


EL PASO COUNTY
COLORADO

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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Planning Commission
Brian Risley, Chair

FROM: Nina Ruiz, Planner III
Gilbert LaForce, PE Engineer II
Craig Dossey, Executive Director

RE: Project File #: VR-17-017
Project Name: Hadden Heights
Parcel No.: 53130-01-010

OWNER:	REPRESENTATIVE:
Jose and Mary Contreras 10684 Ross Lake Drive Colorado Springs, CO 80831	Jose and Mary Contreras 10684 Ross Lake Drive Colorado Springs, CO 80831

Commissioner District: 2

Planning Commission Hearing Date:	10/15/2019
Board of County Commissioners Hearing Date	11/12/2019

EXECUTIVE SUMMARY

A request by Jose and Mary Contreras for approval of a vacation and replat of a 5.10 acre parcel which was illegally conveyed from a 10.21 acre lot that was designated as a "park area dedicated for public use" on the original plat. The request includes removal of a plat note that restricts use of the property to a park for public use. Fees in lieu of park land dedication for the benefit of Regional Park Area 4 will be required when the plat is recorded.



The property is zoned RR-5 (Residential Rural) and is located north of Eggar Drive, approximately one-half (1/2) mile west of the Eggar Drive and Meridian Road intersection and is within Section 13, Township 13 South, Range 65 West of the 6th P.M. The property is located within the Falcon/Peyton Comprehensive Plan (2008).

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request for approval of a vacation and replat of a portion of Lot 18 Hadden Heights Subdivision to legalize the illegal division of land. The request includes removing a plat note that dedicates the property as a park for public use.

Waiver(s)/Deviation(s): No waivers have been requested.

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

B. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

C. APPROVAL CRITERIA

Section 7.2.3.C, Actions Vacating or Altering a Recorded Plat, Replat, of the El Paso County Land Development Code states that a replat, “involves two actions, the vacation of the portion of the subdivision plat where the change is proposed...and approval of a new subdivision plat.” The Code goes on to define a replat as providing a replat of a subdivision or lots in a subdivision, in which the original subdivision is substantially modified or additional lots are created. In approving a replat, the following findings shall be made:

- The replat complies with this Code, and the original conditions of approval associated with the recorded plat;
- No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
- The replat is in keeping with the purpose and intent of this Code;
- The replat conforms to the required findings for a minor or major subdivision, whichever is applicable;

- Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The approval will not adversely affect the public health, safety, and welfare; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the replat has been resolved

D. 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

E. BACKGROUND

The parcel was zoned A-1 (Agricultural) on September 21, 1965, when zoning was first initiated for this area of El Paso County. Due to changes in the nomenclature of the El Paso County Land Development Code, the A-5 zoning district has been renamed as the RR-5 (Residential Rural) zoning district. The Hadden Heights Subdivision was recorded on August 2, 1973. The plat included 24 single-family residential lots. Lot 18, which includes 10.21 acres, was designated as a “park area dedicated to public use” on the recorded plat. No mechanism was included within the recorded plat dedicating this land to El Paso County or any other private or public entity, nor was any action prescribed or taken to develop Lot 18 as a public park.

Despite the plat designation of Lot 18 as a public park, a building permit was issued and a single-family residence was constructed in 1980. Lot 18 was then illegally conveyed by deed into two (2) parcels on August 1, 1984. The existing residence is located on a 5.12 acre portion of Lot 18 (Parcel No. 53133-01-011) and the remaining 5.1 acre Contreras property (Parcel No. 53133-01-010) is vacant. No action has been taken to legalize either one of the illegal divisions of land. The remainder parcel has not been included in this action due to the neighbor choosing not to be a part of the application and will require a separate subdivision action to legalize the division of land prior to any additional building permits being issued.

F. ANALYSIS

1. Land Development Code Compliance

This application meets the requirements of Sections 7.2.3.A (Vacation) and 7.2.3.C (Replat), Actions Vacating or Altering a Recorded Plat, the vacation and

replat submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the Land Development Code.

2. Zoning Compliance

The proposed vacation and replat will create one single-family residential lot, and as proposed, will conform to the standards of the RR-5 (Residential Rural) zoning district. The RR-5 (Residential Rural) zoning district density and dimensional standards are as follows:

- Minimum lot size: 5 acres
- Setbacks: 25 feet on all sides
- Maximum lot coverage: 30 percent
- Maximum building height: 30 feet

The proposed lot is vacant and is 5.1 acres in size, which complies with the minimum lot size requirement of the RR-5 zoning district.

3. Policy Plan Analysis

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues, and provides a framework to tie together the more detailed sub-area elements of the County master plan. Relevant policies are as follows:

***Policy 6.1.3** - Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use, and access.*

***Policy 6.1.11** - Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.*

The property is within, and surrounded by, properties zoned RR-5 (Residential Rural). The RR-5 zoning district requires a minimum lot size of 5 acres. The lot that is proposed to be legalized is 5.1 acres in size, which is similar in size to other lots within the Hadden Heights Subdivision. The proposed vacation and replat will be consistent with the Plan.

4. Small Area Plan Analysis

The subject parcel is within the Falcon/Peyton Comprehensive Plan (2008), specifically the Land Use Recommendations Map locates the property in an area identified as “Existing and Approved Rural Residential Density Development”.

Rural Residential Density is defined as “Parcel sizes are between 2.5 acres and 5 acres, with some of these platted lots ranging up to 10 acres in area...” The parcel to be legalized is 5.1 acres in size. The plat is consistent with approved densities and land uses in the immediate vicinity and within the Hadden Heights Subdivision. The proposed vacation and replat is generally consistent with the Falcon/Peyton Plan.

5. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a high wildlife impact potential. The El Paso County Conservation District was sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies potential upland deposits in the area of the subject parcels.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified in the review of the replat. Colorado Geologic Survey (CGS) was sent a referral and had no objection to the replat.

2. Wildlife

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

3. Floodplain

FEMA Flood Insurance Rate Map No. 08041C0561G which has an effective date of December 7, 2018, shows the property is located outside the 500-year floodplain (Zone X).

4. Drainage and Erosion

The property is located in the Falcon drainage basin (CHWS1400), which is included in the Drainage Basin Fee Program. Drainage and bridge fees in the amount listed in the condition of approval shall be paid to El Paso County at the time of recording the replat map. The replat is expected to have a negligible drainage impact to surrounding properties.

5. Transportation

The property is accessed via Eggar Drive. No public improvements are proposed and the replat is expected to have a negligible impact to the County’s transportation network.

The property is subject to the El Paso County Road Impact Fee Program (Resolution No. 18-471). Fee shall be paid in full at the time of building permit issuance.

H. SERVICES

1. Water

Sufficiency:

Quality:

Quantity:

Dependability:

Attorney's summary: To be provided at hearing

2. Sanitation

Wastewater disposal will be provided by onsite wastewater treatment systems (OWTS).

3. Emergency Services

The property is within the Falcon Fire Protection District.

4. Utilities

Electric service will be provided by Mountain View Electric Association. Gas service will be via private natural gas distributor.

5. Metropolitan Districts

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

6. Parks/Trails

Fees in lieu of park land dedication in the amount of \$430.00 for regional fees and \$0.0 for urban park fees will be due at the time of recording the replat map.

7. Schools

Fees in lieu of school land dedication in the amount of \$240.00 will be due at the time of recording the replat map.

I. APPLICABLE RESOLUTIONS

Approval Page 19

Disapproval Page 20

J. STATUS OF MAJOR ISSUES

There are no major outstanding issues.

K. CONDITIONS AND NOTATION

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.3.C, Actions Vacating or Altering a Recorded Plat, Replat, of the El Paso County Land Development Code (2018), staff recommends the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 18-471), or any

amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

8. Park fees in lieu of land dedication for regional parks (Area 4) in the amount of \$430.00 and urban park (Area 3) fees in the amount of \$0.0 shall be paid at time of plat recordation.
9. Fees in lieu of school land dedication in the amount of \$240.00 shall be paid to El Paso County for the benefit of Falcon School District No. 49 at time of plat recording.
10. Drainage fees in the amount of \$7,441.00 and bridge fees in the amount of \$1,022.00 for the Falcon (CHWS1400) drainage basin shall be paid to El Paso County at the time of plat recordation.

NOTATION

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

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified six (6) adjoining property owners on September 25, 2019, for the Planning Commission meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Plat Drawing
State Engineer's Letter
County Attorney's Letter (To be provided at hearing)

El Paso County Parcel Information

File Name: VR-17-017

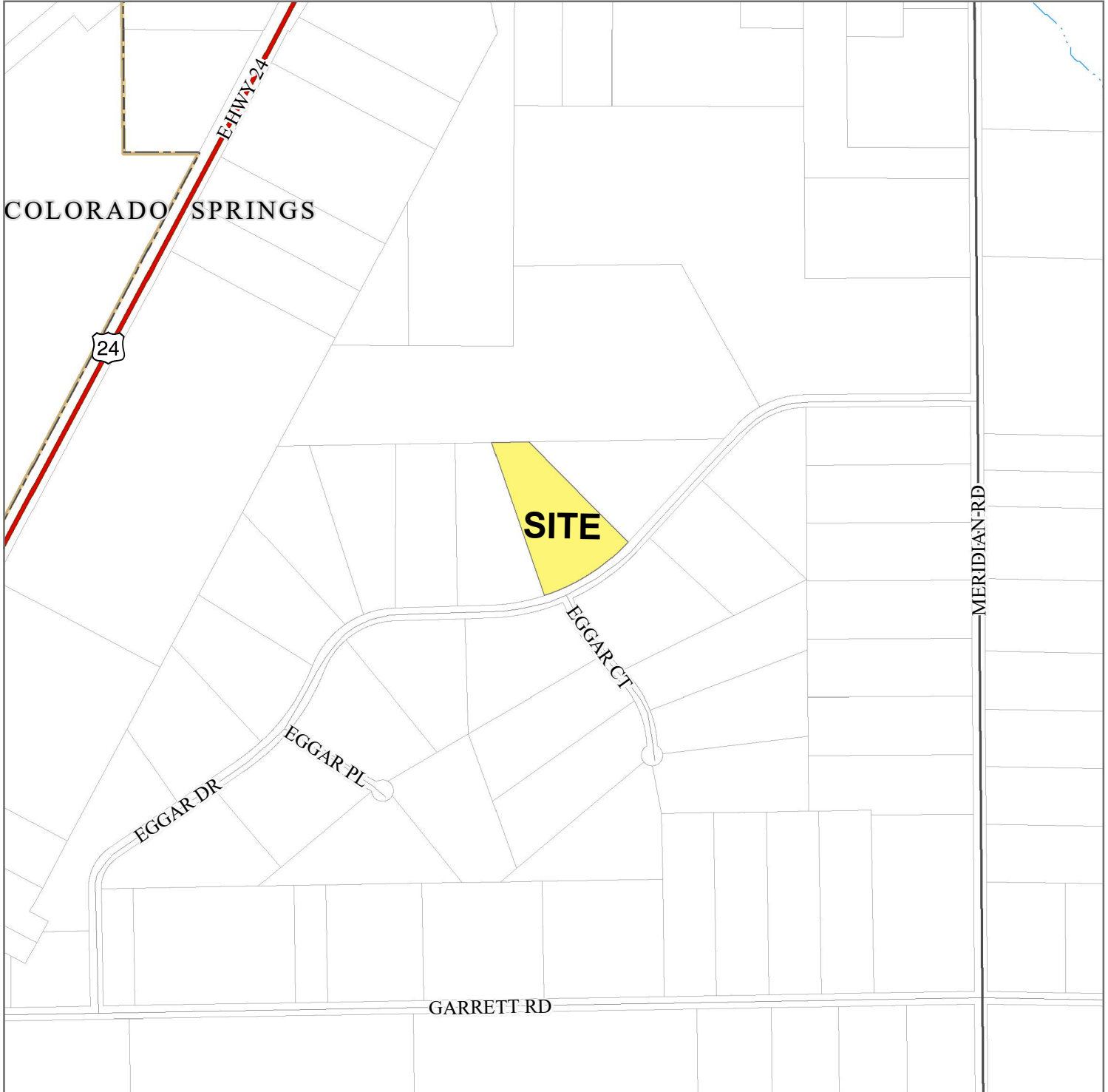
PARCEL	NAME
5313001010	CONTRERAS JOSE A

Zone Map No. --

ADDRESS	CITY	STATE
10684 ROSS LAKE DR	PEYTON	CO

ZIP	ZIPLUS
80831	7085

Date: September 23, 2019



Please report any parcel discrepancies to:
 El Paso County Assessor
 1675 W. Garden of the Gods Rd.
 Colorado Springs, CO 80907
 (919) 520-6600



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May 9, 2019

**LETTER OF INTENT
HADDEN HEIGHTS NO. 2 – VACATION AND REPLAT**

Owner/Applicant:

Jose & Mary Contreras
10684 Ross Lake Dr.
Peyton, CO 80831
(719) 495-9203

Site Location Size and Zoning:

The proposed subdivision to be known as “Hadden Heights No. 2” is located in the Southeast Quarter of Section 13, Township 13 South, Range 65 West of the 6th P.M., El Paso County, Colorado. The property has El Paso County Tax Schedule No. 53130-01-010 and is currently a vacant parcel with address of 11480 Eggar Drive. The proposed subdivision is located on the north side of Eggar Drive, west of Meridian Road and just east of Eggar Court. The area of land under consideration for replatting is 5.105± acres and the property is zoned RR-5 (Rural Residential 5 Ac).

Request and Justification:

The request is for approval of a Vacation and Replat of a parcel of land currently composed of a portion of Lot 18, Hadden Heights as recorded in Plat Book Z-2 at Page 24 under Reception Number 04040 of the records of El Paso County, Colorado. Lot 18 was originally platted in 1973 as a 10-acre park site. The El Paso County Board of County Commissioners disposed of the property in 1981 with Resolution 81-65, which made the property illegible for home construction. The subject parcel was separated from Lot 18 by deed in 1982. The proposed replat will create one (1) lot with an area of 5.105± acres to be designated Lot 18B. The property is proposed to be vacated and replatted in order to create a legal lot of the separated parcel to allow development of a single family residence on the site by the owners, Jose and Mary Contreras. The Contrerases intend to build their retirement/primary home on the lot once replatted. Single-family dwellings are an allowed use in the RR-5 zone. The resulting residential density is 0.2 DU/Ac (1 DU/5.1 Ac) which complies with the zone density requirements. The proposed use will be identical and complimentary to the existing adjacent development surrounding the site.

The Owner/Applicant is requesting approval of the Vacation Replat for “Hadden Heights No. 2”. The property is eligible for subdivision under El Paso County Land Development Code. The proposed lot will provide an adequate site for a single-family home and is in a location and zone fitting for the purpose.

This application meets the Vacation and Replat submittal requirements, the standards for Divisions of Land in Chapter 7 (Section 7.2.3(A)(3) and Section 7.2.3(C)., and the standards for Subdivision in Chapter 8 of the El Paso County Land Development Code (2016). Vacation and Replats are reviewed and approved in consideration of the following review criteria found in the El Paso County Land Development Code.

Engineers • Surveyors
1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736
Fax 719-635-5450 • e-mail mve@mvecivil.com

Vacation

1. *Vacation of the recorded plat will not leave any lots or parcels without adequate utility or drainage easements.* This vacation is accompanied by the replat creating Lot 18B of which will provide the necessary utility and drainage easements.
2. *Vacation of the recorded plat will not vacate road rights-of-way or access easements needed to access other property.* No road right-of-way or access easement are being vacated with this proposed vacation action.
3. *Vacation of the recorded plat will not inhibit the provision of adequate public facilities or services to other property as required by this Code.* There are not public facilities or services that will be affected by the vacation of the subject property. Also, the vacation action is accompanied by the replat that will replace the vacated portion with a viable legal conforming lot for single-family residential use.
4. *Vacation of the recorded plat is consistent with the Master Plan.* This proposed vacation is accompanied by a replat which is consistent with the Master Plan and satisfies the required findings for a Final Plat. There is no aspect of the proposed vacation that conflicts with the goals and policies of the Master Plan.
5. *Vacation of the recorded plat will not adversely affect the public health, safety, and welfare.* There is no aspect of this vacation that will adversely affect the public health, safety, and welfare. The proposed vacation action will make way for the proposed replat which will enable the use of this long-vacant property in an established neighborhood.
6. *Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the vacation of the plat has been resolved.* The recorded CC&Rs (Bk 2886, Pg 759) have been reviewed by the applicant and contain no restrictions that conflict with the implementation of the proposed vacation action.

Replat

1. *The replat complies with this Code, and the original conditions of approval associated with the recorded plat.* The proposed replat complies with the Land Development Code. The replat does not affect any original conditions of approval of the 1973 recorded plat, except as modified by BOCC Resolution 81-65 which established existing Lot 18 as a usable lot for single-family residential purposes. The reason for the replat is to establish the deeded parcel as a legal conforming lot in compliance with the RR-5 zone district requirements. The replat will establish one (1) new viable lot of the same size and area as the existing surrounding lots. The adjacent street right-of-way will remain in place. All easements currently established in the subdivision will be placed on the new lot.
2. *No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased.* The purpose of the replat is to establish the existing deeded parcel as a legal conforming lot. No nonconforming lots will be created as indicated on the proposed Vacation and Replat.
3. *The replat is in keeping with the purpose and intent of this Code.* The proposed replat will establish one (1) new single-family residential lot in place of the existing nonconforming deeded parcel in order to meet the requirements contained in the Land Development Code in size, area and provision of adequate public facilities and services. The replat will allow use of the property according to the existing RR-5 zone. The development and use of the lots will be in conformance with the requirements of the Land Development Code.

4. *The replat conforms to the required findings for a minor or major subdivision, whichever is applicable.* This replat conforms to all the required findings of the applicable Minor Subdivision Plat, including compliance with the Master Plan. The Master Plan is comprised of several elements. One of the elements is the El Paso County Policy Plan (1998), which establishes broad policies and goals that are intended to serve as a framework for decision-making regarding development of the County. The project satisfies the following policies from the Policy Plan as they specifically relate to this request:

Policy 6.1.3 - Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use and access.” The proposed replat will not create the need for additional roadways or public facilities. The site will remain rural residential and is in an area adjacent to the same type of rural residential development;

Policy 6.1.7 - “Encourage infill development which complements existing uses, is consistent with Small Area and other adopted plans.” This development will utilize an existing vacant parcel located between two established rural residential lots. The presence of the new lot and future single-family residential home will utilize an existing undeveloped area that is appropriate for the specified use in a long established neighborhood of identical zoning and use;

Policy 6.1.11 - “Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.” The proposed replat will provide development of similar size and use and the surrounding neighborhood will be developed in accordance with the current Land Development Code;

“Policy 6.1.13 – Encourage the use of carefully planned and implemented clustering concepts in order to promote efficient land use, conservation of open space and reduction of infrastructure costs”; The proposed replat will utilize the existing adjacent roadways without adding new public facilities;

Policy 6.2.11 - “Encourage compatible physical character, density and scale in existing neighborhoods.” The proposed replat will allow the use of the existing parcel to be in the same manner and density as the existing surrounding neighborhood;

Another element of the Master Plan is the Small Area Plan. The Hadden Heights subdivision and the proposed Hadden Heights No. 2 subdivision site are located within the area of the Falcon/Peyton Small Area Master Plan (2008), specifically within the Far Southern Area. While general policies of the Far Southern area are aimed at discouraging traditional 2.5 acre and 5 acre rural residential development in favor of a clustered rural residential concept, the plan does not preclude the development of previously established subdivisions for 5 acre rural residential use. The proposed replat is matching the surrounding neighborhood in density and use of an individual septic system.

The proposed subdivision plat is in compliance with the El Paso County Parks Master Plan (2013), which does not call for trails or parks in the site vicinity. The nearest proposed trails are along Garrett Road, Meridian Road, and Falcon Highway. A Regional Park Fee will be paid at the time of the Vacation and Replat recording.

The proposed subdivision is in compliance with the El Paso County Water Master Plan (2018). The Colorado Division of Water Resources has rendered an opinion of that the water supply for the proposed subdivision can be provided without causing injury to decreed water rights. Colorado Ground Water Commission has issued favorable Findings and Orders for the Laramie Fox Hills, Arapahoe and Denver aquifers. The Colorado Division of Water Resources has also issued a permit to the Owner/Applicant to use the existing well on the property. A listing of some

of the policies of the Water Master Plan that are supported by the proposed development follow: *Policy 4.1.3 – Support enhanced monitoring of sources of surface and tributary groundwater in the County.* The well permit requires use of metering for the well to insure compliance with the terms of the permit; *Policy 6.2.1.2 – Encourage re-use of treated wastewater for irrigation and other acceptable uses when feasible.* The single-family residence on the proposed 5 acre lot will utilize onsite wastewater treatment system which will provide “Return Flows” the environment as a condition of the groundwater findings and order and the well permit.

5. *Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM.* Access to the new lot is provided by existing Eggar Drive, a 60' wide public right-of-way that is constructed with gravel surface and roadside ditches. The new lot will access the public street with standard El Paso County rural driveway entrance.
6. *The approval will not adversely affect the public health, safety, and welfare.* There is no aspect of this replat that will adversely affect the public health, safety, and welfare. The proposed replat will enable the use of this long-vacant property in a manner originally intended and provided for on the originally recorded plat and established public infrastructure.
7. *Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the replat has been resolved.* The recorded CC&Rs (Bk 2886, Pg 759) have been reviewed by the applicant and contain no restrictions that conflict with the implementation of the proposed replat action.

Easements

Existing platted easements are being vacated with the Vacation Request and new easements are being created by the Replat to replace them. New side lot line easements will also be added on the common lot line between existing Lot 18 and the new Lot 18B. All side lot lines will be platted with a ten (10') foot public utility and drainage easement, all rear lot lines will be platted with a twenty (20') foot public utility easement, all front lot lines will be platted with a fifteen (15') equestrian easement as noted on the original plat of Hadden Heights. The sole responsibility for maintenance of these easements will be vested with the property owner.

Traffic Impact

The one (1) new proposed single-family residential unit will access the public Eggar Drive, a gravel local residential road. Eggar Drive connects to Meridian Road to the east and Garrett Road on the south. The subject replatted lot is expected to generate a total of 10 trips per day (Average weekday trips ends) and 1 trip in the peak hour based on 9.52 trips per unit for Single Family Detached Housing (according to Trip Generation, 9th Edition, 2012 by the Institute of Transportation Engineers). This number of trips is below the County threshold of 100 trips per day or 10 trip during the peak hour. Therefore, a Transportation Impact Study (TIS) is not required for the replat. This replat creates one (1) additional lot in the existing subdivision and will have the effect of generating additional traffic compared to the previously platted subdivision. Therefore, in accordance with the Road Impact Fee Program Update (Resolution 18-471) and the 2018 Road Impact Fee Implementation Document, this development is subject to road impact fees to be paid at the time of building permit.

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COLORADO

Division of Water Resources

Department of Natural Resources

1313 Sherman Street, Room 821

Denver, CO 80203

July 11, 2019

Raimere Fitzpatrick
El Paso County Planning Department
Transmitted via email:
raimerefitzpatrick@elpasoco.com

RE: Hadden Heights No. 2, Lot 18B
SE ¼ of Sec 13, T13S, R65W, 6th P.M.
Upper Black Squirrel Creek Designated Ground Water Basin
Water Division 2, Water District 10

Dear Mr. Fitzpatrick:

We have received your June 19, 2019 submittal concerning the above-referenced proposal to vacate an existing 10.210 acre lot (original Lot 18, Hadden Heights Subdivision) and re-plat 5.105 acres of that original lot into a new residential lot (Hadden Heights No. 2, Lot 18B).

We previously commented on this proposal in a letter dated March 23, 2018. The reason for the current submittal is because of a change in well permit for the existing Denver Aquifer well that is the proposed current water supply (from permit no. 1611023 to permit no. 82920-F), and the inclusion of water supplies from the Arapahoe and/or Laramie-Fox Hills aquifers. This letter replaces our March 23, 2018 letter.

According to the information provided in the submittal Lot 18 of Hadden Heights Subdivision was originally platted in 1973 as a 10-acre park site. The El Paso County Board of County Commissioners disposed of the property in 1981 with Resolution 81-65, which made the property illegible for home construction. The subject parcel was separated from Lot 18 by deed in 1982. This proposed replat will create one (1) lot with an area of 5.105± acres to be designated Hadden Heights No. 2, Lot 18B. The property is proposed to be vacated and replatted in order to create a legal lot to allow development of a single family residence on the site by the owners, Jose and Mary Contreras.

This submittal is presented as a one lot subdivision (Hadden Heights No. 2, Lot 18B). This submittal does not address the water supply of the remaining 5.105 acre portion of original Lot 18, Hadden Heights.

Water Supply Demand

According to the Water Supply Information Summary, the estimated annual water requirement for the lot is 1 acre-foot for in-house use, irrigation of 0.14 acres of lawn, garden and greenhouse, and the watering of 5 large domestic animals.

Source of Water Supply

According to a May 10, 2019 letter from MVE, Inc. (“water supply letter”) the proposed water source for the first 216 years is an existing Denver aquifer well currently permitted under well



permit no. 82920-F, with the source after that time proposed to be wells into the Laramie-Fox Hills aquifer and/or Arapahoe aquifer.

On February 5, 2019 our office issued well permit no. 82920-F pursuant to 37-90-107(7), C.R.S. and the Findings and Order of the Colorado Ground Water Commission dated February 4, 2019, for Determination of Water Right No. 3640-BD and its associated Replacement Plan. The well permit, Determination of Water Right and replacement plan allow the well to divert 1 acre-foot annually for 215 years for domestic use (in home use, lawn and garden irrigation and domestic animal watering), irrigation and replacement. Permit no. 82920-F was issued for the use of an existing well constructed under permit no. 191102 and well permit no. 191102 was cancelled upon issuance of well permit no. 82920-F.

Determination of Water Right nos. 3638-BD and 3639-BD were issued by the Ground Water Commission on February 4, 2019, for water beneath the parcel that is the subject of this submittal in the Laramie-Fox Hills and Arapahoe aquifers respectively. The following amounts of water were determined to be available.

Aquifer	Determination of Water Right Number	Annual amount available based on 100 yr. allocation approach (acre-feet/year)	Type
Arapahoe	3639-BD	1.95	Not-Nontributary (4% replacement)
Laramie-Fox Hills	3638-BD	1.53	Nontributary

The proposed sources of water for this subdivision are from bedrock aquifers in the Denver Basin. The State Engineer’s Office does not have evidence regarding the length of time for which these sources will be a physically and economically viable source of water. According to 37-90-107(7)(a), C.R.S., “Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years.” Based on this allocation approach, the annual amounts of water determined in 3638-BD and 3639-BD are equal to one percent of the total amount, as determined by Rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

The subdivision lies within the allowed place of use of Determination of Water Right nos. 3638-BD and 3639-BD and the proposed uses are uses allowed by those Determinations.

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

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

The Applicant’s replacement plan under Determination of Water Right 3640-BD allows withdrawal of Denver aquifer ground water for 215 years, and Determinations of Water Rights nos. 3639-BD and/or 3638-BD allow withdrawals for at least another 100 years from the Arapahoe and/or Laramie-Fox Hills aquifers. This plan would meet the county’s requirement of providing the average annual demand of the subdivision for a period of 300 years.

State Engineer's Office Opinion

Based upon the above and pursuant to Sections 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to 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 amounts of water in the Denver Basin aquifers, and identified in this letter, are calculated based on estimated current aquifer conditions. For planning purposes the county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 100 years (or 300 years) used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.

If you, or the applicant, have any questions, please contact Joanna Williams at 303-866-3581 ext. 8265.

Sincerely,



Keith Vander Horst
Chief of Water Supply, Basins

Cc: Division 1
Well permit no. 82920-F

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