

EL PASO



COUNTY

COMMISSIONERS:
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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO: El Paso County Board of Adjustment
Kevin Curry, Chair**

FROM: Nina Ruiz, Project Manager/Planner II *NR*
Jeff Rice, Engineer III
Craig Dossey, Executive Director

**RE: BOA-17-004: Pacheco House
Schedule No: 61090-01-013**

OWNER:

REPRESENTATIVE:

Laura & Casey Pacheco 2351 Fontley Court Monument, CO 80132	Laura & Casey Pacheco 2351 Fontley Court Monument, CO 80132
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Commissioner District: 1

Board of Adjustment Hearing Date:	11/8/2017
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EXECUTIVE SUMMARY

A request by Laura and Casey Pacheco for a dimensional variance for a front setback of 58 feet where 90 feet is required within the Kings Deer Planned Unit Development (PUD). The residential site plan was approved on July 21, 2016, showing the home in the current location (SFD-16-807). Staff erred by interpreting that the corner lot setback modification could apply to this 2.5 acre parcel when the Code only allows it to be applied to lots that are one-half (1/2) acre in size or less. The home should not have been approved in its current location. The applicant is now requesting to legalize the existing location of the home and driveway. The property is located north of Castlecombe Lane and east of Roller Coaster Road within Section 9, Township 11 South, Range 66 West of the 6th P.M. The parcel is located within the Tri-Lakes Comprehensive Plan (2000).



A. REQUEST

A request for a dimensional variance to allow a front setback of 58 feet where 90 feet is required within the Kings Deer Planner Unit Development (PUD).

B. APPROVAL CRITERIA

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Land Development Code (2015), states the following:

“The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to:”

- 1) *“The exceptional narrowness, shallowness, or shape of the specific piece of property.”*

Legal use of the property is not severely restricted due to any exceptional narrowness, shallowness, or shape of the property.

- 2) *“The exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.”*

There are no exceptional topographic conditions that limit development. There is, however, an exceptional situation that has created the deficiency in the front setback. An exceptional situation was created as a result of an erroneous approval by the staff of a residential site plan whereby the residence is not in compliance with the front setback requirement.

However, Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Code continues by stating the following:

“The Board of Adjustment may also grant variances from the strict application of any physical requirement of this Code based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and;”

- *“The variance provides only reasonably brief, temporary relief; or”*

Approval of the variance would provide permanent relief.

- *“The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements; or”*

There are no anticipated impacts that would require an alternate plan, standard, or condition.

- *“Some other unique or equitable consideration compels that strict compliance not be required.”*

Due to a staff error in interpreting the corner lot setback requirements in the Code, the home was approved in the current location. The Kings Deer Homeowners Association also provides a building envelope onsite that determines where they will allow a new home to be placed. The HOA required the home to be in the current location. Furthermore, the Kings Deer Development Guidelines encourage varied front setbacks to provide visual relief. The HOA has submitted a letter stating they would not allow for any variation from the plan as submitted and that they support the variance request.

C. BACKGROUND

A request by Laura and Casey Pacheco for a dimensional variance to legalize a front setback of 58 feet where 90 feet is required within the Kings Deer Planned Unit Development (PUD). The property is located north of Castlecombe Lane and east of Roller Coaster Road.

Section 1.15 of the El Paso County Land Development Code (2016) defines Lot Line, Front as:

“The boundary line dividing a lot, parcel, or tract from a road. On a corner lot, parcel, or tract both boundary lines dividing the lot, parcel, or tract from the roads shall be considered the front lot line, unless otherwise provided in this Code.”

The residential site plan was approved July 21, 2016, showing the home in its current location (SFD-16-807).

Section 5.4.3.D.5 of the Land Development Code (2016) allows for modification of corner lot setback requirements in certain instances:

“The required front yard setback for corner lots, located in residential zoning districts (including a residential PUD) with a minimum required lot size of ½ acre or less, on the side of the dwelling where the driveway access is not located may be ½ the required front yard setback of zoning district, or 15 feet, whichever is greater, provided further, no part of any structure shall project into the sight distance triangle as defined in the ECM.”

Staff erred by interpreting that the modification could apply to this 2.5 acre parcel when the Code only allows it to be applied to lots that are one-half (1/2) acre in size or less. The home should not have been approved in its current location. The applicant is now requesting to legalize the existing location of the home and driveway.

D. ALTERNATIVES EXPLORED

There are two alternative options for the applicant to come into compliance that would not require a dimensional variance request:

1. Demolish a portion of the home to meet the 90' front setback requirement; or
2. Revise the Planned Unit Development to reduce the setback requirements for the entire PUD.

E. CONDITIONS OF APPROVAL

Should the Board of Adjustment determine that the application is consistent with the criteria for approval of a dimensional variance for a single family dwelling and that the applicant has met the review and approval criteria for granting variances from the applicable standards, staff recommends the following conditions and notation of approval:

Conditions

1. The approval applies only to the plans as submitted. Any expansion or additions to the existing dwelling may require separate Board of Adjustment application(s) and approval(s) if the development requirements of the applicable zoning district cannot be met.
2. Approval by the Planning and Community Development Department of a driveway permit for access to Castlecomb Lane is required within 30 days of approval of this request.

Notation

1. Physical variances approved for a proposed structure (except for lot area variances) are valid only if construction of the structure is initiated within twelve (12) months of the date of the Board of Adjustment approval.

F. APPLICABLE RESOLUTIONS

Approval: Resolution 1
Disapproval: Resolution 2

G. LOCATION

North: PUD (Planned Unit Development)	Residential
South: PUD (Planned Unit Development)	Residential
East: PUD (Planned Unit Development)	Residential
West: PUD (Planned Unit Development)	Residential

H. SERVICE

1. WATER/WASTEWATER

Water is provided by an onsite well.

2. WASTEWATER

Wastewater is provided by an onsite wastewater treatment system.

3. EMERGENCY SERVICES

The site is located within the boundaries of the Tri-Lakes Monument Fire Protection District. The District was sent a referral and had no concerns.

I. ENGINEERING

1. FLOODPLAIN

As indicated on FEMA Flood Insurance Rate Map (FIRM) panel number 08041C0285F, the property is located entirely outside of the current 100-year regulatory floodplain.

2. DRAINAGE AND EROSION

The property is located within the West Cherry Creek drainage basin. No drainage or bridge fees were required for the dimensional variance. No public drainage improvements are required.

3. TRANSPORTATION

The applicant is proposing access from Castlecombe Lane, a rural, paved local road. The proposed access meets spacing requirements for a local road.

J. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified twelve (12) adjoining property owners on 10/24/2017, for the Board of Adjustment meeting. Responses will be provided at the hearing.

K. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan
Approved Residential Site Plan
Approved Driveway Permit

El Paso County Parcel Information

File Name: BOA-17-004

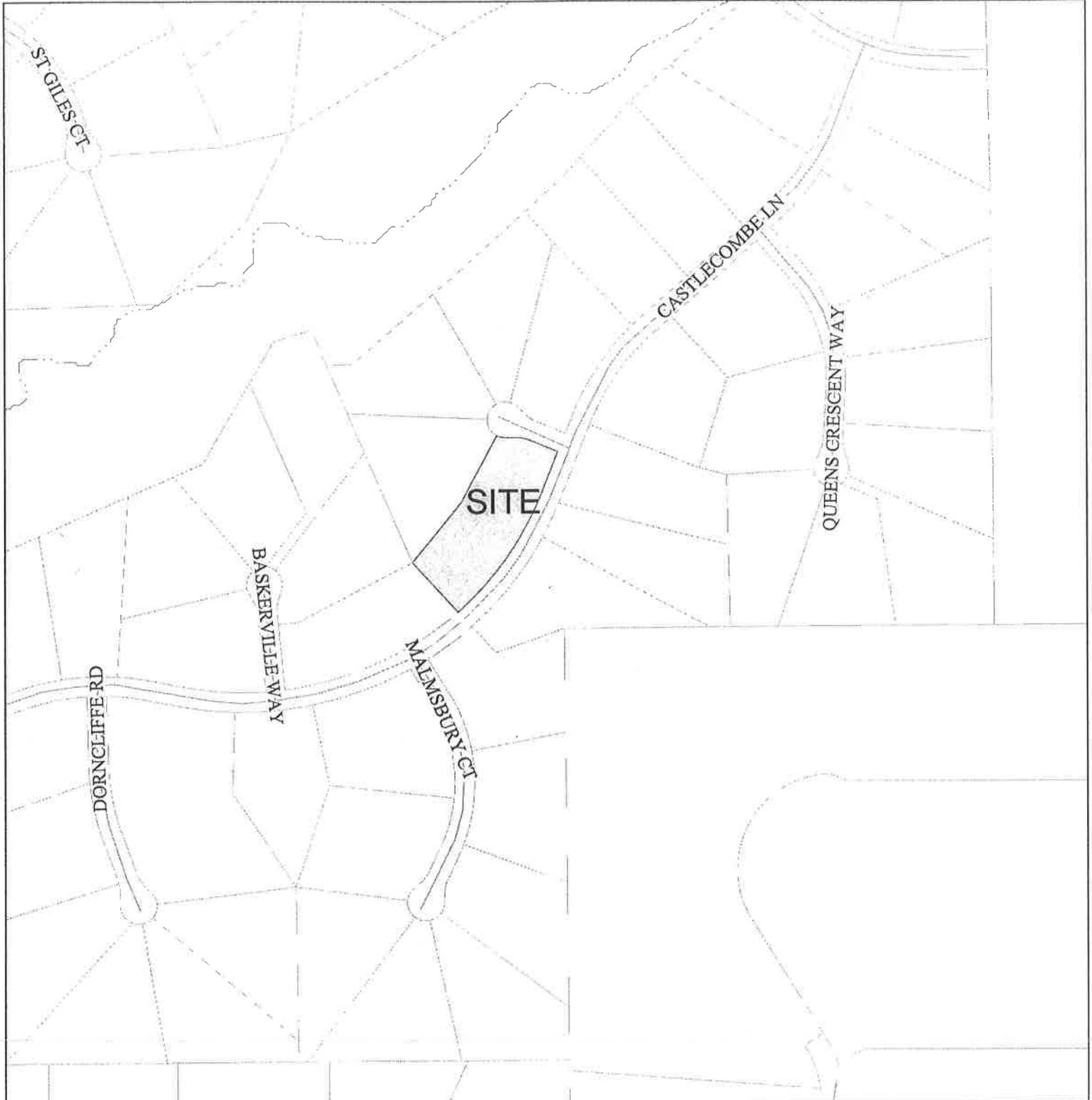
PARCEL NAME
6109001013 | PACHECO LAURA R YELLEN

Zone Map No.: --

ADDRESS	CITY	STATE
2418 RAYWOOD VW APT 122	COLORADO SPRINGS	CO

ZIP	ZIPLUS
80920	7735

Date: October 23, 2017



Please report any parcel discrepancies to:
El Paso County Assessor
1675 W. Garden of the Gods Rd.
Colorado Springs, CO 80907
(719) 520-6600



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October 24, 2017

Letter of Intent

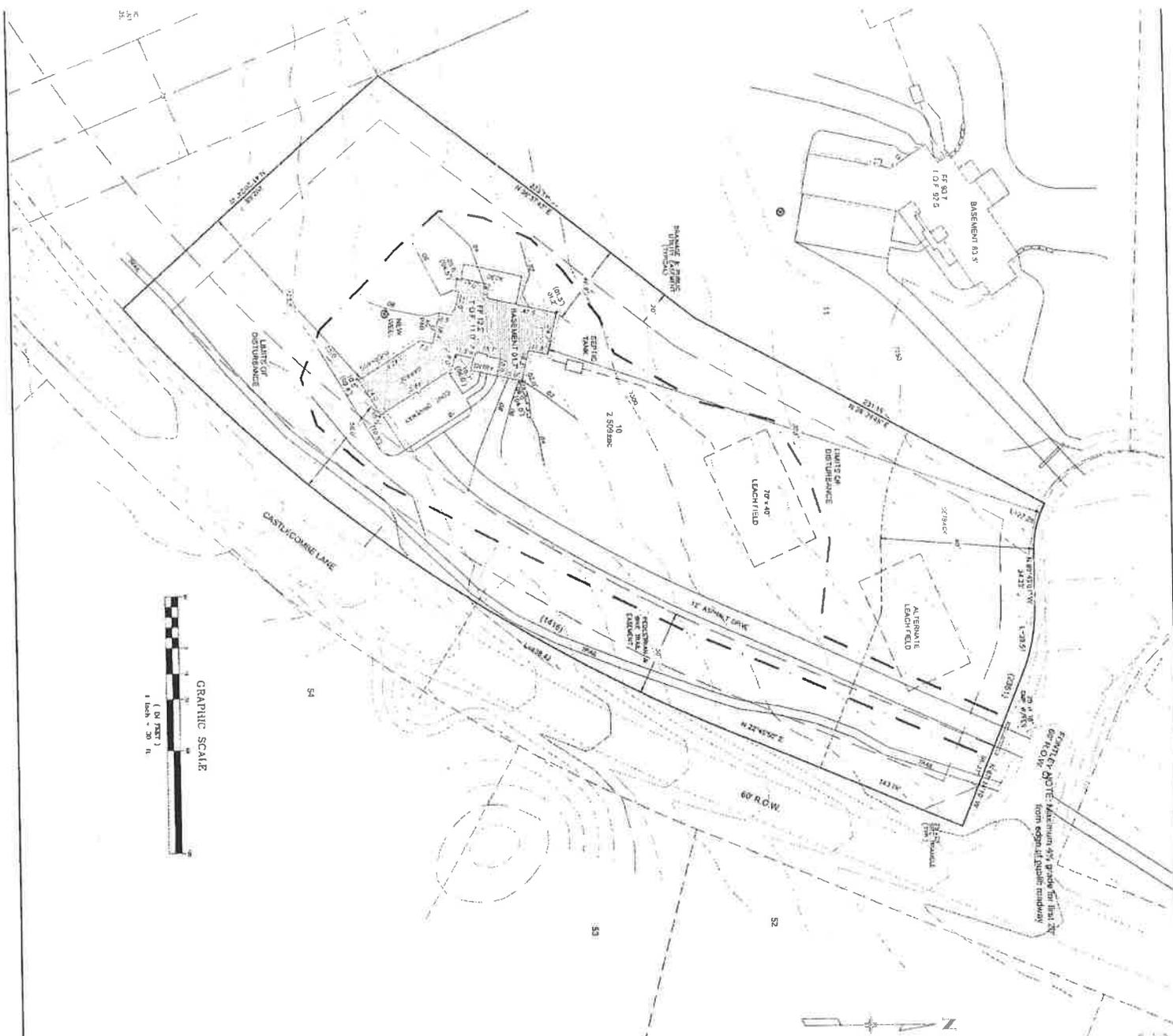
Purpose: Requesting the existing home's setback of 58' from the front be approved for driveway access, where normally a 90' setback is required. We are requesting access from Castlecombe Lane, therefore the front set back would be different.

Who: Laura and Casey Pacheco
2351 Fontley Court
Monument, CO 80132
719-684-5673
pacheco07

Where: 2351 Fontley Court
Monument, CO, 80132

Why: The home and current driveway both face Castlecombe Lane. Current address of 2351 Fontley Court is causing many different problems. Requesting address to be changed back to anticipated address of 1416 Castlecombe Lane.

- In the event of an emergency both Police and Fire department would not be able to locate home in a timely manner.
- Per the attached HOA letter, they will not approve a 500' driveway to Fontley Court due to existing leach field, walking trail and aesthetics of the Kings Deer Community.
- UPS, Fed Ex and USPS have had issues with the address. Husband is a diabetic and his medicine was deemed undeliverable due to address confusion.
- Per the Doctor's recommendation, an extremely long driveway would not be beneficial to his recovery from hip surgery. When we were searching for a lot we selected one that would not have a lengthy driveway. (See attached Dr.'s letter)
- Neighbors have complained to the HOA because when people are driving down the 1400 block of Castlecombe Lane and see a home with the 2351 address, they think they have passed their desired location, thus causing confusion.



THE CERTIFICATION CHECKLIST

Did the client verify from owner or construction firm:

- 4'-0" max. Maximum Depth of Existing Utility - Coded & Front 20' Setback from Wall
- Utility Location & Depth - 48" or Deeper
- Maximum Spacing on Working and Clear Cuts
- Erosion Control on Excavation and Safety Procedures for Utility Cuts
- Show Location, Dimensions and Type of Existing and Proposed Utility - 48" or Deeper

APPROVED

07/21/2016 8:04:12 AM

County Development Review

Released for Permit
 07/21/2016 7:35:02 AM
 Brent
 ENUMERATION

BSOCP Approved

Property Description:
 LOT 10, KINGS DEER HIGHLANDS FILING # 6, 1/11, 2016, COLORADO SPRINGS, CO. THE SUBDIVISION IS A TRACT RECORDED UNDER INSTRUMENT NUMBER 20160151 OF THE EL PASO COUNTY RECORDS.

APPROVED 2016 FONTLEY COURT

PLAT 10, 2016, 1/11, 2016

LOT 10, 2016, 1/11, 2016

BUILDING FOOTPRINT ONE STORY WITH BALKONET BASEMENT

3,360 S.F. - 100% EFFICIENCY - 435 S.F. DRIVE - 6,155 S.F.

LOT COVERAGE 38% -

CALCULATED BUILDING HEIGHT

MAXIMUM 12.00' - 10' FROM ROOF TO FINISHED FLOOR

AVERAGE EXISTING GRADE - 7,128.0'

MEAN BUILT DRAIN HEIGHT - 26.7' (MAX ALLOWED) - 35.7'

PLATING EASMENTS ARE 20 FEET (10 FEET IN WIDTH) FOR DRAINAGE AND PUBLIC UTILITIES

UNITS OF MEASURE ARE U.S. SURVEY FEET

CONTIGUOUS INTERVAL 0 TWO FEET

MINIMUM DISTANCE BETWEEN WALL AND LEACH FIELD 10"

BUILDING SETBACKS (COMMENTS) 110' - 30' SIDE AND REAR 20'

ALL PROPOSED SLOPES SHALL BE 3:1 OR LESS

WALLS SHALL NOT EXCEED FROM FEET IN HEIGHT WITHOUT AN ENGINEER'S DESIGN

CONFORMS PROVIDED BY THE CONTRACTOR

NOTICE: ACCORDING TO COLORADO LAW, YOU MUST FORFEIT ANY CLAIM FOR RECOVERY OF THE COSTS OF THIS PROJECT IF YOU DO NOT OBTAIN A PERMIT FROM THE CITY OF COLORADO SPRINGS WITHIN THE TIME FRAME SPECIFIED IN THE PERMIT. ANY VIOLATION OF THIS NOTICE WILL BE CONSIDERED A VIOLATION OF THE CITY OF COLORADO SPRINGS ORDINANCES.

SITEPLAN
 2351 FONTLEY COURT
 LOT 10, KINGS DEER HIGHLANDS FIL. 6

DWG: KCHB LOT 10
 SCALE: 1/8" = 1'-0"
 DATE: 7/21/16
 DRAWN BY: KMO
 CHECKED BY: TRK
 PROJECT NO: 16361
 SHEET 1 OF 1

LWA LAND SURVEYING, INC.
 2906 BEACON STREET, SUITE B
 COLORADO SPRINGS, CO 80907

REVISIONS
 MOVE DRIVEWAY 7'-15-16 KMO
 ADD FRONT SETBACK 7'-20-16 KMO

EL PASO COUNTY



COMMISSIONERS:
AMY LATHEN (CHAIR)
DENNIS HISEY (VICE-CHAIR)

COLORADO

SALLIE CLARK
DARRYL GLENN
PEGGY LITTLETON

DEVELOPMENT SERVICES DEPARTMENT

Issue Date: 7/21/2016

Permit Number: 24416

DRIVEWAY ACCESS PERMIT/WAIVER

The undersigned applicant agrees to perform all work in accordance with the El Paso County Subdivision Criteria Manual, El Paso Land Development Code, recorded plat (if applicable), requirements specified below, and any permit attachments. Should the preceding conditions not be satisfied, this permit shall be considered NULL and VOID.

APPLICANT: PAUL THOMPSON

Company: KIRELLA HOMES

Telephone: (303) 489-0550 Address: PO BOX 725

City: SEDALIA

State: CO

ZIP: 80135-

Project Location: (Street Address, Lot Number, Tax Schedule #)

TYPE OF DRIVEWAY ACCESS

2351 FONTLEY CT

Single Family Dwelling

Remarks:

The access requirements of this property have been determined by the APPROVED PLANS AND SPECIFICATIONS for this subdivision or site as part of an overall design. See "Comments" for specifics. Single access, maximum width 24 feet.

REQUIREMENTS:

1. STATE LAW REQUIRES that utilities be located prior to construction. At least two days advance notice must be given. Phone 1-800-922-1987
2. All work sites must be signed and protected in accordance with the current issue of the MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES and any permit attachments.
3. Should it become necessary for El Paso County to sign, light and barricade hazardous areas or restore the Right-of-Way to its original condition, all costs of said work shall be borne by the applicant.
4. All backfill shall be compacted to 90% of AASHTO T-180 unless otherwise specified.
5. ALL ACCESSES ARE SUBJECT TO RECONSIDERATION UPON LAND USE OR TRAFFIC CHANGES. All permits issued are for a SINGLE ACCESS point to a specific roadway.
6. Road closure will not be permitted.
7. This permit is not good for access to planned arterial roadways.
8. Permit is VOID if construction is not completed within 90 days.
9. Applicant should contact local Fire Protection District for any additional requirements.
10. Monuments within the ROW are not included with this permit; an EPC DOT Encroachment Permit

Fee: \$170.00

SIGNATURES APPLICANT: _____

Surcharge: \$37.00

ISSUED BY: _____

Total Charge: \$207.00

EL PASO COUNTY

Development Services Division
2880 International Circle, Colorado Springs, CO 80910
Phone (719) 520-6300 Fax (719) 520-6695 www.elpasoco.com

DRIVEWAY ACCESS PERMIT / WAIVER APPLICATION

File No. AP16827
Office Use Only

Please note: All Permits issued are for SINGLE ACCESS POINT to a specific roadway unless otherwise expressly indicated by the permit issued. Permits expire within 90 days of issue; drainage construction must be substantially complete. Monuments within the ROW are not included with this permit; an EPC DOT Encroachment Permit may be required. Please call 520-6460 for information.

PLEASE PROVIDE ALL INFORMATION. INCOMPLETE APPLICATIONS WILL DELAY PROCESS. FEE PLUS SURCHARGE IS DUE AND PAYABLE AT TIME OF APPLICATION BY CASH OR CHECKS MADE PAYABLE TO: EL PASO COUNTY

Date: 7/11/16 Name of Applicant: PAUL THOMPSON
 Company Name: KIRELA HOMES
 Mailing Address: PO BOX 725
SEDALIA, CO 80135
 Phone Number(s): 303-489-0550
2351 Fontley Ct
ACCESS APPLICATION ADDRESS: 1416 CASTLECHASE LANE, MONUMENT, 80132
SUBDIVISION, LOT AND BLOCK: LOT 10, KING'S DEER HIGHLANDS, FLG 6
PROPERTY TAX SCHEDULE NUMBER: 6109001013

(Information may be obtained by clicking on the Assessor's Real Estate Parcel Search on the county website or calling 520-6600.)

- OPEN-DITCH DRIVEWAY PRIMARY ACCESS:** **SECONDARY ACCESS**
 Proposed single access point onto an El Paso County public road constructed with open ditch drainage (NOT curb and gutter). Re-inspection of the completed driveway platform and applicable culver installation must be scheduled within 90 days of permit issue by calling (719) 520-6819.
- CURB AND GUTTER PRIMARY DRIVEWAY ACCESS:** **SECONDARY ACCESS**
 Proposed single access point onto an El Paso County Public road constructed with curb and gutter drainage (not open-ditch).
- COMMERCIAL DRIVEWAY ACCESS:**
 (Submit a copy to the El Paso County Development Services approved Site Development or Site Plan with your application. The submitted copy will remain on file and will not be returned to the applicant).
- DRIVEWAY ACCESS WAIVER:**
 A Driveway Access Waiver will be issued for access onto a road not platted as El Paso County right-of-way within unincorporated El Paso Count subsequent to county confirmation. The applicant may be required to submit additional documentation.

Below this line is for Office Use Only

Drainage Requirements: 27 Reviewed by: _____ Date: _____

Additional Comments: _____

Processed by PR #24416 Date 7/21/2016
PLAT 10783
PUD

APPROVED
07/18/2016 7:07:04 AM
 dsdcox

EPC Driveway Access