

**Berisford Subdivision
Letter of Intent**

July 11, 2024

PCD File # SF2415

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Colorado Springs CO 80908
719-331-3414

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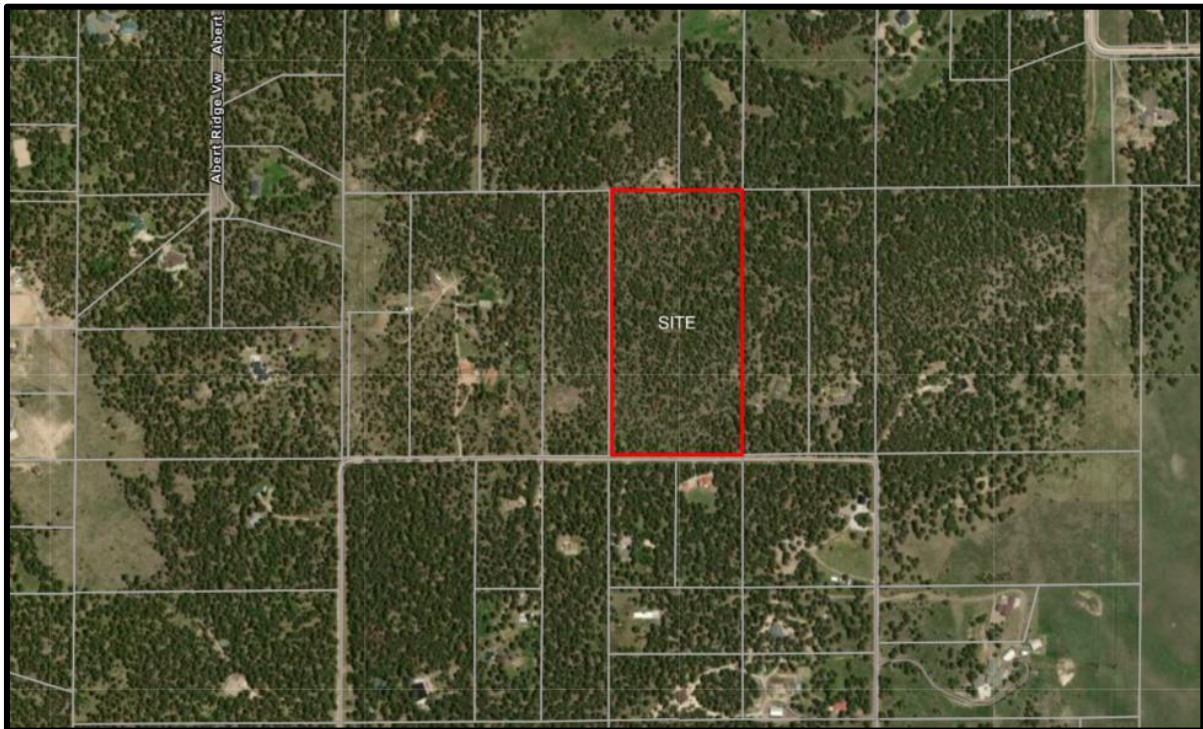
Tax Schedule No: 5123000026

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.