

Planning and Community Development

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Board of County Commissioners
 Holly Williams, District 1
 Carrie Geitner, District 2
 Bill Wysong, District 3
 Cory Applegate, District 4
 Cami Bremer, District 5

TO: El Paso County Planning Commission
Thomas Bailey, Chair

FROM: Joseph Letke, Planner
Charlene Durham, P.E., Principal Engineer

RE: Project File Number: SF2415
Project Name: Berisford Subdivision - Final Plat
Parcel Number: 5123000026

OWNER:	REPRESENTATIVE:
Christopher Berisford Amy Berisford 0 East Goshawk Road Colorado Springs, CO 80908	Vertex Consulting Services 455 East Pikes Peak Avenue, Suite 101 Colorado Springs, CO 80903

Commissioner District: 1

Planning Commission Hearing Date:	2/20/2025
Board of County Commissioners Hearing Date:	3/13/2025

EXECUTIVE SUMMARY

A request by Christopher Berisford and Amy Berisford for approval of a Final Plat to create four (4) single-family residential lots. The 19.88-acre property is zoned RR-5 (Residential Rural) and is located on the north side of East Goshawk Road, approximately one mile north of the intersection of Goshawk Road and Hodgen Road.

The Final Plat creates lots that will be 4.97 acres in size. The property owners requested a minor variation of lot size during platting pursuant to Section 5.5.1.G of the Land Development Code that was approved by the Planning Director.

Minor Variations to platting shall be allowed only after a finding by the PCD Director that:

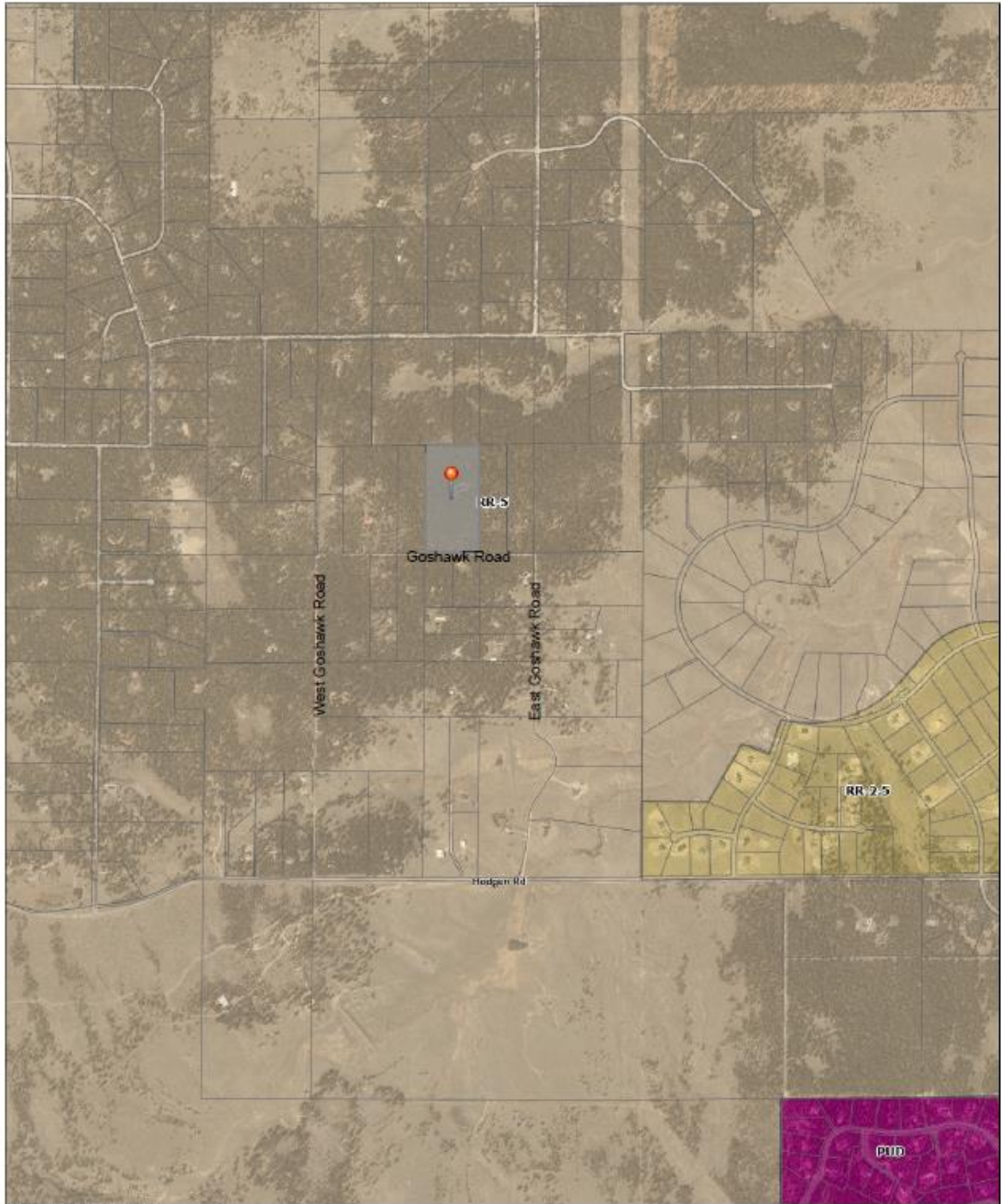
- The variation does not constitute a substantial change to the allowed land use; and that
- No substantial detriment to the public good, nor harm to the general purpose and intent of this Code, will be caused thereby.

The PCD Director has approved the request per Section 5.5.1.G of the Land Development Code based on the following considerations.

- The requested difference in lot size is under 1% of the required minimum acreage for the RR-5 zoning district. If the property was adjacent to a section line road, there would be an allowance for a reduction in lot size of .25 acres to a total of 4.75 acres.
- The request was made under the minor variation during platting. This Section is specific to the submitted plat request to create 4 lots. In looking at the plat, the requested area of deficiency is 1306.8 square feet out of 217,800 square feet. This is a de minimis amount of area that will not cause a detriment to the public good.
- This approval is specific to the application request and will not be considered as precedence for other requests. In consideration of the two criteria for a minor variation and the process outlined by the Code, the Director could not find that this specific request and the small amount of change in lot size would be a detriment to the health safety and welfare of the surrounding community.

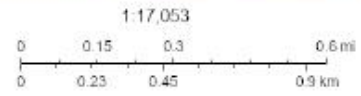


ArcGIS Web Map



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- Streets & Roads
- Parcels
- County Zoning
 - PUD: Planned Unit Development
 - RR-2.5: Residential Rural (2.5 acres)
 - RR-5: Residential Rural (5 acres)



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A. 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 (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 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, 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-5 (Residential Rural)	Residential
South:	RR-5 (Residential Rural)	Residential
East:	RR-5 (Residential Rural)	Residential
West:	RR-5 (Residential Rural)	Residential

D. BACKGROUND

The vacant 19.88-acre property was created through survey deed sale on February 17, 1972. The property was initially zoned on September 20, 1965, when zoning was first initiated for this portion of El Paso County. The parcel is currently zoned RR-5 (Residential Rural). Due to the property being 0.12 acre under 20-acres, the applicant has requested



the Planning and Community Development Director approve of a minor variation during platting to accommodate four (4) 4.97-acre lots in the RR-5 (Residential Rural) zoning district. This request was made by the applicant under Section 5.5.1.G of the Land Development Code. This request has been approved by the Planning and Community Development Director as described in the Executive Summary.

*5.5.1. (G) **Minor Variations During Platting.** Minor variations from strict application of the provisions of a development plan or conventional zoning district may be allowed at the discretion of the PCD Director in order to facilitate the reasonable and expeditious platting of the property. Variations shall be allowed only after a finding by the PCD Director that:*

- The variation does not constitute a substantial change to the allowed land use; and that*
- No substantial detriment to the public good, nor harm to the general purpose and intent of this Code, will be caused thereby.*

The variation shall not by themselves constitute grounds for disapproval by the BoCC of any final plat unless the BoCC specifically finds that the variation constitutes a substantial change in the allowed land use or causes a substantial detriment to the public good or harm to the general purpose and intent of this Code.

E. ANALYSIS

1. Land Development Code and Zoning Analysis

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).

The applicant requests a Waiver from Section 8.4.4.C of the Code to allow a private road to be constructed in lieu of a public road. Pursuant to Section 8.4.3.B.2.e, 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 pursuant to a Waiver granted under Section 8.4.4.E. The applicant is proposing a shared access easement to serve Lots 1 and 3. Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the Waiver. Private Road Waivers may only include design standards for the following:

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- *Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;*
- *Design speed where it is unlikely the road will be needed for use by the general public;*
- *Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;*
- *Maximum and minimum block lengths; and*
- *Maximum grade.*

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 Code:

- *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.*

In approving a Waiver for private roads, the Board of County Commissioners shall find that the Waiver meets the criteria outlined in Section 8.4.4.E 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 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

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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 wastewater 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)*
- *Agriculture*

Analysis:

The property is located within the Large-Lot Residential Placetype. The subdivision proposal includes four new single-family lots, 4.97 acres in size. Relevant goals and objectives are as follows:

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

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:

The property is located in the Minimal Change: Undeveloped area of change designation. These areas will experience some development but limited in scale to maintain the character of the area. Development in these areas should prioritize the rural and environmental aspects of the region.

c. Key Area Influences: Forested Area

This Key Area includes parts of the County where natural forests are the predominant feature such as Black Forest, areas north of Peyton, and areas along Highway 115 as well as lands within Pike National Forest. Pike National Forest is one of the County's largest natural amenities and tourist destinations. Continued coordination with the U.S. Forest Service is critical to ensuring future development in areas adjacent to the Forest do not negatively impact the natural environment. There are also many established communities within Pike National Forest particularly in Ute Pass and along Highway 115. New development and any redevelopment in these locations should be of a lower intensity to mitigate any impacts on the Forest, properly manage stormwater, provide safe access to major roads and state highways for the traveling public and emergency response vehicles and adhere to the strictest building codes to prevent any hazards such as fires and soil erosion related to poor planning, design, and construction.

Managed residential growth, along with supportive commercial uses, have helped the other forested areas preserve their natural amenities while supporting the daily needs of a thriving local community. The seamless connection between the natural environment and small-scale, low intensity development is critical to their identity. All new development and redevelopment in this Key Area should strictly adhere to the transportation and infrastructure, stormwater requirements, built form, and transition guidelines outlined in their appropriate placetypes. Each development proposal should also be reviewed on a case-by-case basis to determine its specific impact on the forested area and the established character of the individual community.

Analysis:

The property is located in the Forest Areas Key Areas of Influence. New development in Forest Areas should be of a lower intensity to mitigate any impacts



to the forest. Strict adherence to transportation, building code, and fire code regulations are required to prevent hazards such as wildland fires and soil erosion.

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.*

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

Goal 1.2 – *Integrate water and land use planning*

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 4a of the Plan, which is an area anticipated to experience growth by 2040. The following information pertains to water demands and supplies in Region 4a for central water providers:

The Plan identifies the current demand for Region 4a to be 725 acre-feet per year (AFY) (Figure 5.1) with a current supply of 725 AFY (Figure 5.2). The projected demand in 2040 for Region 4a is at 958 AFY (Figure 5.1) with a projected supply of 725 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region 4a is at 1,170 AFY (Figure 5.1) with a projected supply of 725 AFY (Figure 5.2) in 2060. This means that by 2060 a deficit of 445 AFY is anticipated for Region 4a.

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 US Fish and Wildlife were each sent a referral and have no outstanding comments.

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

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No geologic hazards were identified during the review of the Final Plat.

2. Floodplain

FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0310G, which has an effective date of December 7, 2018, indicates the subject property is located within Zone X, area of minimal flood hazard outside of the 500-year floodplain.

3. Drainage and Erosion

The subdivision is located within the West Kiowa Creek drainage basin. The West Kiowa Creek drainage basin does not have associated drainage basin and bridge fees.

The site generally drains to the east. Stormwater runoff will be conveyed by existing natural swales and discharge into the West Kiowa Creek channel. The final drainage report concludes that “this minor subdivision has no significant adverse drainage impact on downstream properties or drainage facilities.”

A Grading and Erosion Control Plan was not required since the scope of the project did not include any grading.

4. Transportation

The development is located approximately 1 mile north of Hodgen Road. The site is accessed via East Goshawk or West Goshawk Roads, both of which connect to Hodgen Road. East and West Goshawk Roads are privately maintained rural gravel



roadways. Lots 2 & 4 will obtain access via single driveways connecting to Goshawk Road. Lots 1 & 3 will have a shared driveway connecting to Goshawk Road.

The submitted Traffic Impact Study (TIS) projects the proposed development will generate approximately 38 total vehicle trips on the average weekday. The proposed roads and traffic depicted in the TIS is in conformance with the El Paso County 2024 Major Transportation Corridors Plan Update (MTCP).

The development will be subject to the El Paso County Road Impact Fee Program (Resolution No. 24-377) as amended.

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 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.

2. Sanitation

Wastewater is provided by on-site wastewater treatment systems.

3. Emergency Services

The property is within the Falcon Fire Protection District, which is committed to providing fire protection services to the proposed development. The District was sent a referral and has no outstanding comments.

4. Utilities

Electric service is provided by Mountain View Electric. Natural gas is provided by Black Hills Energy.

5. Parks/Trails

Fees in lieu of park land dedication in the amount of \$2,020.00 for regional fees will be due at the time of recording the Final Plat.

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6. Schools

Fees in lieu of school land dedication in the amount of \$960.00 shall be paid to El Paso County for the benefit of Falcon School District 49 at the time of plat recording

I. STATUS OF MAJOR ISSUES

No major issues.

J. 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 Final Plat.
4. 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.



5. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated October 22, 2024, as provided by the County Attorney's Office.
6. The first homebuilder, prior to receiving a building permit, shall submit and receive approval of a county road access permit for the private road, Goshawk Road, accessing the public County owned road, Hodgen Road.

NOTATIONS

1. The following fees are required to be paid to El Paso County at the time of Final Plat recordation:
 - a. There are no drainage or bridge fees due.
 - b. Park fees in lieu of land dedication for regional parks in the amount of \$2,020.00.
 - c. Fees in lieu of school land dedication in the amount of \$960.00 shall be paid for the benefit of Falcon School District 49.
2. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
3. The applicant has requested approval of a waiver from Section 8.4.4.C of the Code to allow private roads to be constructed in lieu of public roads.
4. 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.
5. The El Paso County Road Impact Fee Program Resolution: 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 Resolution No. 24-337, 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.

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K. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified twelve (12) adjoining property owners on February 4, 2025, for the Planning Commission and Board of County Commissioner meetings. Responses will be provided at the hearing.

L. ATTACHMENTS

Map Series

Letter of Intent

Plat Drawing

State Engineer's Letter

County Attorney's Letter

Draft Resolution

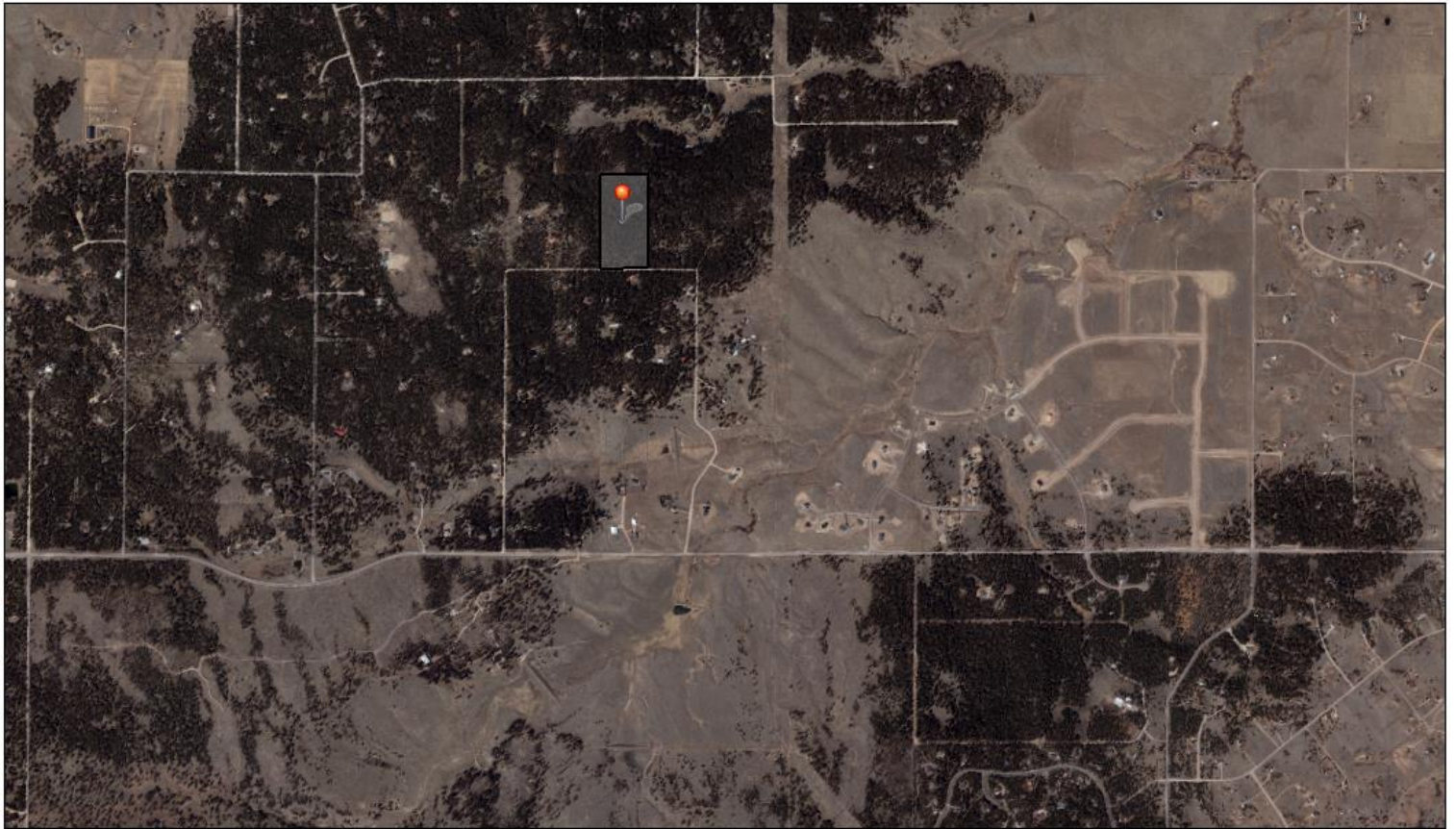
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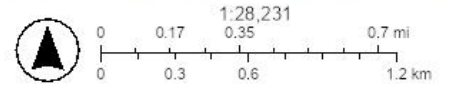
Map Exhibit #1: Aerial

Berisford Subdivision - Final Plat



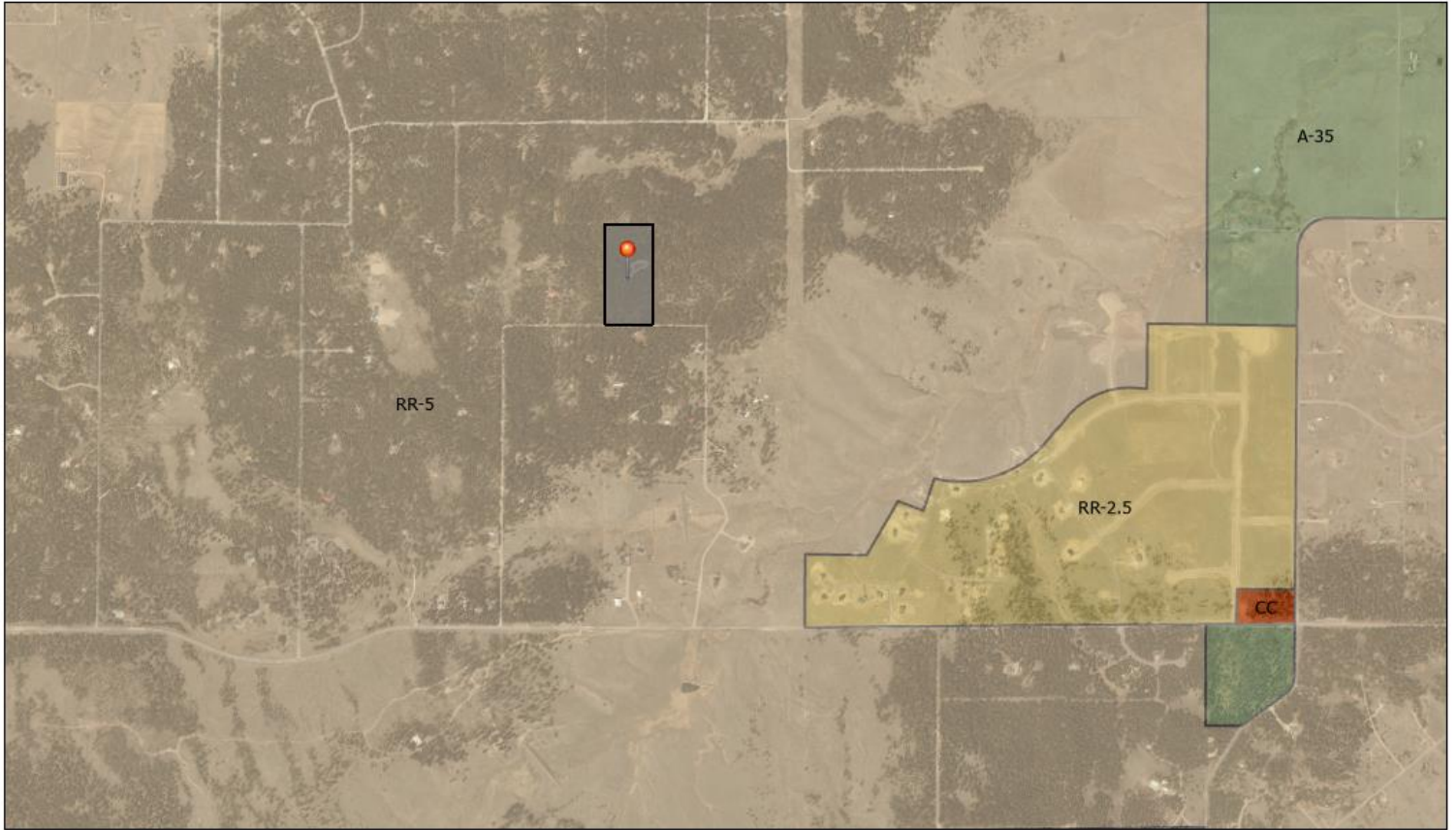
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— Streets & Roads



Map Exhibit #2: Zoning

Berisford Subdivision - Final Plat



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Streets & Roads

County Zoning

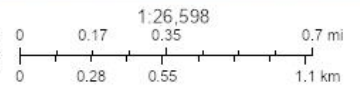
A-35: Agricultural (35 acres)

CC: Commercial Community

PUD: Planned Unit Development

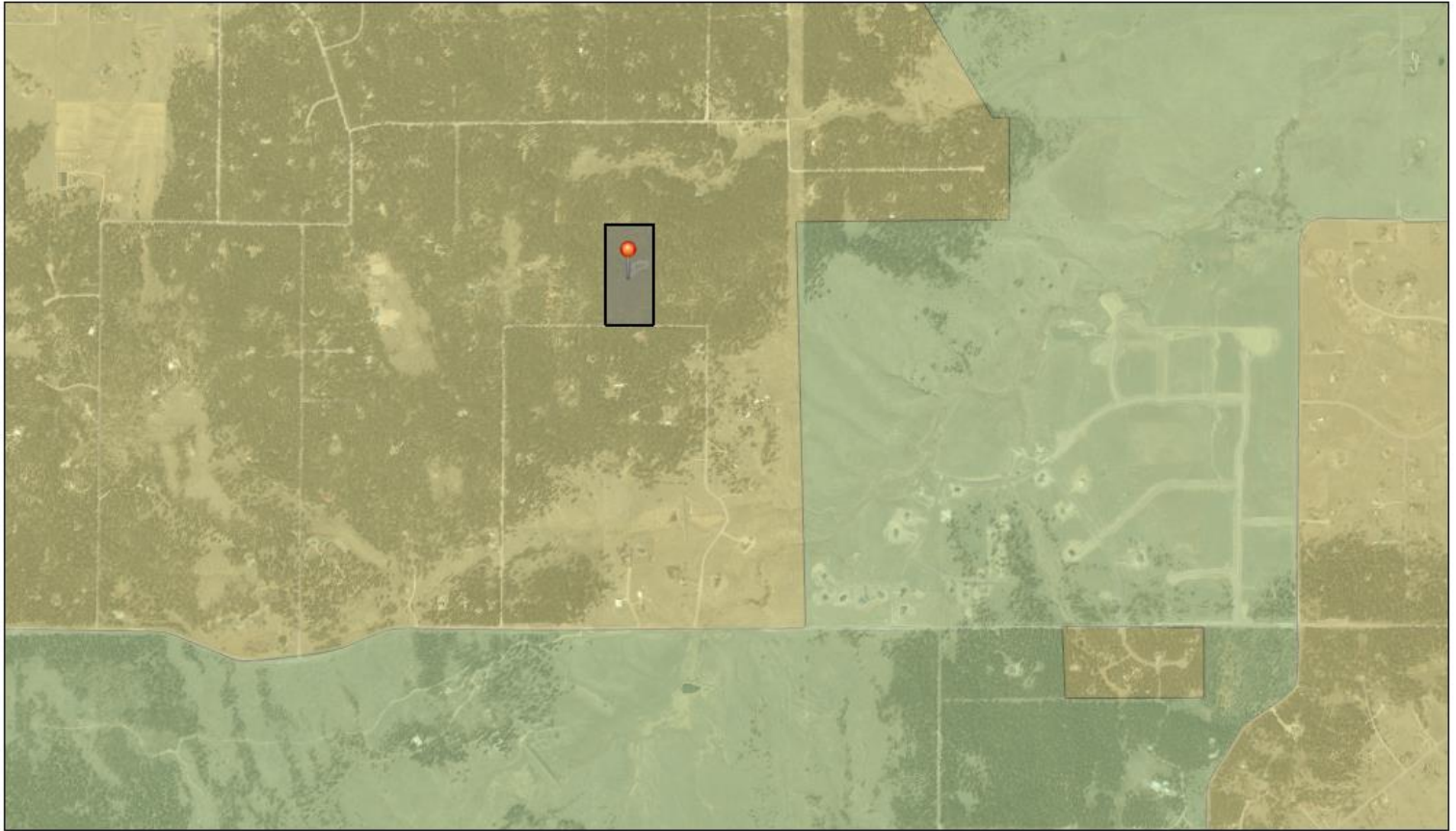
RR-2.5: Residential Rural (2.5 acres)

RR-5: Residential Rural (5 acres)



Map Exhibit #3: Placetype

Berisford Subdivision - Final Plat

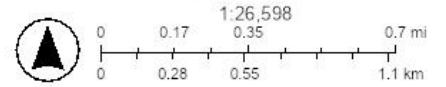


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Streets & Roads Large-Lot Residential

Placetypes

Rural



Map Exhibit #5: Area of Change

Berisford Subdivision - Final Plat

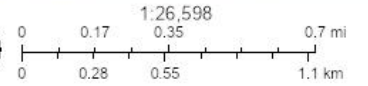


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Streets & Roads

Areas Of Change

Minimal Change: Undeveloped



Map Exhibit #6: Key Area

Berisford Subdivision - Final Plat

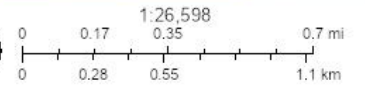


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Streets & Roads

KeyAreas

Forested Area



**Berisford Subdivision
Letter of Intent**

July 11, 2024

PCD File # SF2415

Chris Berisford
17240 Goshawk Rd W
Colorado Springs CO 80908
719-331-3414

Planner: Vertex Consulting Services, LLC, Nina Ruiz
455 E Pikes Peak Avenue, Suite 101
Colorado Springs, CO 80903
719-733-8605
Nina.ruiz@vertexcsc.com

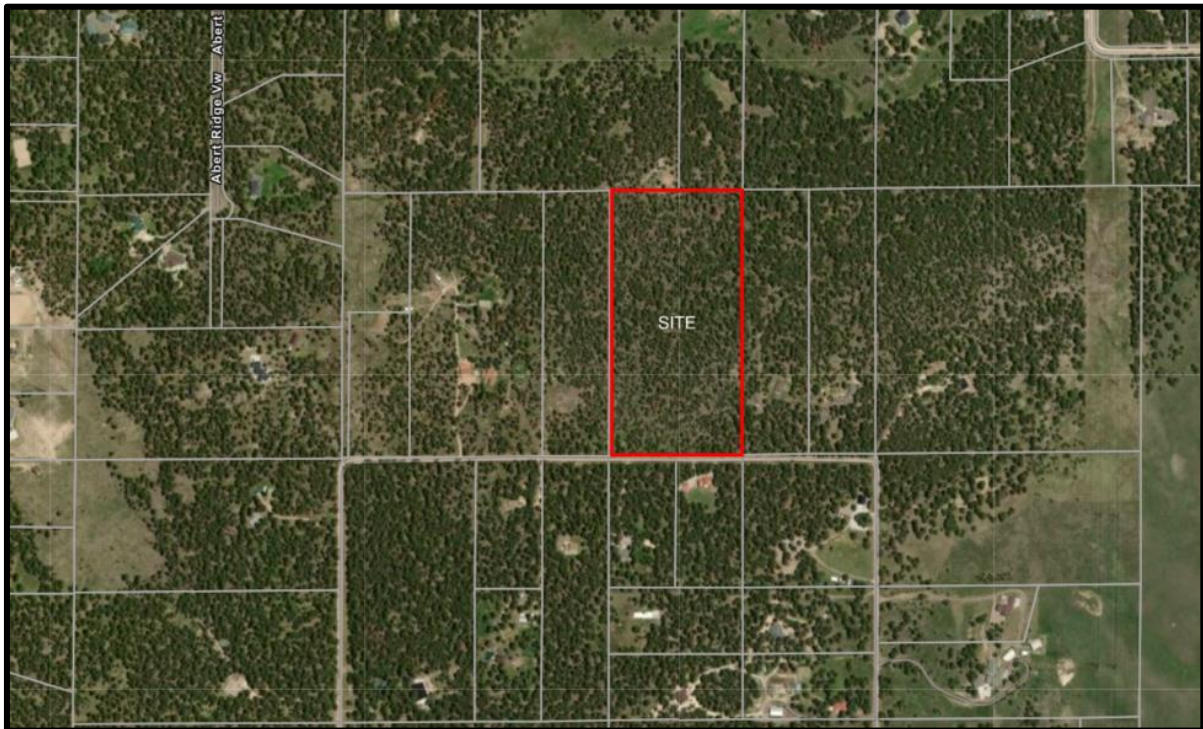
Tax Schedule No: 5123000026

Acreage: 19.88 Acres

Zoning: RR-5 (Residential Rural)

Site Location, Size, Zoning:

Vertex Consulting Services, LLC, on behalf of Chris Berisford, is respectfully submitting an application for a 4-lot subdivision within the RR-5 zoning district. The proposed subdivision is compatible with the surrounding planned and existing developments and is consistent with the Your El Paso Master Plan.



Utilities

Mountain View Electric Association (MVEA) provides electric service and Black Hills Energy provides natural gas service to the area and have provided commitment to serve the lots within the subdivision. Lots will be served by an individual onsite wastewater treatment system and individual well. The Onsite Wastewater Treatment System (OWTS) Report prepared by RMG demonstrates the soils are suitable for OWTS design and construction. The Water Resources Report prepared by Monson, Cummins, Shohet & Farr, LLC identifies there is adequate water in terms of quantity, quality, and dependability to support the BoCC making a finding of sufficiency.

Request:

1. A request for approval of a 4-lot minor subdivision within the RR-5 zoning district.
2. A request for a waiver of the requirement for all lots to gain access from a public roadway pursuant to Section 8.4.4 (E).
3. A request for the PCD Director to grant approval of a minor variation during platting pursuant to Section 5.5.1.G of the Land Development Code.

Justification:

The pages that follow address each one of the criteria included within Sections 5.5.1.G (minor variation), 7.3 (waiver), and 7.2.1 (minor subdivision) of the El Paso County Land Development Code.

Minor Variation

Section 5.5.1.G, Provisions for Relief From Density and Dimensional Standards, Administrative Relief, provides the PCD Director the authority to approve a minor variation during platting. The following criteria applies

Variations shall be allowed only after a finding by the PCD Director that:

- *The variation does not constitute a substantial change to the allowed land use; and that*

No change in the allowed land uses is proposed. Future lot owners will be required to abide by the permitted uses within the RR-5 zoning District.

- *No substantial detriment to the public good, nor harm to the general purpose and intent of this Code, will be caused thereby.*

The approval of the minor variation will not cause a detriment to the public good. The purpose of the minimum lot size requirement is to promote an average density and to ensure that subdivisions are aesthetically consistent. The subject property is zoned RR-5, which requires a minimum lot size of 5-acres. The lot is 19.88 acres in size, making it physically impossible to create four 5-acre lots.

The proposed subdivision includes four 4.97 acre lots. The overall density of the development will be 0.25 dwelling units per acre whereas the zoning requires 0.20 dwelling units per acre. The requested variation is negligible and represents a 1% reduction in lot size.

Waiver

The waiver does not have the effect of nullifying the intent and purpose of this Code.

The purpose and intent of the portions of the Code to be waived are to ensure safe, legal access. Legal access is being provided via easement. The Falcon Fire Protection District has provided a commitment letter, indicating no concern. All other aspects of the Code remain in force. A maintenance agreement has been submitted with this subdivision.

The waiver will not result in the need for additional subsequent waivers.

The waivers will not result in the need for additional waivers.

The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property.

Goshawk Road is an existing private loop road. The existing private road is accessible by emergency responders and meets the turning radius for a fire truck. Additionally, the plat depicts turnarounds for the driveways of the rear lots.

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.

Goshawk Road is a private loop road serving over 30 parcels. Converting this existing roadway from a private to public roadway would require either condemnation by El Paso County or that all parcel owners agree to the road becoming a public roadway and whatever terms come along with that conversion. Not all parcel owners are in agreement today, therefore, it is not possible for the owners of the proposed Berisford Subdivision to cause the conversion.

A particular non-economical hardship to the owner would result from a strict application of this Code.

As stated above, it is not possible for the applicant to cause the private roadway to become public without consent from all lot owners.

The waiver will not in any manner vary the zoning provisions of this Code.

All standards of the RR-5 zoning district will be met with the exception being the Minor Variation During Platting to allow for a lot size of 4.97-acres.

The proposed waiver is not contrary to any provision of the Master Plan.

See Master Plan section below for further information regarding how the proposed subdivision is in compliance with the Master Plan.

Below is an analysis of how the requested waiver meets the criteria specifically for Private Road Allowances included in Section 8.4.4.E of the Code:

(1)Use of Private Roads Generally Limited. Private roads shall normally be confined to closed loops and dead-end roads not likely to be needed for the convenience and safety of the general public.

The private road is an existing loop private road. The private road will only be utilized by the residents within the subdivision, therefore, the road is not needed for the convenience or safety of the general public.

(2) Private Roads Require Waiver. The use of private roads is limited and allowed only by waiver. In granting a waiver to allow private roads, the BoCC shall make written findings supporting the use of private roads and may require the owner to enter into a Private Road Maintenance Agreement or create covenants whereby the lot owners are required to maintain the private roads.

There is an existing maintenance agreement in place.

(3) Private Roads to Meet County Standards. Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the waiver. Private road waivers may only include design standards for the following:

- *Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;*

Pedestrian walkways are not required for local rural roads, which is the standard being waived. Utility easements have been provided on the plat drawing.

- *Design speed where it is unlikely the road will be needed for use by the general public;*
The road will not be utilized by the general public as it is a private loop road utilized by only those addressed off of Goshawk Road.

- *Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;*

Maintenance is being provided by the property owners who are addressed off of Goshawk Road per the maintenance agreement.

- *Maximum and minimum block lengths; and*
Not applicable.

- *Maximum grade.*
Not applicable.

Minor Subdivision (Preliminary Plan & Final Plat Criteria)

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

Please review the Master Plan analysis below.

The subdivision is consistent with the purposes of the Land Development Code (“Code”).

Section 1.4 of the Land Development Code identifies the purpose of the Code. Below is the Code citation with the italic wording indicating how the proposed subdivision furthers the intended purpose.

“This Code is adopted for the purpose of preserving and improving the public health, safety and general welfare of the citizens and businesses of El Paso County. More specifically, it is the purpose of this Code to:

- Implement the Master Plan and related elements.

See the Master Plan section below for an analysis of how the proposed subdivision conforms to the Master Plan.

- Promote predictability, consistency and efficiency in the land development process for residents, neighborhoods, businesses, agricultural and development interests.
The application has been submitted and reviewed in compliance with the Land Development Requirements and applicable procedures.
- Ensure appropriate opportunities for participation and involvement in the development process by all affected parties.
Adjacent property owners were notified of the request prior to submission. No responses have been received to date.
- Be fair to all by ensuring due consideration is given to protecting private property rights, the rights of individuals and the rights of the community as a whole.
The requested subdivision will not infringe upon the rights of the surrounding properties.
- Guide the future growth and development of the County in accordance with the Master Plan.
See the Master Plan section below for an analysis of how the proposed subdivision conforms to the Master Plan.
- Guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.
The proposed subdivision will result in an additional 30 ADT, which the surrounding roadway network can handle. The water and wastewater reports submitted with the subdivision application demonstrate sufficient water and that wastewater can be treated with an onsite wastewater treatment system. Park and school fees will be paid at the time of plat recordation.
- Establish reasonable standards of design and procedures for subdivision and resubdivision in order to further the orderly layout and use of land and to ensure proper legal descriptions and monumenting of subdivided land.
All standards are being met.
- Ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision, and, in so doing, ensure that current residents will be required to bear no more than their fair share of the cost of providing the facilities and services by requiring the developer to pay fees, furnish land, or establish mitigation measures to cover the development's fair share of the capital facilities needs generated by the development.
Commitment letters have been submitted for fire protection, electric service, and natural gas service. The road impact fee will be paid at the time of building permit for any new dwelling proposed.
- Prevent the pollution of air, streams, and ponds; assure the adequacy of drainage facilities; and encourage the wise use and management of natural and biological resources throughout the County in order to preserve the integrity, stability, and beauty of the community and the value of the land."
There are no significant natural features within the subdivision that should be preserved. The drainage report identifies that the existing natural drainage onsite will

not be significantly impacted by the proposed subdivision and that no additional improvements are required.

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.

All design considerations listed in Section 8.4.1 of the Land Development Code have been met.

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.

The water resources report prepared by Respec recommends sufficient water in terms of water quantity, quality, and dependability. Sufficient water supply has been secured for the subdivision, and is summarized in the Colorado Ground Water Determination of Water Rights, as provided to the County. The anticipated water demand for the four lots is .26 acre feet per lot per year. It was determined that the Dawson aquifer would be used for water supply and that there is 1900 acre-feet of available groundwater underlying the property. Groundwater determinations provided specify quantities of water that will meet both legal and physical needs on a 300-year basis. The supply has been deemed sufficient in terms of quality, quantity and dependability. Individual wells shall provide each property with its water supply.

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.

An onsite wastewater treatment system report prepared by RMG has been submitted and identifies the proposed lots may be served by individual septic systems.

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)].

A Geology and Soils Report, as well as an Onsite Wastewater Treatment System Report, have been prepared by RMG and submitted to the County. The Owner shall comply with the recommendations of the report. A public sewage disposal system shall not be provided. Redoximorphic features were not identified by any of the test pits observed by RMG. Subsurface conditions shall be reevaluated upon development of each individual lot. A private, engineered onsite wastewater treatment system shall be designed by a Colorado Licensed Engineer and installed, per the reports submitted to the County. The proposed new lots are anticipated to be suitable for individual onsite wastewater treatment systems; it should be noted each lot has sufficient space for both primary and alternate OWTS locations.

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 drainage report prepared by JPS identifies no drainage improvements are required for the proposed subdivision.

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.

Due to the size and scale of the subdivision, impacts related to the proposed subdivision will be negligible, therefore, no public improvements are required.

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. 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.

Legal physical access is being provided to each lot from an existing private loop road, Goshawk Road. The dedication of open space is not required for this 4-lot subdivision.

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 Falcon Fire Protection District has provided a commitment letter. Commitment letters have also been provided by Mountain View Electric Association as well as Black Hills Energy. The existing County roadway network is capable of handling the anticipated additional 30 Average Daily Trips.

The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.

The Fire Protection Report meets all requirements of Section 6.3.3, Fire Protection and Wildfire Mitigation. Each lot will comply with the wildland fire and hazard mitigation plan submitted in support of this application.

The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.

The proposed subdivision meets all applicable sections of Chapters 6 and 8 of the Code including drainage, fire protection and wildfire mitigation, transportation systems, water supply, wastewater disposal, and geology and soils standards.

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.

The only anticipated off-site impact is additional traffic, however, the three additional dwellings will not generate a significant amount of traffic and the existing roadway network can easily handle the additional traffic.

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 proposed subdivision will be served by individual driveways and will not require any public infrastructure improvements.

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

The mineral rights have not been severed from the land.

Master Plan Elements

Below is an analysis of the various El Paso County Master Plan elements.

Your El Paso County Master Plan Analysis

Chapter 1 of Your El Paso Master Plan (2021) states that the Plan is “general in nature-it cannot tackle every issue in sufficient detail to determine every type of necessary action.” In addition, Chapter 1 goes on to state that the Plan “is intended to provide clearer and more coordinated policy, resulting in a document that effectively communicates County goals and identifies specific actions to achieve both County-wide and local area objectives.” When taken together, these two statements suggest to the reader that the Plan may only address certain issues at a cursory level and that specific steps or actions for addressing such issues may not be offered within the Plan. That conclusion is certainly the case in numerous instances and with regard to a variety of topical areas. However, where that is not the case is with respect to the requested subdivision, as identified below.

Key Area Analysis

The subject property is identified in the Plan as being within the Forested Area Key Area. The Plan further describes the Key Areas as:

“This Key Area includes parts of the County where natural forests are the predominant feature such as Black Forest, areas north of Peyton, and areas along Highway 115 as well as lands within Pike National Forest. Pike National Forest is one of the County’s largest natural amenities and tourist destinations. Continued coordination with the U.S. Forest Service is critical to ensuring future development in areas adjacent to the Forest do not negatively impact the natural environment. There are also many established communities within Pike National Forest particularly in Ute Pass and along Highway 115. New development and any redevelopment in these locations should be of a lower intensity to mitigate any impacts on the Forest, properly manage stormwater, provide safe access to major roads and state highways for the traveling public and emergency response vehicles and adhere to the strictest building codes to prevent any hazards such as fires and soil erosion related to poor planning, design, and construction.”

Managed residential growth, along with supportive commercial uses, have helped the other forested areas preserve their natural amenities while supporting the daily needs of a thriving local community. The seamless connection between the natural environment and small-scale, low intensity development is critical to their identity. All new development and redevelopment in this Key Area should strictly adhere to the transportation and infrastructure, stormwater requirements, built form, and transition guidelines outlined in their appropriate placetypes. Each development proposal should also be reviewed on a case-by-case basis to determine its specific impact on the forested area and the established character of the individual community.” (Emphasis added)

The property is zoned RR-5 and is surrounded by the RR-5 zoning district on all sides. The property owner is requesting a 4-lot minor subdivision to create four lots approximately 5-acres in size. The surrounding parcels range in size from 5 acres to 20 acres. The proposed lot size aligns with the rural character of the surrounding development.

Area of Change Analysis

The subject property is identified in the Areas of Change map within the Plan as being within the “Minimal Change: Undeveloped” area of change.

Page 21 of the Plan characterizes areas of “Minimal Change: Undeveloped” by stating:

“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.”
(Emphasis added)

The subject property is currently undeveloped and is surrounded by other residential properties ranging in size from 5 to 20 acres. The Master Plan anticipates some redevelopment as long as the character can be maintained. As discussed above, the proposed subdivision is in conformance with the existing densities of the surrounding properties.

Placetype Analysis

The subject property is shown on the Placetypes map of Your El Paso Master Plan as being within the Large-Lot Residential Placetype.

Page 26 of the Plan identifies the following land uses as being Primary Land Uses within the Large-Lot Residential Placetype:

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

In addition, the Placetype includes the following Supporting Land Uses:

- Parks/Open Space
- Commercial Retail
- Commercial Service
- Agriculture

The Large-Lot Residential Placetype is described further on page 26 as follows:

“The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more, and are generally large and dispersed throughout the area so as to preserve a rural aesthetic. The Large-Lot Residential placetype generally supports accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote than Rural areas. Large-Lot Residential neighborhoods typically rely on well and septic, but some developments may be served by central water and wastewater 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.” (emphasis added)

The placetype specifically identifies lot sizes of 2.5 acres or greater as being supported within the

placetype. The proposed lots significantly exceed the 2.5 acre limitation with lot sizes being 4.97 acres.

El Paso County Water Master Plan

The Executive Summary from the Water Master Plan (2018) states that “The Plan Water Master Plan (WMP) was developed for the Board of County Commissioners, El Paso County officials and staff, developers, citizens, and water providers within the County for the purpose of identifying and addressing water supply issues earlier in the land use entitlement process.” A water sufficiency finding is being requested with subdivision. It should be noted that the Water Master Plan only contemplates centralized providers and did not provide an analysis for individual well, as is proposed here.

The subject property is located within Planning Region 2 of the Water Master Plan, pursuant to Figure 3-1 on page 25. The Plan identifies the current supply and demand forecasts at full build out (year 2060) for each of the Planning Regions. The Table indicates that the current water supplies for Region 2 amounts to 13,607 AF of water per year with 2060 being 20,756 AF of water per year; therefore, there is projected to be a surplus supply of water for central water providers in this region of the County.

A Water Resources Report has been submitted with the subdivision application. The report identifies there is sufficient water in terms of water quantity, quality, and dependability for the lots included in the subdivision.

El Paso County Parks Master Plan

The El Paso County Parks Master Plan (2022) does not depict any open space or trails in the vicinity. Fees in lieu of dedication will be provided with the subdivision.

2016 Major Transportation Corridors Plan (MTCP)

The 2016 MTCP does not include Goshawk Road. A traffic impact study is not required pursuant to ECM Appendix B, ECM Chapters 1.6 and 1.16 as the proposed subdivision will not result in traffic in excess of 100 ADT or 10 trips at the peak hour, there are no additional minor or major roadways being proposed, there will be no change in the type of traffic to be generated, the subdivision will not result in a change to the LOS for Goshawk Road or any other nearby County roadways, and there is no proposed access onto a State Highway. The subdivision is anticipated to result in an average of 30 additional trips per day.

Other Topical Elements of the County Master Plan

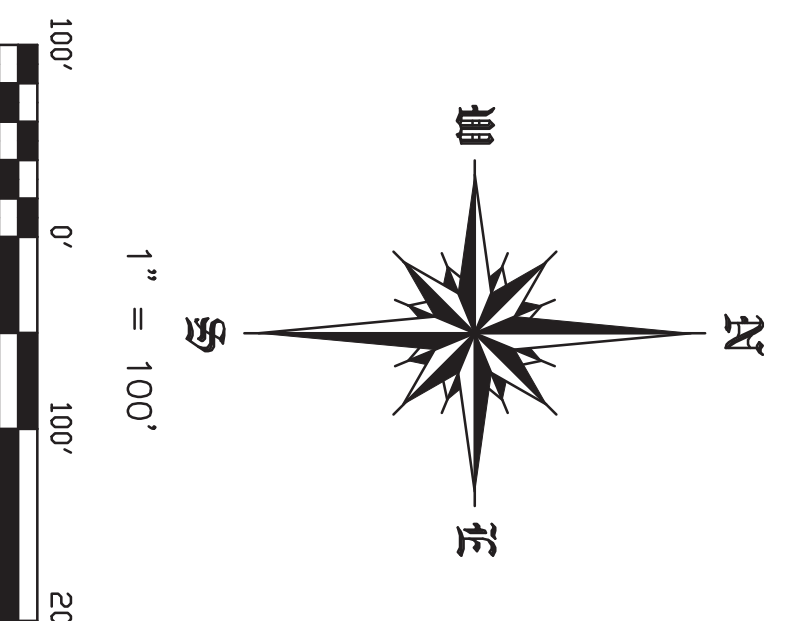
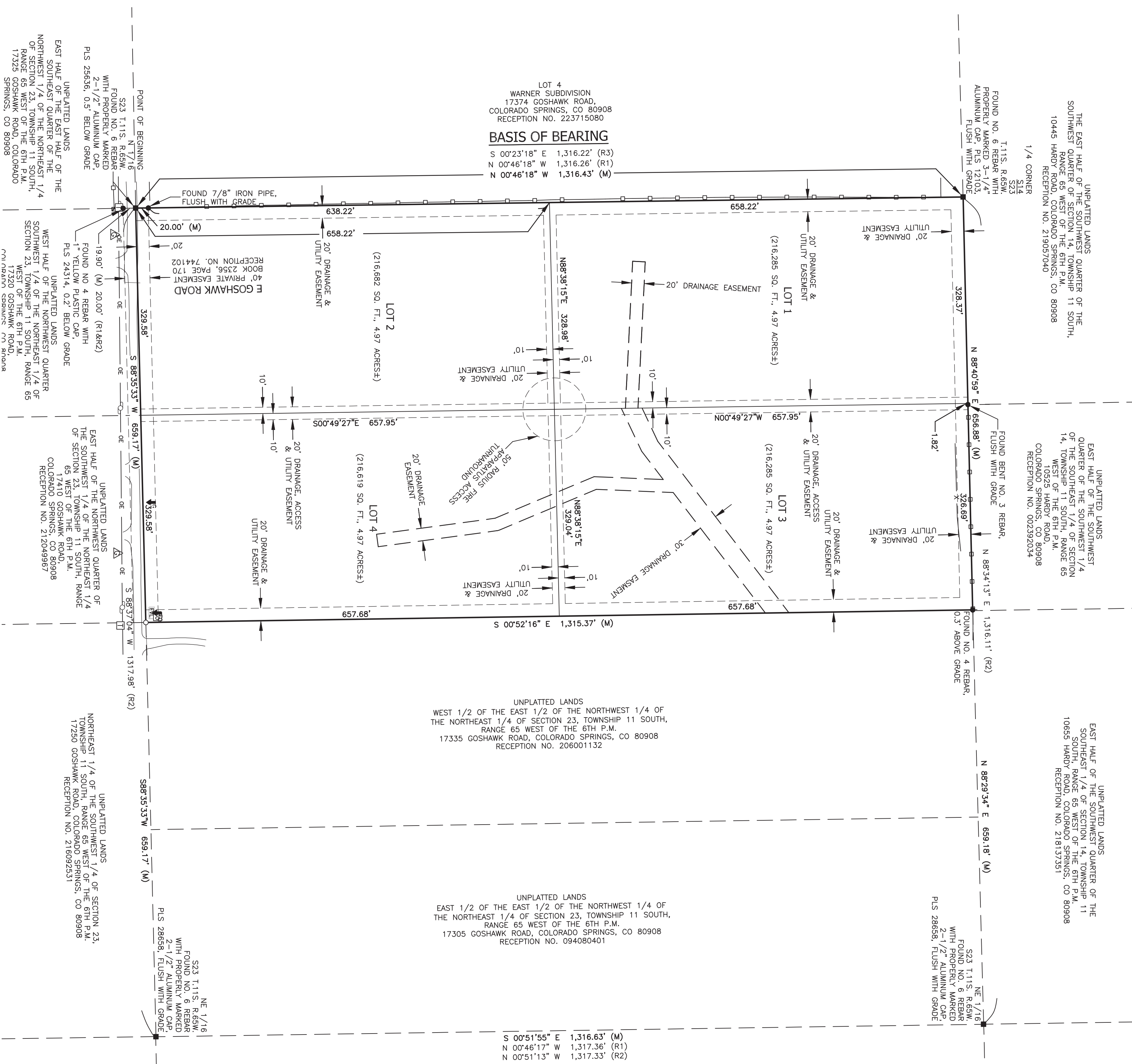
The proposed subdivision is in compliance with the other topical elements of the County Master Plan, including the Master Plan for Mineral Extraction, and the El Paso County Wildlife Habitat Maps and Descriptors.

BERISFORD SUBDIVISION

BEING A PART OF THE NORTHEAST QUARTER OF SECTION 23,
TOWNSHIP 11 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF EL PASO, STATE OF COLORADO.

LEGEND

- PLSS MONUMENT FOUND AS NOTED
- MONUMENT FOUND AS NOTED
- SET NO. 5 REBAR WITH 1-1/4" PLASTIC CAP, PLS 38798, 0.5' BELOW GRADE
- (R1) RECORD VALUE-LSP PER LEIGH WHITEHEAD & ASSOCIATES, PLS 28658, BY RECEPTION NO. 203900109
- (R2) RECORD VALUE-LSP PER LVA LAND SURVEYING INC., PLS 28658, BY RECEPTION NO. 203900109
- (R3) RECORD VALUE-WARNER 4 LOT SUBDIVISION BY RECEPTION NO. 223715080
- (M) MEASURED VALUE
- ▲ GAS METER
- ▲ FENCE POST
- ▲ UNDERGROUND GAS SIGN
- ▲ UNDERGROUND GAS SIGN
- ▲ FIBER OPTIC PEDESTAL
- ▲ UNDERGROUND FIBER OPTIC SIGN
- ▲ FIBER OPTIC PEDESTAL
- ▲ TELEPHONE PEDESTAL
- ▲ UTILITY POLE
- ▲ UTILITY POLE
- ▲ OVERHEAD UTILITY LINE
- ▲ WIRE STRAND FENCE
- ▲ FENCE REMNANT



7.	Revise per County comments	01-27-2025	DDR
6.	Revise per County comments	01-26-2025	DDR
5.	Revise per County comments	12-17-2024	DDR
REVISIONS			
DATE:	February 26, 2024		
No.	Remarks	Date	By
1.	Revise per County comments	07-15-2024	DDR
2.	Revise per County comments	09-08-2024	DDR
3.	Add drainage easements per Engineering	09-26-2024	DDR
4.	Revise per County comments	10-29-2024	DDR

APEX Land Surveying and Mapping LLC.

5655 Lehman Drive, Suite 102
 Colorado Springs, CO 80918
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PROJECT No.: 23087

SHEET 2 OF 2



August 6, 2024

Joe Letke, Project Manager
El Paso County Community & Development Services
Transmitted via EDARP: epcdevplanreview.com

Re: Berisford Subdivision
File #: SF2415, Applicants: Chris and Amy Berisford
Part of the W ½ of the NW ¼ of the NE ¼ of Section 23, Twp. 11 South, Rng. 65 West, 6th P.M.
Water Division 1, Water District 1
Kiowa Bijou Designated Basin

Dear Joe Letke:

We have reviewed the above referenced re-referral for an application to subdivide a parcel of 20 acres described as the W ½ of the NW ¼ of the NE ¼ of Section 23, Twp. 11 South, Rng. 65 West, 6th P.M. into four (4) residential lots of 5 acres each. The proposed water supply is individual on lot wells producing from the Dawson aquifer underlying the property allocated under Determination of Water Right nos. 4653-BD and the associated replacement plan 4653-RP.

Water Supply Demand

According to the Water Supply Information Summary, the estimated water demand is 1.561 acre-feet/year/lot, totaling 6.244 acre-feet for the entire subdivision.

Source of Water Supply

The proposed water supply is individual on lot wells producing from the Dawson aquifer underlying the property allocated under Determination of Water Right nos. 4653-BD and the associated replacement plan 4653-RP. Determination of Water Right No. 4653-BD was issued February 27, 2024 and allows an average annual withdrawal of 19.0 acre-feet for 100 years from the Dawson aquifer for domestic, livestock, domestic animals, irrigation (indoor and outdoor), recreation, fire suppression, wildlife, and replacement either directly or after storage. The allowed place of use is the 20 acres described as the W ½ of the NW ¼ of the NE ¼ of Sec. 23, T 11S, R 65W, 6th P.M. Replacement Plan No. 4653-RP was issued February 27, 2024 and allows an average annual withdrawal of 1.561 acre-feet for 300 years from the Dawson aquifer for each of four residential lots (6.244 acre-feet total). The allowed uses under the plan for each on lot well is use in one single family residence, irrigation of lawn and garden and greenhouse, watering of domestic animals and stock.

The proposed source of water for this subdivision is bedrock aquifers 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 section 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 amount of water determined in Determination no. 4653-BD is 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 that annual amount for a maximum of 100 years.



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

“(7) Finding of Sufficient Quantity

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

The State Engineer’s Office does not have evidence regarding the length of time for which this source will “meet the average annual demand of the proposed subdivision.” However, treating El Paso County’s requirement as an **allocation** approach based on 300 years, the allowed average annual amount of withdrawal of 19.0 acre-feet/year from the Dawson would be reduced to one third of that amount, or 6.333 acre-feet/year. Additionally, the average annual withdrawal amount allowed under Replacement Plan 4653-BD is equal to the proposed water demand. Based on this approach, there is sufficient water legally available in the Dawson aquifer based on a 300-year aquifer life to meet the proposed per lot demand based on the allocation available in accordance with Determination of Water Right No. 4653-BD and Replacement Plan no. 4653-RP.

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

Additional Comments

The Applicant should be aware that and proposed stormwater detention structure(s) must meet the requirements of a “storm water detention and infiltration facility” as defined in Designated Basin Rule 5.11, otherwise the structure may be subject to administration by this office. The Applicant should review Rule 5.11 to determine whether any proposed structure meets the requirements of the Rule and ensure any notification requirement is met.

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 greater than the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Ground Water Commission has retained jurisdiction over the final amount of water available pursuant to the above-referenced water rights, 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 non-renewable aquifers, 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.

Please contact me at (303) 866-3581 x8246 or ioana.comanciu@state.co.us with any questions.

Sincerely,



Ioana Comaniciu, P.E.
Water Resource Engineer

Ec: Subdivision File 32436

County Attorney

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Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
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October 22, 2024

SF-24-5 Berisford Subdivision

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 a subdivision application by Amy and Christopher Berisford (“Applicant”) for a 4-lot subdivision on 19.88 acres (the “property”). The property is zoned RR-5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary (“WSIS”), the water demand for the subdivision is 6.244 acre-feet/year, comprised of 1.561 acre-feet/year per household/lot. Based on this total demand, Applicant must be able to provide a supply of 1,873.2 acre-feet of water (6.244 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 up to four (4) wells withdrawing from the not-nontributary Dawson aquifer as provided in Determination of Water Right No. 4653-BD (“Determination”) and Replacement Plan No. 4653-RP (“Replacement Plan”). The Determination allocated 1,900 acre-feet of Dawson aquifer water to the property. The Replacement Plan allows water to be withdrawn from the Dawson aquifer through up to 4 wells in an annual amount that shall not exceed 6.244 acre-feet for up to 300 years. The allowed annual amount of water to be withdrawn from each on-lot well shall not exceed 1.561 acre-feet to be used for domestic, livestock, domestic animals, irrigation, recreation, fire suppression, wildlife, and replacement either directly or after storage.

ASSISTANT COUNTY ATTORNEYS

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TERRY A. SAMPLE
MERI V. GERINGER

The approved Replacement Plan has a term of 300 years and requires that septic system return flows be used for replacement during the pumping period for the approved wells.

State Engineer's Office Opinion

4. In a letter dated August 6, 2024, the State Engineer stated that “[t]he proposed water supply is individual on lot wells producing from the Dawson aquifer underlying the property allocated under Determination of Water Right nos. 4653-BD and the associated replacement plan 4653-RP.” The allowed average annual amount of withdrawal provided for in Determination of Water Right No. 4653-BD is 19.0 acre-feet for 100 years, or 6.33 acre-feet for 300 years. The replacement plan approved for Determination of Water Right 4653-BD allows for an average diversion of 6.244 acre-feet annually for a maximum of 300 years. This equates to 1.561 annual acre-feet for each of the four (4) lots.

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

Recommended Findings

5. Quantity and Dependability. Applicant's water demand for the Berisford Subdivision is 6.244 acre-feet per year for a total demand of 1,873.2 acre-feet for the subdivision for 300 years. The Replacement Plan allows for four (4) wells necessary to meet the needs of this subdivision, limited to an annual withdrawal of 1.561 acre-feet per well, for a total of 6.244 acre-feet.

Based on the water demand of 6.244 acre-feet/year for the Berisford Subdivision and the Replacement Plan permitting withdrawals in that amount, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the Berisford Subdivision.

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

7. Basis. The County Attorney's Office reviewed the following documents in preparing this review: a *Water Resources Report* dated March 28, 2024, the *Water Supply Information Summary*, the *State Engineer's Office Opinion* dated August 6, 2024, Replacement Plan No. 4653-RP for Determination of Water Right No. 4653-BD entered on February 27, 2024. 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. 4653-BD and Replacement Plan No. 4653-RP, specifically, that water withdrawn from the Dawson aquifer shall not exceed 1.561 annual acre-feet per well for up to four (4) wells, based on a total combined annual withdrawal of 6.244 acre-feet. Depletions during pumping shall be replaced by individual on-lot non-evaporative septic systems.

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 decree and replacement plan 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. 4653-BD and Replacement Plan No. 4653-RP, including the limitations on diversions and use of water for each well and lot, the requirement to meter and record all well pumping, and information on how records are to be recorded.

Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 1,873.2 acre-feet of not-nontributary Dawson aquifer water pursuant to Determination of Water Right No. 4653-BD and Replacement Plan No. 4653-RP to satisfy El Paso County's 300-year water supply requirement for the four (4) lots of the Berisford Subdivision. The Covenants shall further identify that 468.3 acre-feet (1.561 acre-feet/year) of Dawson 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 Dawson wells in a manner to replace depletions during pumping.

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 Determination of Water Right No. 4653-BD and Replacement Plan No. 4653-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 and data collecting that may be required regarding water withdrawals from existing and future wells in the Dawson aquifer.

6) Require well permits. The Covenants shall require that well permits be obtained pursuant to the requirements of Determination of Water Right No. 4653-BD and Replacement Plan No. 4653-RP and C.R.S. § 37-90-137(4) and (10).

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

"Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Berisford Subdivision pursuant to Determination of Water Right No. 4653-BD and Replacement Plan No. 4653-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.”

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

“These Covenants shall not terminate unless the requirements of Determination of Water Right No. 4653-BD and Replacement Plan No. 4653-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 Dawson aquifer water in the decreed amount of 1,873.2 acre-feet (6.244 acre-feet per year). 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 Dawson aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Dawson aquifer 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 (Dawson aquifer): “These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during pumping, for each of the lots of the Berisford Subdivision. The water rights so conveyed and the return flows therefrom shall be appurtenant to each of the respective lots with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

F. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions, and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney’s Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney’s Office prior to recording the final plat. Said Declaration shall cross-reference Determination of Water Right No. 4653-BD and Replacement Plan No. 4653-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. 4653-BD, Replacement Plan No. 4653-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."

cc: Joe Letke, 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. SF2415
BERISFORD SUBDIVISION - FINAL PLAT

WHEREAS, by Christopher Berisford and Amy Berisford did file an application with the El Paso County Planning and Community Development Department for approval of a Final Plat for the Berisford Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on February 20, 2025; 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 ("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 Engineering Criteria Manual ("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 Code.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Christopher Berisford and Amy Berisford for approval of a Final Plat for the Berisford 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 Final Plat.

4. 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.
5. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated October 22, 2024, as provided by the County Attorney's Office.
6. The first homebuilder, prior to receiving a building permit, shall submit and receive approval of a county road access permit for the private road, Goshawk Road, accessing the public County owned road, Hodgen Road.

NOTATIONS

1. The following fees are required to be paid to El Paso County at the time of Final Plat recordation:
 - a. There are no drainage or bridge fees due.
 - b. Park fees in lieu of land dedication for regional parks in the amount of \$2,020.00.
 - c. Fees in lieu of school land dedication in the amount of \$960.00 shall be paid for the benefit of Falcon School District 49.
2. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
3. The applicant has requested and received approval of a waiver from Section 8.4.4.C of the Code to allow private roads to be constructed in lieu of public roads.
4. 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.
5. 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. 24-377), or any amendments thereto, at or prior to the time of building permit submittal. 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

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
Eric Moraes	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 El Paso County Planning Commission, State of Colorado.

DONE THIS 20th day of February 2025 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
Chair

EXHIBIT A

Legal Description

The West $\frac{1}{2}$ of the northwest $\frac{1}{4}$ of the northeast $\frac{1}{4}$ of Section 23, Township 11 South, Range 65
West of the 6th P.M. County of El Paso, State of Colorado