be deferred to final plat if the applicant intends to seek administrative final plat approval);
- A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of this Code;
- All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)];
- Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3) (c)(VIII)] and the requirements of this Code and the ECM are provided by the design;
- The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development;
- Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to,

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wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;

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

C. LOCATION

North:	RR-2.5 (Residential Rural)	Single-Family Residential
South:	RR-2.5 (Residential Rural)	Single-Family Residential
East:	RR-2.5 (Residential Rural)	Single-Family Residential
West:	RR-2.5 (Residential Rural)	Single-Family Residential

D. BACKGROUND

The property was platted into a 5-acre lot as part of the Chaparral Hills subdivision in 1971. In 1990, the County initiated a rezone from the R (Residential) zone district to the A-6 (Rural Residential) zone district. When the property was platted in 1971, lots ranged from 4.74 acres to 6.08 acres. It was determined at the time of the rezone, that the A-6 zoning district was appropriate for the Chaparral Hills subdivision. Due to changes in the nomenclature of the Code, the A-6 zoning district was renamed as the RR-2.5 (Residential Rural) zoning district in 2007.



The applicant is requesting to subdivide his 5.04-acre lot into two 2.5 acre lots, meeting the dimensional standards of the RR-2.5 zoning district. The site is currently vacant and would allow for one single-family dwelling to be constructed on each lot.

E. ANALYSIS

1. Land Development Code and Zoning Analysis

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

The subject property is zoned RR-2.5 (Rural Residential). The RR-2.5 zoning district is intended to accommodate low-density, rural, single family residential development. The density and dimensional standards for the RR-2.5 zoning district are as follows:

	Current Zoning District: RR-2.5 (Residential Rural)
Maximum Density	1 unit per 2.5 acres
Minimum Lot Size	2.5 acres
Minimum Width at Front Setback	200 feet
Front Setback	25 feet
Rear Setback	25 feet
Side Setback	15 feet
Maximum Lot Coverage	None
Maximum Height	30 feet

In order to initiate any new residential uses on the property, the applicant will need to obtain site plan approval. Any proposed structures will require site plan review and will include confirmation that all site improvements will comply with the dimensional standards included in Chapter 5 as well as the Development Standards of Chapter 6 of the Code.

F. MASTER PLAN COMPLIANCE

1. Your El Paso County Master Plan

a. Placetype Character: Large-Lot Residential

The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this

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

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

Recommended Land Uses:

Primary

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

Supporting

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

Analysis:

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

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

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

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

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

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

The proposed subdivision was rezoned by the County in 1990 as a way to make the existing Chaparral Hills subdivision in compliance with the current zoning district. The proposed Final Plat is consistent with the recommended density of the Large-Lot Residential placetype.

b. Area of Change Designation: Minimal Change: Developed

These areas have undergone development and have an established character. Developed areas of minimal change are largely built out but may include isolated pockets of vacant or underutilized land. These key sites are likely to see more intense infill development with a mix of uses and scale of redevelopment that will significantly impact the character of an area. For example, a large amount of vacant land in a suburban division adjacent to a more urban neighborhood may be developed and change to match the urban character and intensity so as to accommodate a greater population. The inverse is also possible where an undeveloped portion of a denser neighborhood could redevelop to a less intense suburban scale. Regardless of the development that may occur, if these areas evolve to a new development pattern of differing intensity, their overall character can be maintained.

Analysis:

The character of the surrounding area is consistent with the Area of Change designation, which identifies that developed areas of minimal change are largely built out but may include isolated pockets of vacant or underutilized land. These key sites are likely to see more intense infill development with a mix of uses and



scale of redevelopment that will significantly impact the character of an area. The applicant intends to build one single family home on each lot, which matches the character of the surrounding area.

c. Key Area Influences: Tri-Lakes Area

Tri-Lakes is the northern gateway into the County along Interstate 25 and Highway 83. It is situated between Pike National Forest, the United States Air Force Academy, and Black Forest. With significant suburban development and some mixed-use development, this Key Area supports the commercial needs of many of the residents in northern El Paso County. Tri-Lakes also serves as a place of residence for many who commute to work in the Denver Metropolitan Area. It is also an activity and entertainment center with the three lakes (Monument Lake, Wood-moor Lake, and Palmer Lake) that comprise its namesake and direct access to the national forest. Tri-Lakes is the most well-established community in the northern part of the County with a mixture of housing options, easy access to necessary commercial goods and services, and a variety of entertainment opportunities. Future development in this area should align with the existing character and strengthen the residential, commercial, employment, and entertainment opportunities in the adjacent communities of Monument, Palmer Lake, and Woodmoor.

Analysis:

The applicant intends to subdivide one lot into two lots and construct a single-family home on each lot. The property is located 1.3 miles from the intersection of West Baptist Road and I-25, allowing residents in this area access to commute to the Denver Metropolitan area.

2. Water Master Plan Analysis

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

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

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Goal 1.2 – Integrate water and land use planning.

Goal 5.6 – Protect property rights.

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 2 of the Plan, which is an area anticipated to experience significant growth through 2060. The following information pertains to water demands and supplies in Region 2 for central water providers:

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

See the Water section below for a summary of the water findings and recommendations for the proposed subdivision.

3. Other Master Plan Elements

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

The Master Plan for Mineral Extraction (1996) identifies upland 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.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

Geologic hazards were identified during the review of the Final Plat. Potentially seasonally high groundwater; potential expansive and compressible soils; faults and

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seismic activity; and potential radon was identified on Lots 1 and 2. The Colorado Geological Survey has reviewed the Final Plat documents and has no outstanding comments at this time. Proposed mitigation measures include no basements or habitable below-grade space be constructed on both lots; groundwater monitoring prior to construction; or onsite grading indicates that it will mitigate the depth of the water. These will be evaluated at the time of building permit for the individual lots.

2. **Floodplain:** The property is not located within a floodplain as determined by a review of the Federal Insurance Rate Map number 08041C0287G, effective December 7th, 2018. The property is in Zone "X" which is an area of minimal flood hazard determined to be outside the 500-yr flood zone.
3. **Drainage and Erosion:** The property is in the Jackson Creek drainage basin. Drainage basin fees in the amount of \$3,772.00 will be due at the time of plat recordation. Jackson Creek basin has no current bridge fees. Drainage on the lot generally flows from east to west through existing natural swales. No public drainage improvements are proposed or required as part of the subdivision. The drainage report prepared by MVE, Inc. concluded that the proposed subdivision and development will not cause adverse impacts to adjacent properties from Stormwater runoff.
4. **Transportation:** The property is located along Struthers Loop which is a County maintained, local gravel road. A recorded Access Easement & Maintenance Agreement will be required at time of plat recordation to enable lot access. No public improvements are required as part of the subdivision. The property is subject to the El Paso County Road Impact Fee program. Road Impact fees will be due at the time of building permit. A County driveway access permit will be required.

H. SERVICES

1. Water

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

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2. Sanitation

Wastewater is provided by onsite wastewater treatment system.

3. Emergency Services

The property is within the Donald Wescott Fire Protection District.

4. Utilities

Electricity will be provided by Mountain View Electric Association. Natural gas will be provided by Black Hill Energy.

5. Metropolitan Districts

The subject property is not located within a metropolitan district.

5. Parks/Trails

Fees in lieu of park land dedication in the amount of \$920 for regional fees and \$0 for urban park fees will be due at the time of recording the final plat.

6. Schools

Fees in lieu of school land dedication in the amount of \$612 shall be paid to El Paso County for the benefit of Academy School District 20 at the time of plat recording.

I. APPLICABLE RESOLUTIONS

See attached resolution.

J. STATUS OF MAJOR ISSUES

There are no major outstanding issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

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

CONDITIONS

- 1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.



2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the 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 appropriate El Paso County staff.
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. Drainage fees in the amount of \$3,772 and bridge fees in the amount of \$0 shall be paid for the Jackson Creek Drainage Basin at the time of plat recordation.

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9. Park fees in lieu of land dedication for regional parks in the amount of \$920 and urban park fees in the amount of \$0 shall be paid at the time of plat recordation.
10. Fees in lieu of school land dedication in the amount of \$612 shall be paid to El Paso County for the benefit of Academy School District 20 at the time of plat recording.
11. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 1/18/2024, as provided by the County Attorney's Office.

NOTATIONS

1. Final Plats not recorded within 24 months of Board of County Commissioner 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 12 adjoining property owners on February 14, 2024, for the Planning Commission and Board of County Commissioner meetings. Responses will be provided at the hearing.

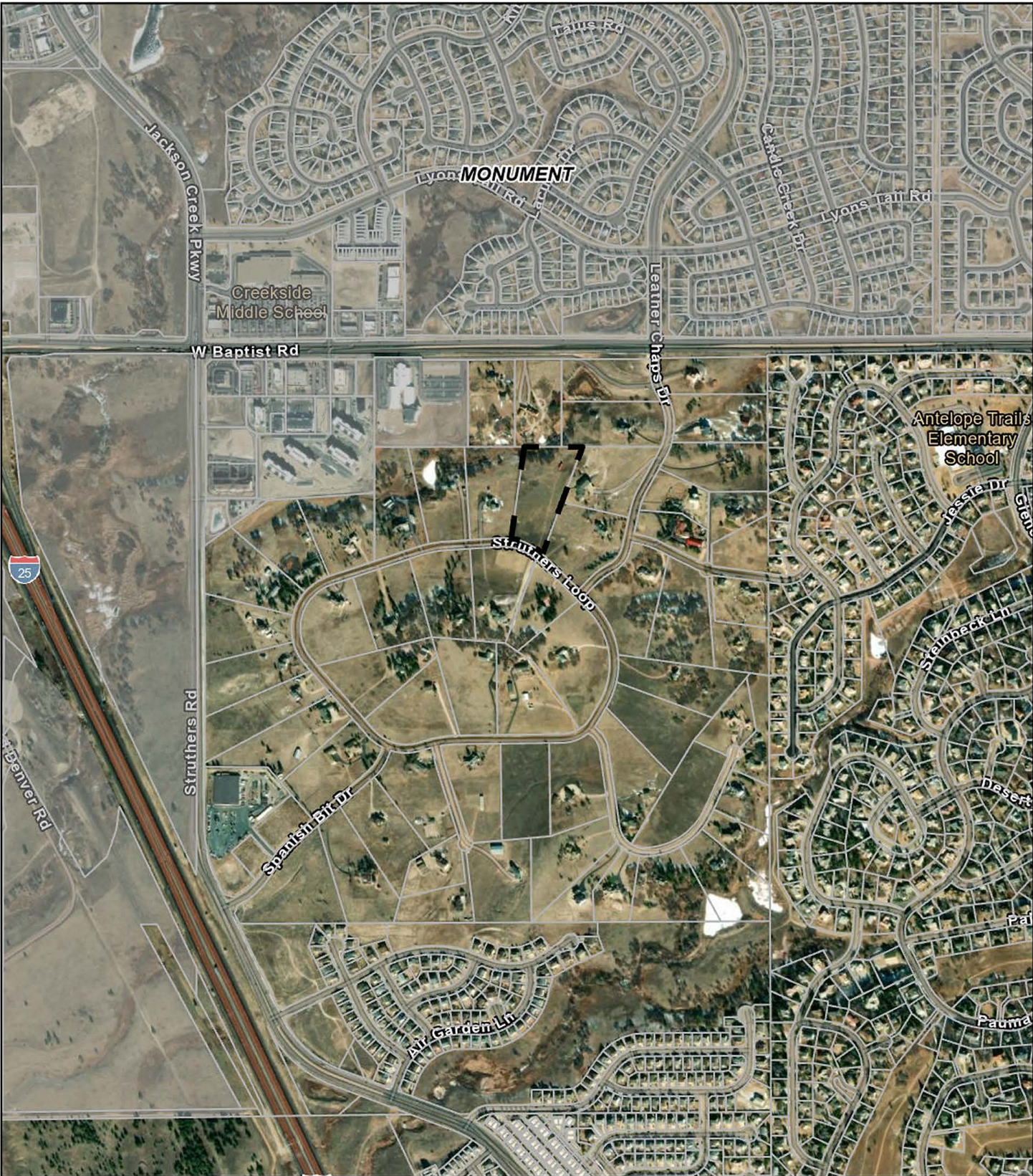
M. ATTACHMENTS

Map Series
Letter of Intent
Plat Drawing
State Engineer's Letter
County Attorney's Letter
Draft Resolution

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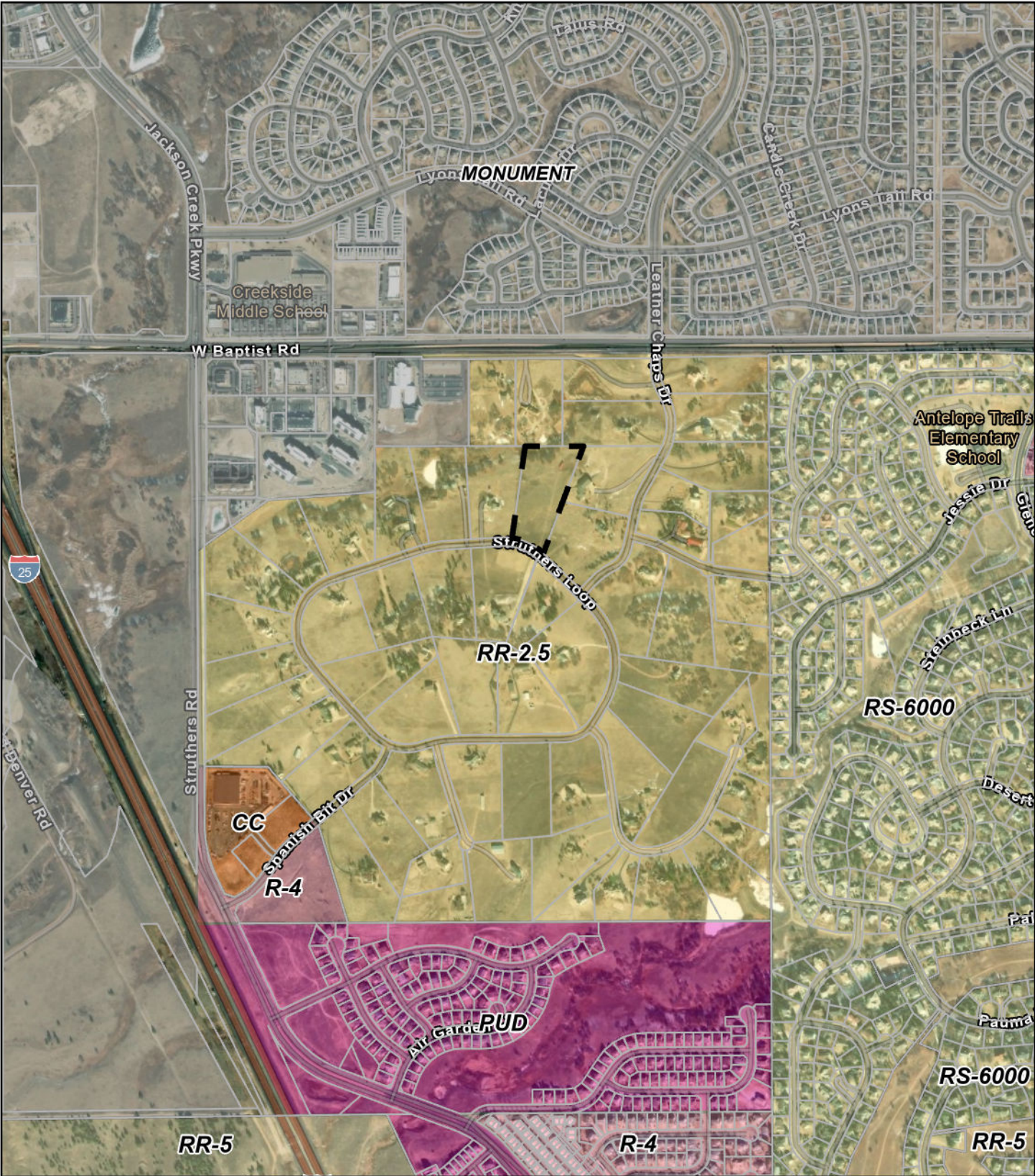
Aerial Map



File No. SF2215

Map Series No. 1

0 0.1 0.2 Miles

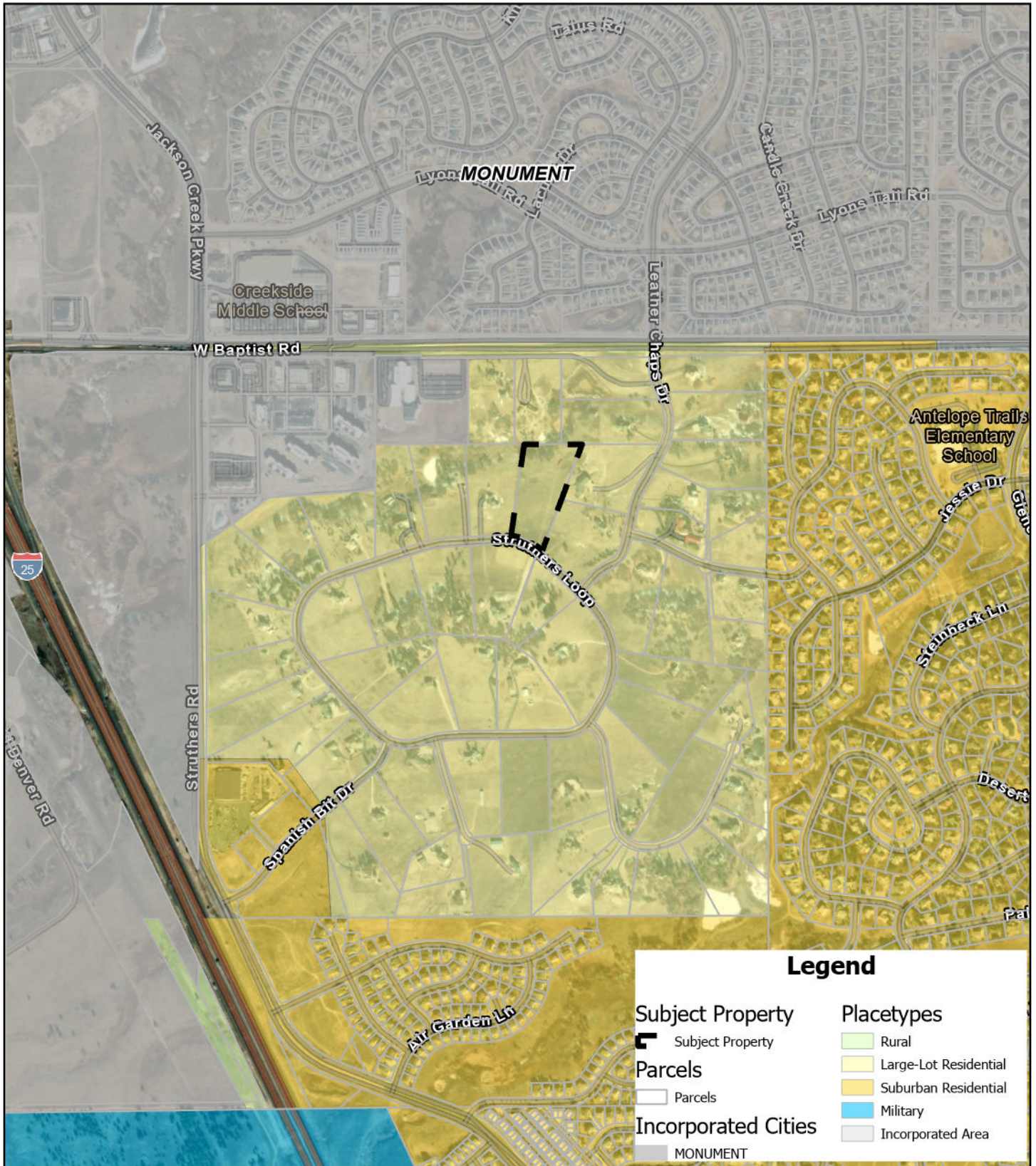


Zoning Map

File No. SF2215

Map Series No. 2





Placetype Map

File No. SF2215

Map Series No. 3





Legend

- | | |
|---------------------|-----------------------------|
| Subject Property | Areas Of Change |
| Parcels | Minimal Change: Undeveloped |
| Incorporated Cities | Minimal Change: Developed |
| | MONUMENT |



Area of Change Map

File No. SF2215

Map Series No. 4



0 0 0.1 0.2 Miles



Key Area Map

File No. SF2215

Map Series No. 5



July 20, 2022

PCD File # SF-22-015

**LETTER OF INTENT
PAIR-A-DISE SUBDIVISION FILING NO. 1
MINOR SUBDIVISION
(MVE Proj. No. 61155)**

Owner:

Sarah Atwood
701 Airman Lane
Colorado Springs, CO 80921
(719) 238-8800

Applicant:

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

Site Location Size and Zoning:

The proposed subdivision known as “Pair-A-Dise Subdivision Filing No. 1” is located within the northeast one-quarter of Section 36, Township 11 South, Range 67 west of the 6th Principal Meridian in El Paso County, Colorado. The property has El Paso County Tax Schedule No. 71360-02-005. The current address of the site is 515 Struthers Loop. The site is currently vacant. The site is 5.04± acres in area and is zoned RR-2.5 (Residential Rural – 2.5 Acre).

The site is situated on the north side of Struthers Loop, west of Leather Chaps Drive and south of Baptist Road. Struthers Loop, a public gravel road with 60 ft right-of-way, is adjacent to the southern edge of the site. The site is bounded on all sides by the Chaparral Hills Subdivision. Lots 43 & 44 border the site to the north, lot 56 borders the site to the south, lot 37 borders the site to the west, and lots 39 & 40 border the site to the east.

Request and Justification:

The request is for approval of the Minor Subdivision plat of PAIR-A-DISE SUBDIVISION FILING NO. 1, containing 5.04± acres. This proposed Minor Subdivision will create two (2) rural residential single-family lots in the RR-2.5 zone (Residential Rural – 2.5 Acre), each with lot area exceeding 2.5 acres. Also, a waiver from LDC section 8.4.3 (B) that “Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC” is also requested. Instead of road frontage, access to Lot 1 shall be through the proposed access easement connecting to Struthers Loop. The justification for the requested waiver is included in a separate section below.

Engineers • Surveyors

1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736

Fax 719-635-5450 • e-mail mve@mvecivil.com

This Minor Subdivision plat is consistent with the requirements of the existing RR-2.5 zoning with respect to the layout, land use (single-family residential), lot size, minimum building setbacks, water supply and wastewater disposal. The proposed minor subdivision layout will comply with the requirements of the proposed RR-2.5 zone.

The proposed Minor Subdivision is compatible with the surrounding land uses and neighborhood listed above and coincides with the adjacent lot/parcel sizes on the north, south, east, and west, all being approximately 2.5 acres or larger. The proposed Minor Subdivision application is in conformance with the goals, objectives, and policies of the Master Plan including the Policy Plan and the Tri-Lakes Comprehensive Plan (2000).

This application meets the Minor Subdivision submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivisions in Chapter 8 of the El Paso County Land Development Code (2021). Minor Subdivisions are reviewed and approved in consideration of the review criteria found in the El Paso County Land Development Code. Each criteria is listed below followed by the appropriate justification.

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

The site is located west of Roller Coaster Road, north of North Gate Blvd., and south of Baptist Road. The site is designated to be a Large-Lot Residential Placetype. The Primary Land Use of this placetype is Single Family Detached housing with Agriculture, Commercial Retail, Commercial Service and Parks and Open Space as Supporting Land Uses. The location of this site and existing infrastructure is suited to single family residential use and is surrounded by single family residences. The site location and connecting roadway layout in the immediate area is not suitable for Commercial Service and Commercial Retail uses. In the Land Use category, Goal 1.1 is *“Ensure compatibility with established character and infrastructure capacity”*. This area of the County is conducive to rural residential development that allows residential use of property but preserves the natural character of the landscape. Although the zoning of the site and the surrounding area is RR2.5, many of the surrounding lots are 5.0 acres in size. However, 2.5 acre lots are located nearby on the east side of Leather Chaps Drive, also adjacent to 5 acre lots. The proposed replat is not out of character for the neighborhood. The proposed subdivision is compatible with the existing neighborhood and surrounding development. The existing community character is preserved with this proposed plat. The proposed density will not overburden the existing roadway infrastructure or capacity of the land to support the water and wastewater needs of the development. The proposed Minor Plat will not create the need for additional roadways or public facilities. Goal 2.2 is *“Preserve the character of rural and environmentally sensitive areas”*. The proposed subdivision will keep the large-lot nature of the area intact. The 2.5-acre lot density, included in the “large lot” designation, has reduced impact on environmental conditions. Density and land use are compatible with the surrounding area and the natural features of the site will remain preserved, even with the addition of two single-family residences on the site. The private driveways to be used for access will have minimal impact on

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the existing terrain. No new roads are proposed with this subdivision since all access is proposed to be provided by a single low-impact driveway connecting to Struthers Loop. In this way, lot access is provided while eliminating the need for additional access points and additional public roadway. The driveway will present a reduced impact on the natural terrain, land forms and vegetation. The project maintains the rural character of site and neighborhood.

The proposed Minor Plat is in compliance with the Parks Master Plan, which does not appear to call for trails or parks in the site vicinity. Any required Park Fees will be paid at the time of plating. The proposed subdivision is also in compliance with the 2040 Major Transportation Corridors Plan (MTCP) and Master Plan for Mineral Extraction as no separate mineral estate owners were found for the property and the existing development on surrounding properties is not compatible with any potential mineral extraction operations.

The proposed subdivision is in compliance with the El Paso County Water Master Plan (2018). The District Court, Water Division 2 Colorado, has decreed certain water rights and approved a plan for augmentation as necessary to allow the drilling of two wells for the subdivision in Case No. 2021CW3010 of the records of El Paso County. The owner seeks a finding of sufficiency from the Colorado Division of Water Resources and the eventual granting of the well permits based on the decreed water rights. A listing of some of the policies of the Water Master Plan that are supported by the proposed development follow: *Policy 4.1.3 – Support enhanced monitoring of sources of surface and tributary groundwater in the County.* The referenced decree requires use of metering for the wells to insure compliance with the terms of the permit; *Policy 6.2.1.2 – Encourage re-use of treated wastewater for irrigation and other acceptable uses when feasible.* Both of the new single-family residences on the proposed 2.5 acre lots will utilize onsite wastewater treatment systems which will provide “Return Flows” the environment as a condition of the groundwater findings and order and the well permit.

2. The subdivision is in substantial conformance with the approved preliminary plan.

This is a proposed Minor Subdivision and requires no Preliminary Plan for Plat approval. The subdivision will be developed in accordance with the currently proposed land use applications.

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

The proposed Minor Subdivision Plat is prepared in accordance with applicable subdivision design standards. No public improvements are required for this subdivision.

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 this Code.

Water service is to be provided by individual on site wells operated under a State approved Water Augmentation Plan.

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 this Code.

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Wastewater is intended to be treated via individual on site septic systems designed, constructed and operated under State and County Health Department rules and regulations and in accordance with the Water Decree.

6. ***All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)].***

A soils report has been prepared for the site and the owner will comply with the recommendations of the report.

7. ***Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM.***

The proposed Minor Subdivision is consistent with the submitted Drainage Letter. There are not Drainage facilities needed or proposed with this development. The the owner will comply with the requirements of the drainage letter.

8. ***Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM.***

Both lots will access via existing Struthers Loop. New driveways will be established for the proposed lots. An Access Easement is provided on the Final Plat and a private access and maintenance agreement will be established to facilitate the access for Lot 1. The lot owners will share the same driveway connection for both lots.

9. ***Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.***

The site is located within the jurisdiction of the El Paso County Sheriff's Office. The Sheriff's office currently provides police protection for the site and surrounding area. Pair-A-Dise Subdivision Filing No. 1 is located within the Donald Wescott Fire Protection District which is providing fire protection for the site and has agreed to serve this subdivision. Water and sanitary sewer provisions are discussed in items 4 & 5 above. The property is located within the service areas of Mountain View Electric Association, Blackhills Energy Corporation, Centurylink Telephone, and Academy School District 20, which will serve the subdivision. Transportation is being facilitated by the existing adjacent roadway system.

10. ***The Minor Subdivision plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code.***

Pair-A-Dise Subdivision Filing No. 1 is located within the Donald Wescott Fire Protection District which is providing fire protection for the site and the surrounding area. The District has agreed to serve this subdivision. Building permits for each structure shall be in accordance with the requirements of the Fire District as administered by the Pikes Peak Regional Building Department.

11. ***Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8.***

All Offsite impacts are determined to be insignificant with the addition of two residences to the site. The owner will be responsible to pay park, school, drainage and Traffic Impact fees.

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12. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.

There are no public facilities or infrastructure required or proposed for this subdivision. The platting of the site will include the collection of the applicable School Fees, Park Fees, Drainage Fees and Traffic Impact fees due for this project.

13. The subdivision meets other applicable sections of Chapter 6 and 8.

The existing lot has been designed with the design parameters that are listed in El Paso County Land Development Code, Chapters 6 and 8. This lot is to be subdivided into two residential lots for which the standards for residential lots will be applicable.

All dimensional standards for land subdivisions are met for the project including lot area, lot width, minimum building setbacks, potential lot coverage, and building height. Adequate access to a public county road is provided. Air & water quality standards are to be maintained. Water, wastewater, gas, electric, emergency response and fire protection are available and will be provided for this property.

14. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et seq.].

Mineral estate owners have been notified of this application. It is unlikely that mineral extraction operations would be feasible in this area.

Requested Waiver:

As previously mentioned, a waiver from LDC section 8.4.3 (B) is requested. The provision requires that “Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC”. It is proposed that lot 2 gain access by way of an access easement connecting Lot 1 to Struthers Loop along the easterly property boundary. The responsibility and maintenance of the access drive shall be carried out by the owners of Lots 1 and 2 in accordance with a private access maintenance agreement.

The property is rectangular in shape with the shorter sides oriented north-south and adjacent to Struthers Loop. The property shape and existing natural terrain dictate that the best lot arrangement is that in which Lot 2 borders Struthers Loop and Lot 1 is located to the north of Lot 2. Although sufficient land area exists to create two 2.5 acre lots in accordance with the zone, there is not enough area available to allow for a flag connection from Lot 1 to Struthers Loop or for a new public roadway extension. The natural terrain on the site lends to one lot having frontage on Struthers Loop and the second located to the north with no connection to the roadway.

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

1. *The waiver does not have the effect of nullifying the intent and purpose of this code;* The request for a waiver of the LDC section 8.4.3 (B) does not go against the intent and purpose of this code. This request is in line with the requirements set forth in the LDC, and the driveway will comply with all applicable design standards.
2. The waiver will not result in the need for additional subsequent waivers; With the approval of this waiver the lots will each be provided the required access necessary for their development. There

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will be no need for additional waivers as all applicable requirements of the El Paso County Land Development Code will be met.

3. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property; The proposed shared driveway will be constructed to provide safe and reliable access to each lot on the site. The responsibility and maintenance of said driveway shall be carried out as described in a private access maintenance agreement. The driveway will not pose a threat to the public safety, health, or welfare, nor will it be injurious to any other property.
4. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property; Pair-A-Dise Subdivision Filing No. 1 contains 5.006± acres and two (2) lots. Because the site does not contain more than three lots, a single driveway will be used to provide access to the entire site in lieu of a public road.
5. A particular non-economical hardship to the owner would result from a strict application of this code; With strict application of this code, the subdivision would be required to access by a public roadway in a 60' right-of-way constructed to El Paso County standards. The public road would significantly increase disturbance of the natural terrain and forest as well as the impervious area of the site while increasing the maintenance responsibility of the county. Also, the required land area is not available to either create a roadway or allow for a flag lot connection to existing Struthers Loop.
6. The waiver will not in any manner vary the zoning provisions of this code; The proposed driveway(s) will comply with all zoning provisions of this code.
7. The proposed waiver is not contrary to any provision of the master plan; The proposed shared driveway is in harmony with the goals of the master plan with regard to preserving place type characteristics and preserving natural features.

Existing and Proposed Facilities:

There are no existing facilities located within the parcel as it is currently a vacant lot. Struthers Loop, however, is a public roadway adjacent to the site. There are no required public subdivision improvements required for this site.

Total Number Of Residential Units And Densities:

The gross area of Pair-A-Dise Subdivision Filing No. 1 is 5.006+/- acres and is proposed to contain 2 rural residential Single Family Units. An area of 5.0006+/- acres will be single-family residential lots. The average lot size for the 2 lots is 2.5 acres. The gross density of the site is 0.40 units per acre.

Fire Protection:

The Pair-A-Dise Subdivision Filing No. 1 property is located within the Donald Wescott Fire Protection District. The lots and homes are subject to the codes and policies adopted by the District regarding fire protection.

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Proposed Access Locations:

The access location for Pair-A-Dise Subdivision Filing No. 1 will be from Struthers Loop in a location to be determined in accordance with the County's access policies. The northern lot will have access by way of an Access Easement through the southern lot.

Traffic Impact and Traffic Impact Fees:

The two (2) proposed single family residential units will access public Struthers Loop, which connects to Baptist Road by way of Leather Chaps Drive. The development is expected to generate a total of 19 trips per day (Average weekday trips) and 2 trips in the peak hour based on 9.44 trips per unit for Single Family Detached Housing (according to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers). This number of trips is below the County threshold of 100 trips per day or 10 trips during the peak hour. Therefore, a Transportation Impact Study (TIS) is not required for the project. This development is subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 18-471. The owners have elected to not be included in any Public Improvements District. Traffic Impact Fees will be paid at time of building permit.

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May 2, 2022

Kari Parsons
El Paso County Development Services Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910

RE: Atwood Subdivision – Final Plat
NE1/4 of the Sec. 36, Twp. 11S, Rng. 67W, 6th P.M.
Water Division 2, Water District 10
CDWR Assigned Subdivision No. 29183

To Whom It May Concern,

We have received the submittal to subdivide a 5.04-acre lot into 2 single-family residential lots. The two lots will be approximately equal in size with no existing wells on either lot. The water supply to these lots will be provided by two on-lot wells with wastewater being disposed of through individual on-lot septic disposal systems.

Water Supply Demand

The Water Supply Information Summary, included with the submittal, estimated a total annual use for the subdivision of 0.9 acre-feet for all combined uses on both lots (2,000 square-feet of lawn and garden). This differs from the 1.4 acre-feet/year approved pursuant to Division 2 Water Court Case No. 2021CW3010. Case No. 2021CW3010 allows for the use of two wells completed into the Denver aquifer with 0.6 acre-feet/year for two residences, irrigation of lawn and garden for up to 7,000 square feet per lot (0.7 acre-feet total) and stock watering of up to 4 large domestic animals per lot (0.2 acre feet total), for a total combined use of 1.4 acre-feet per year.

Source of Water Supply

The anticipated source of water is to be provided by two on-lot wells. This wells will produce from the Denver aquifer. The wells will operate pursuant to the augmentation plan decreed in case no. 21CW3010 (Division 2). The water underlying this property was adjudicated and the applicant is the owner of the Dawson, Denver, Arapahoe, and Laramie Fox-Hills aquifers.

According to the decree referenced above, the following amounts of water shown in Table 1, below, were determined to be available underlying the 5.04-± acre tract of land owned by the applicant.



Table 1 - Denver Basin Ground Water Rights

Aquifer	Tributary Status	Volume (AF)	Annual Allocation 100 Year (AF/Year)	Annual Allocation 300 Year (AF/Year)
Dawson	NNT	101	1.01	0.336
Denver	NNT	278.2	2.782	0.927
Arapahoe	NNT	0	0	0
Laramie-Fox Hills	NT	140	1.4	0.466

The plan for augmentation decreed in case no. 2021CW3010 allows for annual diversion of 1.4 acre-feet from the Denver aquifer for the uses proposed in the subdivision referral (The applicant has requested to utilize only 0.9 acre-feet per year).

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

In the El Paso County Land Development Code, effective November, 1986, Chapter 5, Section 49.5, (D), (2) states:

“-Finding of Sufficient Quantity – The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of three hundred (300) years.”

The State Engineer’s Office does not have evidence regarding the length of time for which this source will “meet the average annual demand of the proposed subdivision.” However, treating El Paso County’s requirement as an **allocation** approach based on three hundred years, the annual estimated demand, for the entire subdivision, is a maximum of 0.9 acre-feet as allowed by the augmentation plan. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

State Engineer’s Office Opinion

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that the anticipated water supply can be provided without causing material injury to decreed water rights so long as the applicant obtains well permits issued pursuant to C.R.S. 37-90-137(4) and the plan for augmentation noted herein, for all wells in the subdivision and operates the wells in accordance with the terms and conditions of any future well permits.

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

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according

to the statutory **allocation** approach, for the proposed uses is greater than the annual amount of water required to supply the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Division 2 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decrees, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, and identified in case no. 2021CW3010 (Division 2), was calculated based on estimated current aquifer conditions. For planning purposes, the county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 300 years used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply. Furthermore, that applicant will need to apply for, and obtain a new well permits issued pursuant to Section 37-90-137(4) C.R.S.

Should you or the applicant have questions regarding any of the above, please contact me at this office.

Sincerely,



Ivan Franco, P.E.
Water Resource Engineer

cc: Bill Tyner, Division 2 Engineer
Doug Hollister, District 10 Water Commissioner

County Attorney

Kenneth R. Hodges, County Attorney
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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

January 18, 2024

SF-22-15 Pair-A-Dise Subdivision Filing No. 1
Final Plat

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

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a final plat proposal for approval of the Pair-A-Dise Subdivision Filing No. 1, a minor subdivision application by Aaron and Sarah Atwood (“Applicant”) for a 2-lot subdivision on a parcel of 5 acres of land (the “property”). The property is zoned RR-2.5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary (“WSIS”), the water demand for the subdivision is 0.457 acre-feet/year, comprised of 0.2285 acre-feet/year of indoor household use per single-residential lot. No demand for irrigation is being proposed. Based on this total demand, Applicant must be able to provide a supply of 137.1 acre-feet of water (0.457 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from the not-nontributary Denver aquifer as provided in the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW0030 (“Decree and Augmentation Plan”). In the Decree and Augmentation Plan, the Court granted a vested right to 278.2 acre-feet of water in the Denver aquifer underlying Applicant’s property and approved the pumping of 0.2285 acre-feet per residence, 0.457 acre-feet total pursuant to the approved amended augmentation plan for beneficial uses consisting of domestic and fire

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protection. No outdoor irrigation or animal watering is permitted. The Court also granted vested rights to 101 acre-feet of water in the Dawson aquifer and 140 acre-feet of water in the Laramie-Fox Hills aquifer. The Court further awarded a vested right to use 2 wells on the property.

The approved augmentation plan has a term of 300 years and requires that septic system return flows be used for augmentation during the pumping period for the 2 approved wells. Applicant must reserve 0.457 acre-feet per year, 137.10 acre-feet total of its water rights in the Laramie-Fox Hills aquifer to be used for replacement of post-pumping depletions.

State Engineer's Office Opinion

4. In a letter dated December 14, 2023, the State Engineer stated that pursuant to Case No. 2022CW0030, the use of two wells from the Denver aquifer is allowed. Each well would be permitted to pump 0.2285 acre-feet per year for a total combined pumping of 0.457 acre-feet per year from both wells. The State Engineer noted that the wells will produce from the Denver aquifer pursuant to the augmentation plan.

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

Recommended Findings

5. Quantity and Dependability. Applicant's water demand for the Pair-A-Dise Subdivision is 0.457 acre-feet per year for a total demand of 137.1 acre-feet for the subdivision for 300 years. The Decree and Augmentation Plan allows for 2 wells limited to an annual withdrawal of 0.2285 acre-feet for household use.

Based on the water demand of 0.457 acre-feet/year for the Pair-A-Dise Subdivision Filing No. 1 and the Decree and Augmentation Plan approving withdrawals in that amount, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the Pair-A-Dise Subdivision Filing No. 1.

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 August 16, 2023, the Water Supply Information Summary, the State Engineer's Office Opinion dated December 14, 2023, and Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW0030 entered on June 16, 2023. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information***

relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.

REQUIREMENTS:

A. Applicant and its successors and assigns shall comply with all requirements of the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW0030, specifically, that water withdrawn from the Denver aquifer by each of the two proposed wells permitted shall not exceed 0.2285 annual acre-feet for Pair-A-Dise Subdivision Filing No. 1 for a total combined annual withdrawal of 0.457 acre-feet. Depletions during pumping shall be replaced by individual on-lot non-evaporative septic systems.

B. The County prefers that when there is an augmentation plan, Applicant create a homeowners' association ("HOA") for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water decrees and augmentation plans for the property. For minor subdivisions such as this, however, 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 the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW0030.

Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 137.1 acre-feet of Denver aquifer water and 137.1 acre-feet of Laramie-Fox Hills aquifer water pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW0030 to satisfy El Paso County's 300-year water supply requirement for the 2 lots of the Pair-A-Dise Subdivision Filing No. 1. The Covenants shall further identify that 68.55 acre-feet (0.2285 acre-feet/year) of Denver aquifer water and 68.55 acre-feet of Laramie-Fox Hills aquifer water is allocated to each lot. Said reservations shall not be separated from transfer of title to the property and shall be used exclusively for primary water supply.

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 plans for augmentation, which include pumping of the Denver wells in a manner to replace depletions during pumping and the cost of drilling Laramie-Fox Hills aquifer wells in the future to replace post-pumping depletions.

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

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

“The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW0030 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 and data collecting that may be required regarding water withdrawals from existing and future wells in the Denver and/or Laramie-Fox Hills aquifers.

6) Require well permits. The Covenants shall Require that well permits be obtained pursuant to the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW0030 and C.R.S. § 37-90-137(4) and (10).

7) Prohibit irrigation and animal watering. The Covenants shall specifically prohibit outdoor irrigation and animal watering on all lots within the subdivision unless and until the Decree and Augmentation Plan in Case No. 22CW0030 has been amended and a request for change in water supply has been reviewed and approved by El Paso County.

8) 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 Pair-A-Dise Subdivision Filing No. 1 pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW0030. 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 District court, Water Division 2, 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.”

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

“These Covenants shall not terminate unless the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW0030 are also terminated by the Division 2 Water Court and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

D. Applicant and its successors and assigns shall reserve in any deeds of the Property Denver aquifer water in the decreed amount of 137.1 acre-feet (0.457 acre-feet per year) and 137.1 acre-feet of Laramie-Fox Hills aquifer water. 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 Denver and Laramie-Fox Hills aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Denver and Laramie-Fox Hills aquifers underlying the respective lots to satisfy El Paso County’s 300-year water supply requirement.

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary supply (Denver aquifer): “These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during pumping, for

both lots of the Pair-A-Dise Subdivision Filing No. 1. 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 Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 22CW0030 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 the Decree and Augmentation Plan, 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. The following plat note shall be added that addresses the State Engineer’s admonition to advise landowners of potential limited water supplies in the Denver Basin:

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

cc: Kylie Bagley, Project Manager, Planner

FINAL PLAT (RECOMMEND APPROVAL)

_____ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. SF2215

PAIR-A-DISE SUBDIVISION

WHEREAS, M.V.E. Inc. did file an application with the El Paso County Planning and Community Development Department for approval of a final plat for the Pair-A-Dise Subdivision 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 March 7, 2024; 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.
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 Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code (as amended):

1. The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
2. The subdivision is in substantial conformance with the approved preliminary plan;
3. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;
4. Either 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, or, with respect to applications for administrative final plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval;
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of the Code;
6. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];
7. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the ECM;
8. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM;
9. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;

10. The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code;
11. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code;
12. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;
13. The subdivision meets other applicable sections of Chapter 6 and 8 of the Code; and
14. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

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 M.V.E. Inc for a final plat of Pair-A-Dise Subdivision 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 appropriate El Paso County staff.
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. Drainage fees in the amount of \$3,772 and bridge fees in the amount of \$0 shall be paid for the Jackson Creek Drainage Basin at the time of plat recordation.
9. Park fees in lieu of land dedication for regional parks in the amount of \$920 and urban park fees in the amount of \$0 shall be paid at the time of plat recordation.
10. Fees in lieu of school land dedication in the amount of \$612 shall be paid to El Paso County for the benefit of Academy School District 20 at the time of plat recording.
11. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 1/18/2024, as provided by the County Attorney's Office.

NOTATIONS

1. Final Plats not recorded within 24 months of Board of County Commissioner 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.

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

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

DONE THIS 7th day of March 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
Thomas Bailey, Chair

EXHIBIT A

LOT 38, CHAPARRAL HILLS AS RECORDED IN PLAT BOOK T-2 AT PAGE 2 UNDER RECEPTION NUMBER 824585 OF THE RECORDS OF EL PASO COUNTY COLORADO AND CONTAINING 218,053 SF (5.006 ACRES), MORE OR LESS.