

Meggan Herington, AICP, Executive Director
El Paso County Planning & Community Development

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2880 International Circle, Suite 110
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Board of County Commissioners

Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

SUMMARY MEMORANDUM

TO: El Paso County Board of County Commissioners
FROM: Planning & Community Development
DATE: 10/10/2024
RE: SF2325 Sterling Recycling Subdivision (Formally Known as Rhetoric Subdivision)

Project Description

A request by N.E.S. Inc., for approval of a 32.62-acre Final Plat creating two industrial lots. This item was heard as a consent item on the agenda at the September 19th, 2024, Planning Commission hearing. The vote was 8-0 for a recommendation of approval to the Board of County Commissioners. The property is zoned I-3 (Heavy Industrial), and is located one quarter mile southeast of the intersection of Vollmer Road and North Marksheffel Road and is directly southwest of the intersection of North Marksheffel Road and Sterling Ranch Road. (Parcel No. 5300000743) (Commissioner District No. 2)

Notation

Please see the Planning Commission Minutes for a complete discussion of the topic and the project manager's staff report for staff analysis and conditions.

Planning Commission Recommendation and Vote

Brittan Jack moved / Byers seconded for approval, for the Final Plat, utilizing the resolution attached to the staff report, with nine (9) conditions and three (3) notations, that this item be forwarded to the Board of County Commissioners for their consideration. The motion was **approved (8-0)**. The item was heard as a consent agenda item.

Discussion

The item was heard on the consent agenda, a clarification question was asked by the Planning Commission regarding if a water finding was made at the Preliminary Plan Stage. Staff stated that this Final Plat did not require a Preliminary Plan and a water finding was made with this application.

Attachments

1. Planning Commission Minutes from 9/19/2024.
2. Signed Planning Commission Resolution.
3. Planning Commission Staff Report.
4. Draft BOCC Resolution.

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EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting

Thursday, September 19, 2024, El Paso County Planning and Community Development Department
2880 International Circle – Second Floor Hearing Room
Colorado Springs, Colorado

REGULAR HEARING, 9:00 A.M.

PC MEMBERS PRESENT AND VOTING: THOMAS BAILEY, SARAH BRITTAIN JACK, JIM BYERS, BECKY FULLER, BRYCE SCHUETTELPELZ, WAYNE SMITH, TIM TROWBRIDGE, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: NONE

PC MEMBERS PRESENT AND NOT VOTING: NONE

PC MEMBERS ABSENT: JAY CARLSON, JEFFREY MARKEWICH

STAFF PRESENT: MEGGAN HERINGTON, JUSTIN KILGORE, KYLIE BAGLEY, RYAN HOWSER, EDWARD SCHOENHEIT, DANIEL TORRES, GILBERT LAFORCE, MARCELLA MAES, ERIKA KEECH, AND LORI SEAGO.

OTHERS PRESENT AND SPEAKING:

1. REPORT ITEMS

Ms. Herington stated she did not have any updates.

Mr. Kilgore stated he did not have any updates.

The next PC Hearing is Thursday, October 3rd, 2024, at 9:00 A.M.

2. CALL FOR PUBLIC COMMENT FOR ITEMS NOT ON THE HEARING AGENDA - NONE

3. CONSENT ITEMS

A. Adoption of Minutes for meeting held September 5th, 2024.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (8-0).

B. SF2325

BAGLEY

**FINAL PLAT
RHETORIC SUBDIVISION**

A request by N.E.S. Inc., for approval of a 32.62-acre Final Plat creating two industrial lots. The property is zoned I-3 (Heavy Industrial) and is located one quarter mile southeast of the intersection of Vollmer Road and North Marksheffel Road and is directly southwest of the intersection of North Marksheffel Road and Sterling Ranch Road. (Parcel No. 5300000743) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

Mr. Trowbridge said the Planning Commission typically does not see a Final Plat, and asked if it was because the water finding was not done at the Preliminary Plan stage?

Ms. Bagley answered that is correct and said they did a combined Final Plat/Preliminary Plan so there is a water finding associated with this plat.

NO PUBLIC COMMENT OR FURTHER DISCUSSION.

PC ACTION: BRITTAIN JACK MOVED / BYERS SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3B, FILE NUMBER SF2325 FOR A FINAL PLAT, RHETORIC SUBDIVISION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH NINE (9) CONDITIONS AND THREE (3) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITTAIN JACK, BYERS, FULLER, TROWBRIDGE, WHITNEY, SCHUETTPELZ, AND SMITH.

IN OPPOSITION: NONE

COMMENTS: NONE

4. CALLED-UP CONSENT ITEMS - NONE

5. REGULAR ITEMS

A. SKP237

HOWSER

**SKETCH PLAN
ESTEBAN RODRIGUEZ**

A request by Brent Houser Enterprises, LLC for approval of a 493.21-acre Sketch Plan consisting of approximately 119.73 acres allocated toward single-family residential uses with a minimum lot size of 5 acres, 312.84 acres allocated toward single-family residential uses with a minimum lot size of 2.5 acres, 15.07 acres allocated toward commercial uses, 8.52 acres allocated toward parks and open space, 5.90 acres allocated toward stormwater detention facilities, and 30.21 acres allocated toward proposed rights-of-way. At full build-out, the maximum development potential contemplated within the Sketch Plan area consists of 142 single-family residential lots and 15.07 acres of commercial development. The property is currently zoned A-35 (Agricultural) and is located on the south side of Judge Orr Road, approximately 1 mile east of the intersection of Judge Orr Road and Curtis Road/Stapleton Road. (Parcel Nos. 4300000534, 4300000537, and 4300000538) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

Ms. Brittain Jack asked Mr. Guman if a central water system like that is paid for by the special district.

Mr. Guman confirmed

Ms. Brittain Jack asked do the other developments become members of that district.

Mr. Guman answered they met with the County Attorney as the applicant for BOCES to discuss the requirements for creating a Metro District, Water District, or Special Improvement District. He said the details are still being developed, as they are exploring a hybrid approach that balances private and public interests. The water district would be funded by the public entity, with BOCES potentially covering costs for the water treatment facility and extending water mains to adjacent properties.

At this stage, the Service Plan has not yet been drafted or reviewed by the County Attorney. He submitted applications with the understanding that if issues arise, the Rodriguez Subdivision can operate independently, based on the available water supply to support the development without needing to join the water district. He will have all details finalized when the Preliminary Plan and development plan are presented to the Planning Commission.

Ms. Brittain Jack asked when establishing a water district, how many homes can it serve considering that there are several development members involved.

Mr. Guman answered they had proposed the BOCES campus to include up to 121 single-family staff housing units, although the likely estimate is around 75 to 80 homes. Additionally, there are 142 homes proposed in the Rodriguez Sketch Plan and 92 homes in the Jane Davis Sketch Plan, which the Planning Commission has not yet seen.

The water resources plan accounts for all three developments. Combining these, he said they will have adequate resources to provide water, contingent on the central water system extending to all developments. The water treatment facility is currently being planned and engineered to accommodate the total demand from these projects.

He said they do not yet have signed agreements or contracts with the private developments to participate in the central water system that BOCES will develop. The central water facility is designed to provide sufficient water for all three developments.

Ms. Brittain Jack asked rather than drilling wells all the time why we don't do this more often and how many communities can be served in the County this way.

Mr. Guman answered the Planning Commission is likely aware that water issues arise with nearly every application that is reviewed. The estimated cost for developing a water treatment facility, which BOCES will manage, is approximately \$5.5 million. This substantial expense may explain why many developers opt for drilling wells instead.

However, they see a significant opportunity to create a central water facility that could serve 350 to 400 homes from a single supply. This facility would require the drilling of one to two wells, and while they await their engineer's proposals, they believe it remains a viable option for the future.

Currently, there are three large developments adjacent to one another, excluding Saddle Horn Ranch, which has its own water treatment facility. In contrast, Saddlehorn Ranch utilizes a central water system with no wells. This model could serve as an excellent reference for future adjacent developments.

While establishing a central water facility involves considerable costs, the long-term benefits and efficiencies it could provide are worth serious consideration.

Mr. Byers stated he was disappointed that the park was going away. There appears to be a Metro District and an HOA proposed, and asked why wouldn't one of those maintain the park.

Mr. Guman answered if the park would come to fruition that would be an option.

Mr. Byers asked didn't he just say that a park would not be part of the plan.

Mr. Guman answered the park is not being required by County Parks. On the first review plan this park is not on the County's list. The County did ask for fees.

Mr. Byers stated fees would work but why not as the developer, install the amenity and let the district maintain it.

Mr. Guman stated that was something that he doesn't know if he can answer. If the County does not choose to have a park in that location, then what Mr. Byers is suggesting would be a private park.

Mr. Byers answered if it was a Metro District, it would be open to the public.

Mr. Guman replied that the review raises important considerations regarding the responsibilities of the Metro District in relation to the Rodriguez Subdivision and other developments. It is not necessarily the case that the Metro District would be responsible for all developments within its service area, including the Rodriguez Subdivision. If the Metro District encompasses this area, it could be accountable for various developments, such as those from BOCES or Davis, which are not public entities. This distinction is crucial for understanding the scope of the Metro District's responsibilities and its implications for service provision.

Mr. Byers stated once the Metro District is created, he believes that it does create a public facility and you can't restrict the park.

Mr. Guman stated he would have to defer to the County Attorney.

Mr. Byers – stated he believes that open space is a crucial amenity, and that the County does not mandate its inclusion. As a landscape architect, you likely appreciate the value of this aspect. He recommends that we seriously consider its incorporation into the plans.

Additionally, he had a question regarding the drainage and asked about the proposed concept for addressing the drainage crossings. There are two points where the drainage crosses the site, and it seems likely that some form of structure will be necessary unless there are alternative solutions being considered.

Mr. Guman showed on the Sketch Plan where the two crossings would be and said drainage would be handled the way that Saddlehorn Ranch was approved. There are culverts that go beneath the street to accommodate any drainage in those areas. He said they are including the "no build area" in those drainage areas as part of the open space calculation. We are at about 16 to 17 percent open space

excluding the park. He said if they are directed to develop an 8-acre park that the County's Park Department doesn't want or need, we would be glad to reevaluate.

Ms. Seago spoke in defense of the County Parks Department and said it is not generally the policy of El Paso County to own or maintain what is often called neighborhood parks, pocket parks, or these smaller parks that are within neighborhoods. The County typically maintains regional parks, regional trails and other regional facilities. She certainly doesn't want to speak for the developer or impugn the developer, from the County Parks Department perspective to say that the County is not interested in operating a park here doesn't mean that the County Parks Department is saying that a park would not be a benefit or that there is no need for a park.

Mr. Byers mentioned funding for the park and maintenance of the park could be handled by a Metro District.

Ms. Seago answered it could be handled by a metro district but could not be handled by a water district. Those are two separate districts. Park maintenance also could be handled by an HOA.

Mr. Byers mentioned the Sketch Plan does not show connection to Saddlehorn although Mr. Guman stated that there was a proposed connection.

Mr. Guman answered the circulation plan which you are looking at essentially shows our major collector system not minor streets. Mr. Guman showed the Sketch Plan where the streets are located.

Mr. Bailey mentioned that he could not see the cursor where he was showing the location of the streets and asked if it was right below the park? He said at the Sketch Plan level, the concept of a connection is really all the detail that is needed at this time.

Mr. Guman pointed out that as Daniel Torres (County Engineer) had mentioned also, when he showed the three points of connection you can see where access three is located there. Mr. Guman showed a slide of what they are planning.

Ms. Fuller stated they are getting off track as far as talking about the park and that is with the review criteria that comes later. To her an 8-acre to 8 ½ - acre park where all the lots are 2.5-acre lots, she doesn't believe it is meaningful to the people that will live there. She said to rely on the future customers to make that decision and we do not need to talk about where roads are going to connect at this moment.

Mr. Guman responded that their request demonstrates that this is very compatible with Judge Orr Road corridor. This is compatible with what the County approved in the past and what the Planning Commission will see in the future when he comes back to the Planning Commission with the Jane Davis Ranch Sketch Plan and the Preliminary Plan for the Rodriguez Subdivision.

Mr. Bailey – asked if there were any more questions for the applicant or Staff or any other discussion. There were none.

NO PUBLIC COMMENT OR ADDITIONAL DISCUSSION.

PC ACTION: FULLER MOVED / TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5A, FILE NUMBER SKP237 FOR SKETCH PLAN, ESTEBAN RODRIGUEZ, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND THREE (3) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND

DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, BYERS, FULLER, TROWBRIDGE, WHITNEY, SCHUETTPELZ, AND SMITH.

IN OPPOSITION: NONE

COMMENTS: Mr. Trowbridge appreciated the discussion about the park. He agreed with Ms. Fuller that the lot sizes don't necessarily lend themselves to require a park. He also appreciated the applicant buffering the development with the 5-acre lots to provide that transition. He thought that's a good idea in these types of cases.

- 6. NON-ACTION ITEMS** – A presentation regarding the Implementation action matrix in the Master Plan (3-year update).

MEETING ADJOURNED at 10:33 A.M.

Minutes Prepared By: MM

FINAL PLAT (RECOMMEND APPROVAL)

Brittain Jack moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. SF2325
STERLING RECYCLING SUBDIVISION

WHEREAS, N.E.S. Inc. did file an application with the El Paso County Planning and Community Development Department for approval of a Final Plat for the Sterling Recycling 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 September 19, 2024; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the Master Plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, and comments by the El Paso County Planning Commission members during the hearing, this Commission finds as follows:

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;

6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations.
7. For the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, when approving a Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code ("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 N.E.S. Inc. for approval of a Final Plat for the Sterling Recycling Subdivision be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.

4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
7. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
8. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the Final Plat is recorded.
9. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated October 25, 2023, as provided by the County Attorney's Office.

NOTATIONS

1. The following fees are required to be paid to El Paso County at the time of plat recordation:
 - a. Drainage Fees in the amount of \$556,837.03 and bridge fees in the amount of \$227,754.47 for the Sand Creek Drainage Basin.
 - b. Park fees in lieu of land dedication are not applicable for an industrial subdivision
 - c. Fees in lieu of school land dedication are not applicable for an industrial subdivision.
2. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
3. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

AND BE IT FURTHER RESOLVED that this Resolution and the recommendations contained herein be forwarded to the El Paso County Board of County Commissioners for its consideration.

BYERS seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows: (circle one)

Thomas Bailey	<u>aye</u> / no / non-voting / recused / absent
Sarah Brittain Jack	<u>aye</u> / no / non-voting / recused / absent
Jim Byers	<u>aye</u> / no / non-voting / recused / absent
Jay Carlson	aye / no / non-voting / recused / <u>absent</u>
Becky Fuller	<u>aye</u> / no / non-voting / recused / absent
Jeffrey Markewich	aye / no / non-voting / recused / <u>absent</u>
Bryce Schuettpeiz	<u>aye</u> / no / non-voting / recused / absent
Wayne Smith	<u>aye</u> / no / non-voting / recused / absent
Tim Trowbridge	<u>aye</u> / no / non-voting / recused / absent
Christopher Whitney	<u>aye</u> / no / non-voting / recused / absent

The Resolution was adopted by a vote of 8 to 0 by the El Paso County Planning Commission, State of Colorado.

DONE THIS 19th day of September 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION


By: 
Chair

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE NORTH HALF OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE NORTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5 BY A 3-1/4" ALUMINUM CAP STAMPE "LS 10376" AND AT THE NORTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS 4842 1996", BEARING S89°14'13"W.

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN;

THENCE ON THE NORTH LINE OF THE NORTHEAST ¼ OF THE NORTHEAST ¼ OF SAID SECTION 5, N89°12'38"E A DISTANCE OF 792.39 FEET;

THENCE S49°38'29"E A DISTANCE OF 638.55 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST ¼ OF THE NORTHEAST ¼ OF SAID SECTION 5;

THENCE ON SAID EAST LINE, S06°22'37"W A DISTANCE OF 586.31 FEET;

THENCE S89°16'22"W A DISTANCE OF 1460.40 FEET;

THENCE N00°43'38"W A DISTANCE OF 1000.44 FEET, TO A POINT ON THE NORTH LINE OF THE NORTHWEST ¼ OF THE NORTHEAST ¼ OF SAID SECTION 5;

THENCE ON SAID NORTH LINE, N89°14'13"E A DISTANCE OF 259.23 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 1,412,489 SQUARE FEET OF 32.4263 ACRES.



COMMISSIONERS:
CAMI BREMER (CHAIR)
CARRIE GEITNER (VICE-CHAIR)

COLORADO

HOLLY WILLIAMS
STAN VANDERWERF
LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Thomas Bailey, Chair

FROM: Kylie Bagley, Senior Planner
Edward Schoenheit, Associate Engineer
Meggan Herington, AICP, Executive Director

RE: Project File Number: SF2325
Project Name: Rhetoric Subdivision
Parcel Number: 5300000743

OWNER:	REPRESENTATIVE:
Colorado Concrete Crushing LLC 20 Boulder Crescent Colorado Springs, CO 80903	N.E.S. Inc. 619 N Cascade Colorado Springs, CO 80903

Commissioner District: 2

Planning Commission Hearing Date:	9/19/2024
Board of County Commissioners Hearing Date: 10/10/2024	

EXECUTIVE SUMMARY

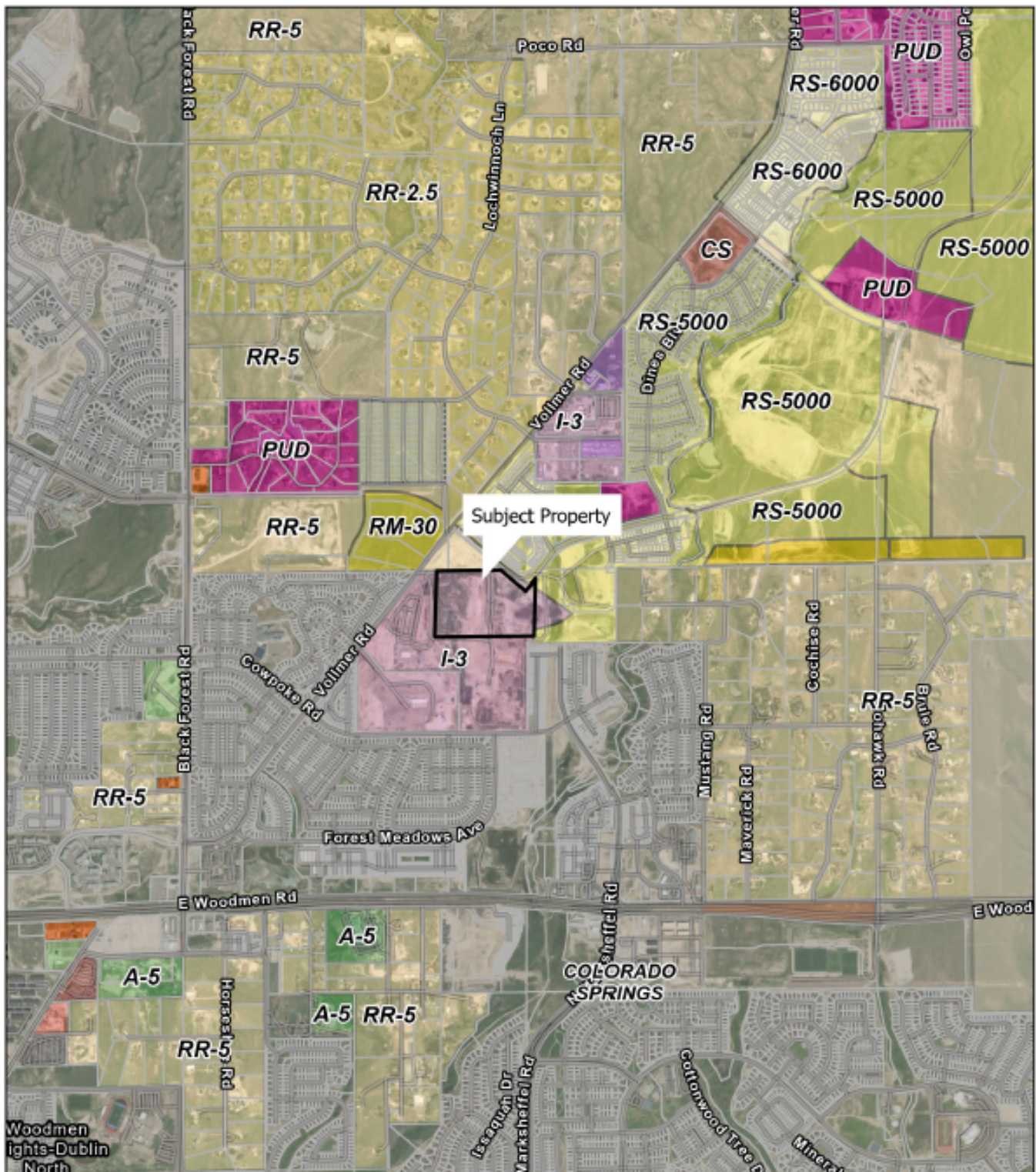
A request by N.E.S. Inc., for approval of a 32.62-acre Final Plat creating two industrial lots. The property is zoned I-3 (Heavy Industrial) and is located one quarter mile southeast of the intersection of Vollmer Road and North Marksheffel Road and is directly southwest of the intersection of North Marksheffel Road and Sterling Ranch Road. A finding of water sufficiency with regards to quality, quantity, and dependability is requested with the Final Plat.

2880 INTERNATIONAL CIRCLE
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910
PLNWEB@ELPASOCO.COM

Zoning Map



2880 INTERNATIONAL CIRCLE
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910
PLNWEB@ELPASOCO.COM

A. AUTHORIZATION TO SIGN

Final Plat, Subdivision Improvements Agreement, Detention Pond Maintenance Agreement 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)	Single-Family Residential
South:	I-3 (Heavy Industrial)	Outside Storage
East:	I-3 (Heavy Industrial)	Vacant Land
West:	I-3 (Heavy Industrial)	Outside Storage

D. BACKGROUND

The subject property is zoned I-3 (Heavy Industrial) and received a Temporary Use Permit (PCD File Number TU227) in 2022 for recycling concrete and asphalt to produce road base materials. The Temporary Use Permit has been most recently approved in 2024, while the applicants are going through the Final Plat and Site Development Plan process.

The Final Plat will create two industrial lots, one of which will be for the existing recycling facility. Once the Final Plat is recorded the Site Development Plan can be approved which will eliminate the need for the Temporary Use Permit.

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).

F. MASTER PLAN COMPLIANCE

1. Your El Paso County Master Plan

a. Placetype Character: Employment Center

Employment Centers comprise land for industrial, office, business park, manufacturing, distribution, warehousing, and other similar business uses. The priority function of this placetype is to provide space for large-scale employers to establish and expand in El Paso County. They are typically located on or directly adjacent to Interstate 25 and/or other regional corridors to ensure business and employee access.

Proximity to other transportation hubs, such as Meadowlake Airport, and rail lines is also appropriate for an Employment Center. Uses in this placetype often require large swaths of land and opportunity to expand and grow to meet future needs and



demands. Transitional uses, buffering, and screening should be used to mitigate any potential negative impacts to nearby residential and rural areas. Some Employment Centers are located in Foreign Trade, Commercial Aeronautical, and Opportunity Zones to help incentivize development.

Recommended Land Uses:

Primary

- *Light Industrial/Business Park*
- *Heavy Industrial*
- *Office*

Supporting

- *Commercial Retail*
- *Commercial Service*
- *Restaurant*

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.

c. Key Area Influences: The property is not located within a key area.

d. Analysis

Due to the nature of the surrounding industrial uses, the development of an employment center isn't projected to have adverse impacts on the character of the area. Relevant goals and objectives are as follows:

Objective LU4-3: *Employment Centers should comprise land for industrial, office, business park, manufacturing, distribution, warehousing, and other similar business uses.*

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



Objective HC2-6: *Continue to carefully analyze each development proposal for their location, compatibility with the natural environment, and cohesion with the existing character.*

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 3 of the Plan. The following information pertains to water demands and supplies in Region 3 for central water providers:

The Plan identifies the current demand for Region 3 to be 4,494 acre-feet per year (AFY) (Figure 5.1) with a current supply of 7,164 AFY (Figure 5.2). The projected demand in 2040 for Region 3 is at 6,403 AFY (Figure 5.1) with a projected supply of 7,921 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region 3 is at 8,307 AFY (Figure 5.1) with a projected supply of 8,284 AFY (Figure 5.2) in 2060. This means that by 2060 a surplus of 32 AFY is anticipated for Region 3.

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 low wildlife impact potential. El Paso County Environmental Services and Colorado Parks and Wildlife were each sent a referral and have no outstanding comments.

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

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

The Soils and Geology report provided with the application cited that there is seasonally high groundwater on Lots 1 and 2 on the proposed Final Plat. In order to mitigate the high groundwater, a plat note was added that states no basements should be allowed due to high groundwater.

2. **Floodplain:** The property is not located within a floodplain as determined by a review of the FEMA Flood Insurance Rate Map number 08041C0533G, effective December 7th, 2018. The property is in Zone “X” which is an area of minimal flood hazard determined to be outside the 500-yr flood zone.

3. **Drainage and Erosion:** The property is in the Sand Creek drainage basin (FOFO4000) which is included in the El Paso County Drainage Basin Fee program. Drainage basin and bridge fees in the amount of \$556,727.04 and \$227,712.48 respectively are due at plat recording. The site generally drains from north to southwest and into Sand Creek. A private detention pond has been proposed with the development. The drainage report prepared by JR Engineering concluded that the proposed development will not adversely affect surrounding or downstream properties with respect to stormwater runoff.

4. **Transportation:** The property is located along Marksheffel Road which is a City of Colorado Springs paved arterial road. The development will be served by a public non-residential collector roadway. The development is projected to generate



approximately 954 daily trips to the surrounding road network. The property is subject to the El Paso County Road Impact Fee program. Public Improvements consist of constructing the extension of Sterling Ranch Road southwest of Marksheffel and intersection improvements along Marksheffel Road in conjunction with the City of Colorado Springs.

H. SERVICES

1. Water

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

2. Sanitation

Wastewater is provided by the Falcon Area Water and Wastewater Authority.

3. Emergency Services

The property is within the Black Forest 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

Mountain View Electric Association has provided a commitment letter to serve the proposed Final Plat with electrical services. Colorado Springs Utilities has provided a commitment letter to serve the proposed Final Plat with natural gas services. The utility providers sent a referral and have no outstanding comments.

5. Metropolitan Districts

The subject property is not within a Metropolitan District.

6. Parks/Trails

Fees in lieu of park land dedication are not required for an industrial zoned Final Plat.



7. Schools

Fees in lieu of school land dedication are not required for an industrial zoned Final Plat.

I. APPLICABLE RESOLUTIONS

See attached resolution.

J. STATUS OF MAJOR ISSUES

There are no outstanding major issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

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

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.



5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
7. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
8. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the Final Plat is recorded.
9. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated October 25, 2023, as provided by the County Attorney's Office.

NOTATIONS

1. The following fees are required to be paid to El Paso County at the time of plat recordation:
 - a. Drainage Fees in the amount of \$556,837.03 and bridge fees in the amount of \$227,754.47 for the Sand Creek Drainage Basin.
 - b. Park fees in lieu of land dedication are not applicable for an industrial subdivision
 - c. Fees in lieu of school land dedication are not applicable for an industrial subdivision.
2. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.



3. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified 15 adjoining property owners on September 9, 2024 for the Planning Commission and Board of County Commissioner meetings. Responses will be provided at the hearing.

M. ATTACHMENTS

Map Series
Letter of Intent
Plat Drawing
State Engineer's Letter
County Attorney's Letter
El Paso County Public Health Recommendation Letter
Draft Resolution

2880 INTERNATIONAL CIRCLE
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910
PLNWEB@ELPASOCO.COM



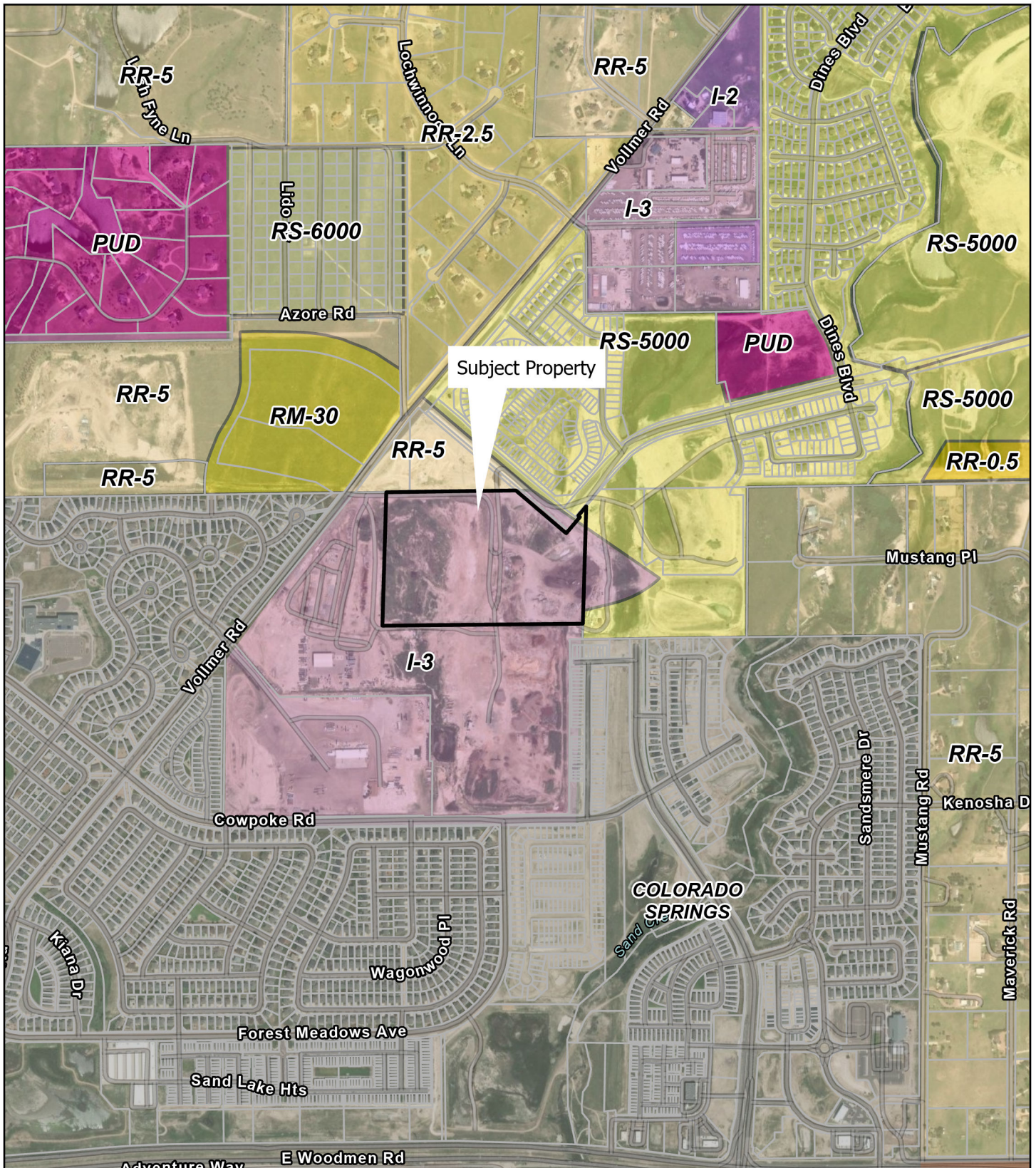
Aerial Map

File No.SF2325

Map Series No. 1



0 0.1 0.1 0.2 Miles



Zoning Map

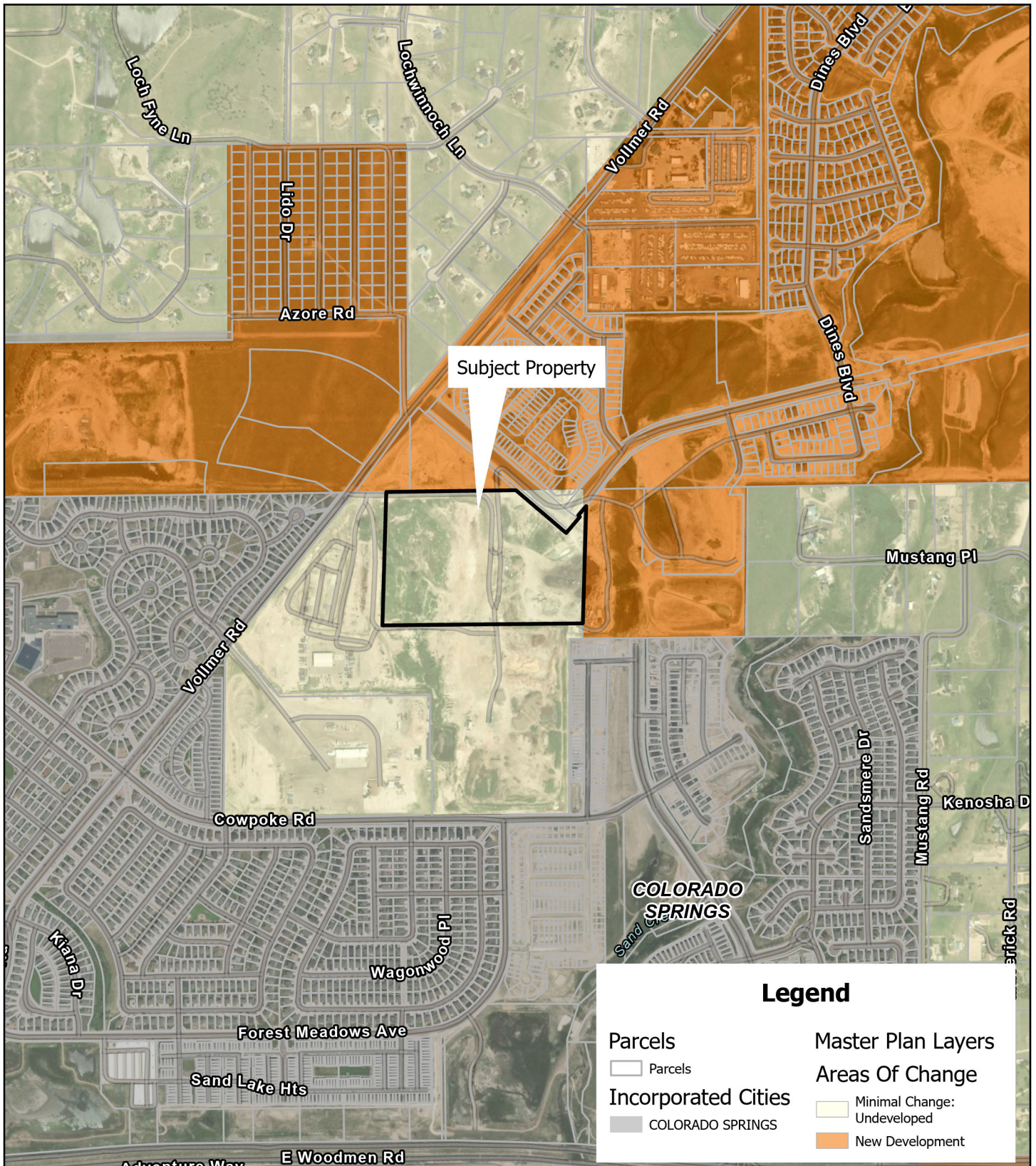
File No.SF2325

Map Series No. 2



0 0.1 0.1 0.2 Miles

A horizontal scale bar with markings for 0, 0.1, and 0.2 miles.



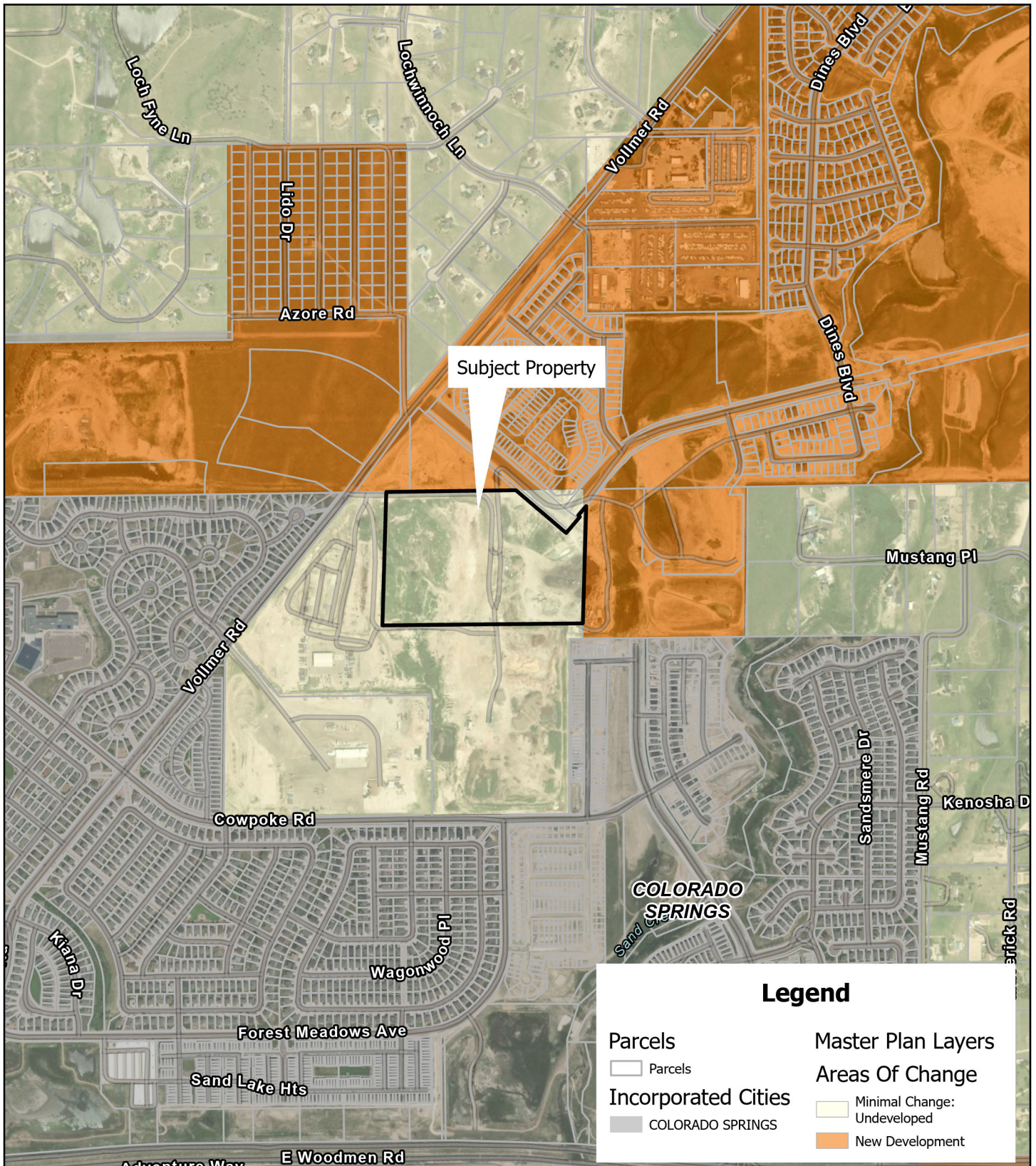
Placetype Map

File No.SF2325

Map Series No. 2



0 0.1 0.1 0.2 Miles



Areas of Change Map

File No.SF2325

Map Series No. 4



0 0.1 0.1 0.2 Miles

STERLING RECYCLING SUBDIVISION
LOCATED IN THE NW1/4 OF THE NW1/4 OF SECTION 4 & THE N1/2 OF SECTION 5,
BOTH IN TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN
COUNTY OF EL PASO, STATE OF COLORADO

BE IT KNOWN BY THESE PRESENTS:

THAT RHETORIC REAL ESTATE LLC, BEING THE OWNER OF THE FOLLOWING DESCRIBED TRACT OF LAND TO WIT:

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTH HALF OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE NORTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5 BY A 3-1/4" ALUMINUM CAP STAMPED "LS 10376" AND AT THE NORTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS 4842 1996", BEARING S89°14'13"W.

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN;

THENCE ON THE NORTH LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5, N89°12'38"E A DISTANCE OF 792.39 FEET;

THENCE S49°38'29"E A DISTANCE OF 638.55 FEET, TO A POINT ON THE EAST LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5;

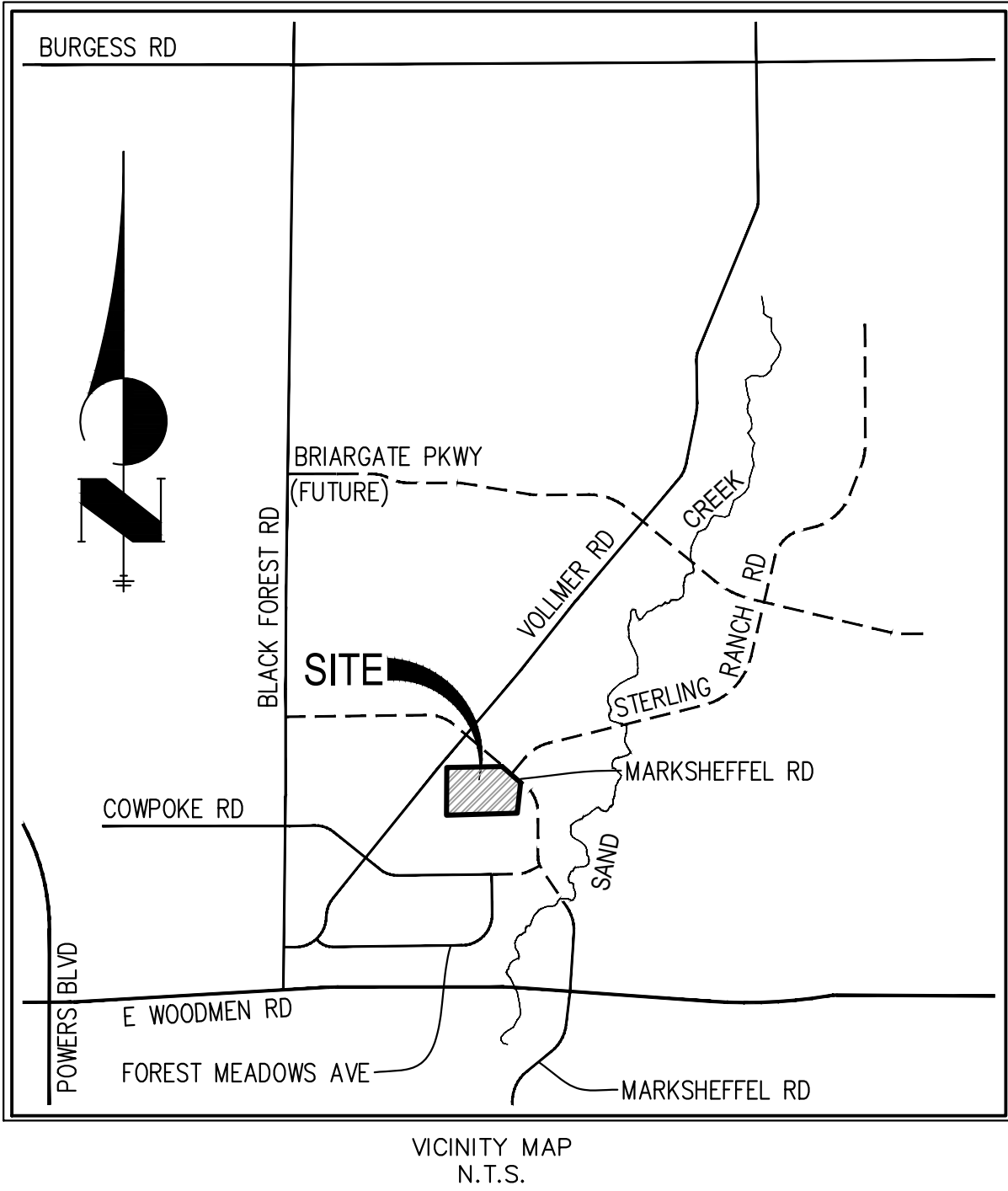
THENCE ON SAID EAST LINE, S06°22'37"W A DISTANCE OF 586.31 FEET;

THENCE S89°16'22"W A DISTANCE OF 1460.40 FEET;

THENCE N00°43'38"W A DISTANCE OF 1000.44 FEET, TO A POINT ON THE NORTH LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5;

THENCE ON SAID NORTH LINE, N89°14'13"E A DISTANCE OF 259.23 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 1,412,489 SQUARE FEET OR 32.4263 ACRES.



BOARD OF COUNTY COMMISSIONERS CERTIFICATE:

THIS PLAT FOR STERLING RECYCLING SUBDIVISION WAS APPROVED FOR FILING BY THE EL PASO COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS ON THE 20 DAY OF 2020 SUBJECT TO ANY NOTES SPECIFIED HEREON AND ANY CONDITIONS INCLUDED IN THE RESOLUTION OF APPROVAL. THE DEDICATIONS OF LAND TO THE PUBLIC, STREETS, ARE ACCEPTED, BUT PUBLIC IMPROVEMENTS THEREON WILL NOT BECOME THE MAINTENANCE RESPONSIBILITY OF EL PASO COUNTY UNTIL PRELIMINARY ACCEPTANCE OF THE PUBLIC IMPROVEMENTS IN ACCORDANCE WITH THE REQUIREMENTS OF THE LAND DEVELOPMENT CODE AND ENGINEERING CRITERIA MANUAL, AND THE SUBDIVISION IMPROVEMENTS AGREEMENT.

CHAIR, BOARD OF COUNTY COMMISSIONERS

DATE

OWNERS CERTIFICATE/ DEDICATION STATEMENT:

THE UNDERSIGNED, BEING ALL THE OWNERS, MORTGAGEES, BENEFICIARIES OF DEEDS OF TRUST AND HOLDERS OF OTHER INTERESTS IN THE LAND DESCRIBED HEREIN, HAVE LAID OUT, SUBDIVIDED, AND PLATTED SAID LANDS INTO LOTS, TRACTS, STREETS, AND EASEMENTS AS SHOWN HEREON UNDER THE NAME AND SUBDIVISION OF STERLING RECYCLING SUBDIVISION. ALL PUBLIC IMPROVEMENTS SO PLATTED ARE HEREBY DEDICATED TO PUBLIC USE AND SAID OWNER DOES HEREBY COVENANT AND AGREE THAT THE PUBLIC IMPROVEMENTS WILL BE CONSTRUCTED TO EL PASO COUNTY STANDARDS AND THAT PROPER DRAINAGE AND EROSION CONTROL FOR SAME WILL BE PROVIDED AT SAID OWNER'S EXPENSE. ALL TO THE SATISFACTION OF THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO. UPON ACCEPTANCE BY RESOLUTION, ALL PUBLIC IMPROVEMENTS SO DEDICATED WILL BECOME MATTERS OF MAINTENANCE BY EL PASO COUNTY, COLORADO. THE UTILITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED FOR PUBLIC UTILITIES AND COMMUNICATION SYSTEMS AND OTHER PURPOSES AS SHOWN HEREON. THE ENTITIES RESPONSIBLE FOR PROVIDING THE SERVICES FOR WHICH THE EASEMENTS ARE ESTABLISHED ARE HEREBY GRANTED THE PERPETUAL RIGHT OF INGRESS AND EGRESS FROM AND TO ADJACENT PROPERTIES FOR INSTALLATION, MAINTENANCE, AND REPLACEMENT OF UTILITY LINE AND RELATED FACILITIES.

OWNERS/MORTGAGEE

BY:

TITLE:

STATE OF COLORADO

COUNTY OF

SIGNED BEFORE ME ON 20

BY

NOTARY

COMMISSION EXPIRATION

SUMMARY:

2 LOTS	28.7988 ACRES	88.81%
1 TRACT	1.8448 ACRES	5.69%
RIGHTS-OF-WAY	1.7827 ACRES	5.50%
TOTAL	32.4263 ACRES	100.00%

FEES:

SAND CREEK DRAINAGE FEE:

BRIDGE FEE:

ACADEMY SCHOOL DISTRICT #20 FEE:

PARK FEE:

SURVEYOR'S CERTIFICATE:

THE UNDERSIGNED REGISTERED PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, HEREBY STATES AND DECLARES THAT THE ACCOMPANYING PLAT WAS SURVEYED AND DRAWN UNDER HIS RESPONSIBLE CHARGE AND ACCURATELY SHOWS THE DESCRIBED TRACT OF LAND, AND SUBDIVISION THEREOF, AND THAT THE REQUIREMENTS OF TITLE 38 OF THE COLORADO REVISED STATUTES, 1973, AS AMENDED, HAVE BEEN MET TO THE BEST OF HIS KNOWLEDGE AND BELIEF.



JARROD ADAMS, PROFESSIONAL LAND SURVEYOR
COLORADO NO. 38252
FOR AND ON BEHALF OF JR ENGINEERING, LLC

NOTICE:

ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

CLERK AND RECORDER

STATE OF COLORADO
COUNTY OF EL PASO

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE ON THIS DAY OF 20, AND WAS RECORDED AT RECEPTION NO. OF THE RECORDS OF EL PASO COUNTY.

STEVE SCHLEIKER

OWNER OF RECORD

NAMES:

ADDRESS:

TELEPHONE NUMBER:

JOB NO. PROJ. NO.
FEBRUARY 7, 2024
SHEET 1 OF 3



Centennial 303-740-9393 • Colorado Springs 719-593-2593
Fort Collins 970-491-9888 • www.jrengineering.com

FILE NO. SF-2325

STERLING RECYCLING SUBDIVISION
LOCATED IN THE NW1/4 OF THE NW1/4 OF SECTION 4 & THE N1/2 OF SECTION 5,
BOTH IN TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN
COUNTY OF EL PASO, STATE OF COLORADO

PLAT NOTES:

1. BASIS OF BEARINGS:
BEARINGS ARE BASED ON THE NORTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE WEST END BY A 3.25" ALUMINUM CAP STAMPED "LS 4842 1996" AND AT THE EAST END BY A 3.25" ALUMINUM CAP STAMPED "LS 10376 2006", SAID LINE BEARS N89°14'13"E.
2. ALL STRUCTURAL FOUNDATIONS SHALL BE LOCATED AND DESIGNED BY A PROFESSIONAL ENGINEER, CURRENTLY LICENSED IN THE STATE OF COLORADO.
3. THE FOLLOWING REPORTS HAVE BEEN SUBMITTED IN ASSOCIATION WITH THE FINAL PLAT FOR THIS SUBDIVISION AND ARE ON FILE AT THE COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT: TRANSPORTATION IMPACT STUDY; DRAINAGE REPORT; WATER RESOURCES REPORT; WASTEWATER DISPOSAL REPORT; NATURAL HAZARDS REPORT; GEOLOGY AND SOILS REPORT; WETLAND STUDY/ 404 PERMIT.
4. ALL PROPERTY OWNERS ARE RESPONSIBLE FOR MAINTAINING PROPER STORM WATER DRAINAGE IN AND THROUGH THEIR PROPERTY. PUBLIC DRAINAGE EASEMENTS AS SPECIFICALLY NOTED ON THE PLAT SHALL BE MAINTAINED BY THE INDIVIDUAL LOT OWNERS UNLESS OTHERWISE INDICATED. STRUCTURES, FENCES, MATERIALS OR LANDSCAPING THAT COULD IMPEDE THE FLOW OF RUNOFF SHALL NOT BE PLACED IN DRAINAGE EASEMENTS.
5. UNLESS OTHERWISE INDICATED, ALL SIDE, FRONT, AND REAR LOT LINES ARE HEREBY PLATTED ON EITHER SIDE WITH A 1 FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT UNLESS OTHERWISE INDICATED. ALL EXTERIOR SUBDIVISION BOUNDARIES ARE HEREBY PLATTED WITH A 20 FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT. THE SOLE RESPONSIBILITY FOR MAINTENANCE OF THESE EASEMENTS IS HEREBY VESTED WITH THE INDIVIDUAL PROPERTY OWNERS..
6. 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 PARKS AND WILDLIFE, COLORADO DEPARTMENT OF TRANSPORTATION, U.S. ARMY CORP OF ENGINEERS AND THE U.S. FISH AND WILDLIFE SERVICE REGARDING THE ENDANGERED SPECIES ACT, PARTICULARLY AS IT RELATES TO THE LISTED SPECIES.
7. THE ADDRESS EXHIBITED ON THIS PLAT ARE FOR INFORMATIONAL PURPOSES ONLY. THEY ARE NOT THE LEGAL DESCRIPTION AND ARE SUBJECT TO CHANGE.
8. NO LOT OR INTEREST THEREIN, SHALL BE SOLD, CONVEYED, OR TRANSFERRED WHETHER BY DEED OR BY CONTRACT, NOR SHALL BUILDING PERMITS BE ISSUED, UNTIL AND UNLESS EITHER THE REQUIRED PUBLIC AND COMMON DEVELOPMENT IMPROVEMENTS HAVE BEEN CONSTRUCTED AND COMPLETED AND PRELIMINARILY ACCEPTED IN ACCORDANCE WITH THE SUBDIVISION IMPROVEMENTS AGREEMENT BETWEEN THE APPLICANT/ OWNER AND EL PASO COUNTY AS RECORDED UNDER RECEPTION NUMBER _____ IN THE OFFICE OF THE CLERK AND RECORDER OF EL PASO COUNTY, COLORADO OR, IN THE ALTERNATIVE, OTHER COLLATERAL IS PROVIDED TO MAKE PROVISION FOR THE COMPLETION OF SAID IMPROVEMENTS IN ACCORDANCE WITH THE EL PASO COUNTY LAND DEVELOPMENT CODE AND ENGINEERING CRITERIA MANUAL. ANY SUCH ALTERNATIVE COLLATERAL MUST BE APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OR, IF PERMITTED BY THE SUBDIVISION IMPROVEMENTS AGREEMENT, BY THE PLANNING AND COMMUNITY DEVELOPMENT CHAIR AND MEET THE POLICY AND PROCEDURE REQUIREMENTS OF EL PASO COUNTY PRIOR TO THE RELEASE BY THE COUNTY OF ANY LOTS FOR SALE, CONVEYANCE OR TRANSFER.
- THIS PLAT RESTRICTION MAY BE REMOVED OR RESCINDED BY THE BOARD OF COUNTY COMMISSIONERS OR, IF PERMITTED BY THE SUBDIVISION IMPROVEMENTS AGREEMENT, BY THE PLANNING AND COMMUNITY DEVELOPMENT CHAIR UPON EITHER APPROVAL OF AN ALTERNATIVE FORM OF COLLATERAL OR COMPLETION AND PRELIMINARY ACCEPTANCE BY THE EL PASO BOARD OF COUNTY COMMISSIONERS OF ALL IMPROVEMENTS REQUIRED TO BE CONSTRUCTED AND COMPLETED IN ACCORDANCE WITH SAID SUBDIVISION IMPROVEMENTS AGREEMENT. THE PARTIAL RELEASE OF LOTS FOR SALE, CONVEYANCE OR TRANSFER MAY ONLY BE GRANTED IN ACCORDANCE WITH ANY PLANNED PARTIAL RELEASE OF LOTS AUTHORIZED BY THE SUBDIVISION IMPROVEMENTS AGREEMENT.
9. TEMPORARY TURNAROUND EASEMENTS AS SHOWN ON THIS PLAT SHALL BE RELINQUISHED UPON THE CONSTRUCTION COMPLETION OF THE EXTENSION OF STERLING RANCH ROAD BY OTHERS.
10. THE FOLLOWING LOTS HAVE BEEN FOUND TO BE IMPACTED BY GEOLOGIC HAZARDS. MITIGATION MEASURES AND A MAP OF THE HAZARD AREA CAN BE FOUND IN REPORT PRELIMINARY SUBSURFACE SOILS INVESTIGATION BY ENTECH ENGINEERING, INC., DATED MAY 3, 2022 IN FILE _____ AVAILABLE AT THE EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT.
- POTENTIALLY SEASONALLY HIGH GROUNDWATER: LOTS 1 & 2
 - OTHER HAZARD: ARTIFICIAL FILL--LOTS 1 & 2
11. THE NON-REVOCABLE PUBLIC IMPROVEMENT EASEMENT AS SHOWN AT THE END OF STERLING RANCH ROAD CUL-DE-SAC IS INTENDED FOR TURN AROUND AND EMERGENCY RESPONSE PURPOSES. AT SUCH TIME THAT STERLING RANCH ROAD IS EXTENDED BY THE ADJACENT PROPERTY OWNER/DEVELOPER AND ACCEPTED BY THE COUNTY, THE NON-REVOCABLE PUBLIC IMPROVEMENT EASEMENT FOR THE CUL-DE-SAC WILL BE VACATED, LEAVING A STANDARD STREET ROW AND THE CUL-DE-SAC IMPROVEMENTS WILL BE REMOVED AND REPLACED WITH A STANDARD STREET SECTION. THE EASEMENT VACATION, CUL-DE-SAC REMOVAL AND STANDARD STREET SECTION CONSTRUCTION AND SITE RESTORATION IS THE RESPONSIBILITY OF THE OWNER/DEVELOPER EXTENDING STERLING RANCH ROAD.
12. NOTICE OF POTENTIAL AIRCRAFT OVERFLIGHT AND NOISE IMPACT ASSOCIATED WITH AIRPORT: THIS SERVES AS A NOTICE OF POTENTIAL AIRCRAFT OVERFLIGHT AND NOISE IMPACTS ON THIS PROPERTY DUE TO ITS CLOSE PROXIMITY TO AN AIRPORT. WHICH IS BEING DISCLOSED TO ALL PROSPECTIVE PURCHASERS CONSIDERING THE USE OF THIS PROPERTY FOR RESIDENTIAL AND OTHER PURPOSES. THIS PROPERTY IS SUBJECT TO THE OVERFLIGHT AND ASSOCIATED NOISE OF ARRIVING AND DEPARTING AIRCRAFT DURING THE COURSE OF NORMAL OPERATIONS.
- ALL PROPERTY WITHIN THIS SUBDIVISION IS SUBJECT TO AN AVIGATION EASEMENT AS RECORDED AT RECEPTION NO. OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER. THIS SITE IS LOCATED WITHIN PART 77.
13. THIS SITE IS NOT WITHIN A DESIGNATED F.E.M.A. FLOODPLAIN, AS DETERMINED BY THE FLOOD INSURANCE RATE MAP FOR EL PASO, COLORADO, PANEL NUMBER 08041C0533G, EFFECTIVE DATE DECEMBER 7, 2018.
14. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO CRS 18-4-508.
15. RHETORIC, LLC WILL BE RESPONSIBLE FOR MAINTENANCE OF THE ROADS AND DRAINAGE FACILITIES UNTIL PRELIMINARY ACCEPTANCE OF THE PUBLIC IMPROVEMENTS IN ACCORDANCE WITH THE REQUIREMENTS OF THE LAND DEVELOPMENT CODE, THE ENGINEERING CRITERIA MANUAL, AND THE SUBDIVISION IMPROVEMENTS AGREEMENT.
16. ALL PROPERTY WITHIN THIS SUBDIVISION IS SUBJECT TO A DECLARATION OF COVENANT AS RECORDED AT RECEPTION NUMBER _____ OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER.
17. SPECIAL DISTRICT DISCLOSURE: A TITLE 32 SPECIAL DISTRICT ANNUAL REPORT AND DISCLOSURE FORM SATISFACTORY TO THE DEVELOPMENT SERVICES DEPARTMENT SHALL BE RECORDED WITH EACH PLAT.
18. MAIL BOXES SHALL BE INSTALLED IN ACCORDANCE WITH ALL EL PASO COUNTY AND UNITED STATES POSTAL SERVICE REGULATION.
19. THE SUBDIVIDER(S) AGREES ON BEHALF OF HIM/HERSELF AND ANY DEVELOPER OR BUILDER SUCCESSORS AND ASSIGNEES THAT SUBDIVIDER AND/OR SAID SUCCESSORS AND ASSIGNS SHALL BE REQUIRED TO PAY TRAFFIC IMPACT FEES IN ACCORDANCE WITH THE EL PASO COUNTY ROAD IMPACT FEE PROGRAM RESOLUTION (RESOLUTION NO. 19-471), OR ANY AMENDMENTS THERETO, AT OR PRIOR TO THE TIME OF BUILDING PERMIT SUBMITTALS. THE FEE OBLIGATION, IF NOT PAID AT FINAL PLAT RECORDING, SHALL BE DOCUMENTED ON ALL SALES DOCUMENTS AND ON PLAT NOTES TO ENSURE THAT A TITLE SEARCH WOULD FIND THE FEE OBLIGATION BEFORE SALE OF THE PROPERTY. TRANSPORTATION IMPACT FEES ARE TO BE PAID AT BUILDING PERMIT.
20. PURSUANT TO RESOLUTION NO. _____, APPROVED BY THE BOARD OF DIRECTORS, EL PASO COUNTY PUBLIC IMPROVEMENT DISTRICT 2 AND RECORDED IN THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER AT RECEPTION NO. _____, THE PARCELS WITHIN THE PLATTED BOUNDARIES OF STERLING RECYCLING SUBDIVISION ARE INCLUDED WITHIN THE BOUNDARIES OF THE EL PASO COUNTY PUBLIC IMPROVEMENT DISTRICT 2 AND AS SUCH IS SUBJECT TO APPLICABLE ROAD IMPACT FEES AND MILL LEVY.

21. WATER AND WASTEWATER SERVICE FOR THIS SUBDIVISION IS PROVIDED BY THE _____ SUBJECT TO THE PROVIDERS RULES, REGULATIONS AND SPECIFICATIONS.
22. GAS SERVICE FOR THIS SUBDIVISION IS PROVIDED BY _____ SUBJECT TO PROVIDERS RULES, REGULATIONS AND SPECIFICATIONS.
23. ELECTRIC SERVICE FOR THIS SUBDIVISION IS PROVIDED BY _____ SUBJECT TO PROVIDERS RULES, REGULATIONS AND SPECIFICATIONS.
24. NO DRIVEWAY SHALL BE ESTABLISHED UNLESS AN ACCESS PERMIT HAS BEEN GRANTED BY EL PASO COUNTY.
25. LOT _____ OF THIS PROPERTY IS SUBJECT TO A PRIVATE DETENTION BASIN/STORMWATER QUALITY BMP MAINTENANCE AGREEMENT AND EASEMENT AS RECORDED AT RECEPTION NO. _____ OF THE RECORDS OF EL PASO COUNTY. THE OWNER IS RESPONSIBLE FOR MAINTENANCE OF THE SUBJECT DRAINAGE FACILITIES.

JOB NO. PROJ. NO.
FEBRUARY 7, 2024
SHEET 2 OF 3

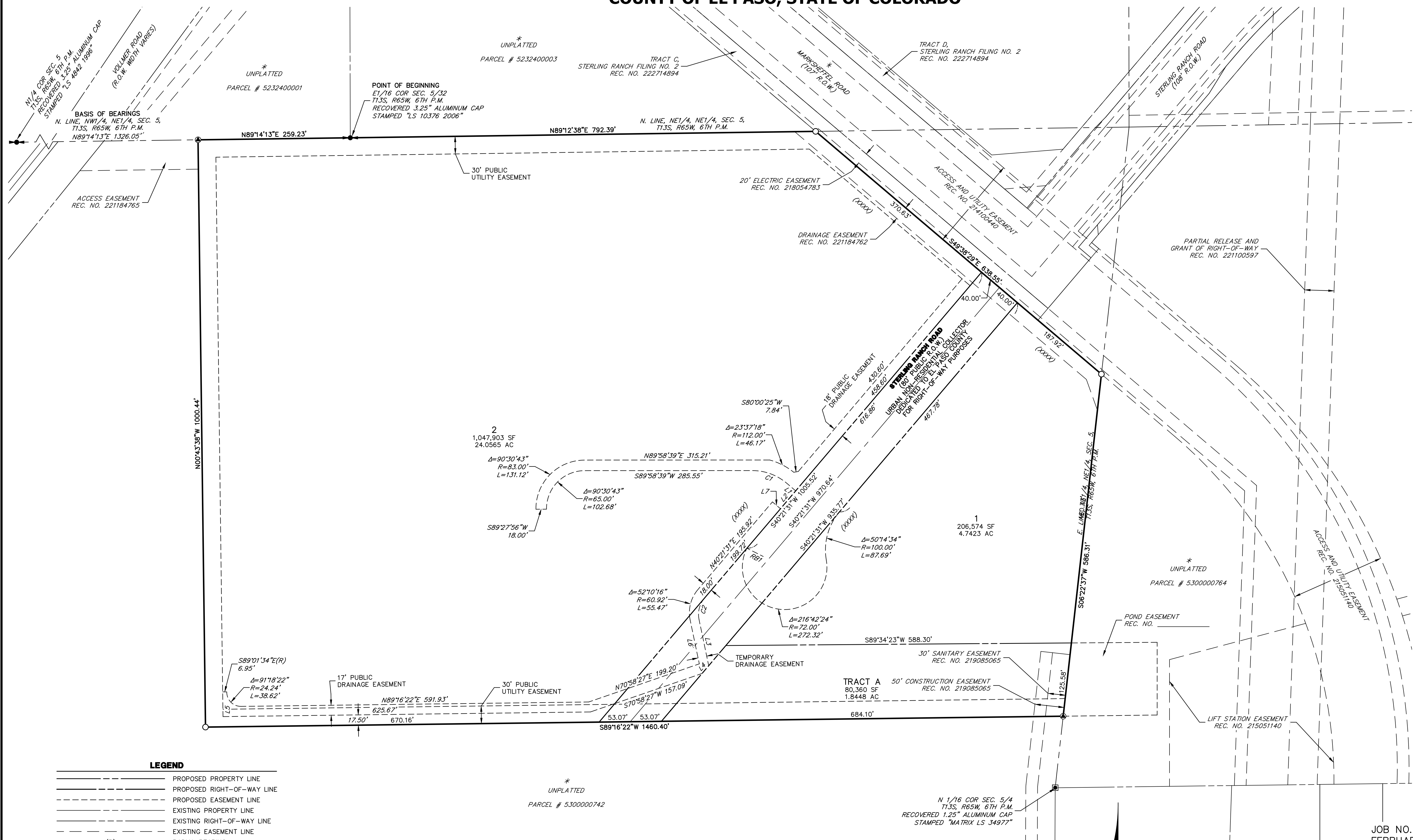


Centennial 303-740-9993 • Colorado Springs 719-593-2593
Fort Collins 970-491-9888 • www.jrengineering.com

FILE NO. SF-2325

STERLING RECYCLING SUBDIVISION

LOCATED IN THE NW1/4 OF THE NW1/4 OF SECTION 4 & THE N1/2 OF SECTION 5,
BOTH IN TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN
COUNTY OF EL PASO, STATE OF COLORADO

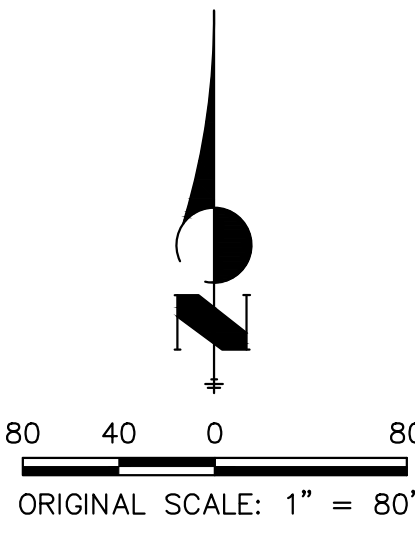


LINE TABLE		
LINE	BEARING	DISTANCE
L1	N49°38'29\"W	20.26'
L2	S40°21'31\"W	40.00'
L3	S11°48'45\"E	80.27'
L4	S40°21'31\"W	17.33'
L5	N00°43'38\"W	42.16'
L6	N11°48'45\"W	76.26'
L7	S49°38'29\"E	18.00'

LEGEND	
	PROPOSED PROPERTY LINE
	PROPOSED RIGHT-OF-WAY LINE
	PROPOSED EASEMENT LINE
	EXISTING PROPERTY LINE
	EXISTING RIGHT-OF-WAY LINE
	EXISTING EASEMENT LINE
(R)	RADIAL BEARING
(XXXX)	PROPOSED ADDRESS
*	NOT PART OF THIS SUBDIVISION
	RECOVERED 1.25\" PINK PLASTIC CAP STAMPED \"LS 38252\"
	SET 18\" #5 REBAR WITH 1.5\" ALUMINUM CAP STAMPED \"JR ENG LS 38252\"

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	40°22'52\"	90.00'	63.43'
C2	52°10'16\"	42.92'	39.08'

RADIAL BEARING TABLE	
LINE	BEARING
RB1	S63°10'39\"E



JOB NO. PROJ. NO.
FEBRUARY 7, 2024
SHEET 3 OF 3



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FILE NO. SF-2325



October 9, 2023

Kylie Bagley, Project Manager
El Paso County Development Services Department
Sent via online portal at: <https://epcdevplanreview.com/Agencies/Home>

Re: Rhetoric Subdivision
File #: SF2325
Part of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 4 and N $\frac{1}{2}$ NE $\frac{1}{4}$ of Sec. 5, Twp. 13S, Rng. 65W, 6th P.M.
Water Division 2, Water District 10

Dear Kylie Bagley:

We have received the above-referenced proposal to subdivide a 32.43-acre parcel into two lots. Lot 1 will be 6.59 acres and used for a warehouse and Lot 2 will be 24.06 acres for asphalt and concrete storage. The remaining acreage will be dedicated to a ROW for Sterling Ranch Road which divides the parcel in 2. The site will be used as a concrete and asphalt recycling facility. The proposed source of water supply is service provided by the Falcon Area Water and Wastewater Authority (FAWWA).

Water Supply Demand

The proposed water uses and estimated water requirements are as follows: household use (0.353 acre-feet/year) presumably for the limited living area in the warehouse, commercial use (0.53 acre-feet/year), and irrigation (0.63 acre-feet/year), with a total water demand of 1.51 acre-feet/year.

Source of Water Supply

The proposed source of water supply is service provided by the Falcon Area Water and Wastewater Authority (FAWWA). According to the letter dated September 19, 2023, FAWWA is committed to serving the 1.51 acre-feet/year of water demand for subdivision.

According to the Water Resources Report prepared by RESPEC dated September 15, 2023 ("Report") and the information provided by John McGinn on September 25, 2023 to this office (as part of our review of the Sterling Ranch East Filing No. 5), FAWWA has a water supply of 1,930.03 acre-feet/year based on a 300-year supply consisting of Denver Basin aquifer water adjudicated in Water Court case nos. 85CW131 (Shamrock West water), 86CW19, 91CW35, 93CW18/85CW445 (Bar-X Ranch water), 08CW113, 17CW3002, 18CW3002, and 20CW3059 and Determination of Water Right nos. 1689-BD, 1690-BD, and 1691-BD (McCune water). A summary of these water rights is provided in Table 3 of that Report. Because FAWWA anticipates serving 3,710 SFEs in 2040 and 7,310 SFEs in 2060, FAWWA may seek to connect with other water suppliers and investigate the use of lawn irrigation return flow (LIRF) credits and aquifer storage/recharge to increase its supply. Note that our office calculates that 1,929.85 acre-feet/year is available based on a 300-year supply. This discrepancy appears to originate from a difference in the quantity of water calculated to be available from case no. 91CW35. **The FAWWA should be aware that they are limited to the decreed amounts in 91CW35 which are as follows: 3,400 acre-feet from the Dawson aquifer, 7,600 acre-feet from the Denver aquifer, 4,900 acre-feet (not the 4,936 acre-feet claimed in Table 3) from the Arapahoe aquifer, and 3,600 acre-feet (not the 3,623 acre-feet claimed in Table 3) from the Laramie-Fox Hills aquifer.**

According to the Report, FAWWA has a total of 959.35 acre-feet/year of commitments, including the Rhetoric Subdivision and all other commitments through September 15, 2023. According to the Report, there are 970.5 acre-feet/year of uncommitted supply available to the FAWWA based on our estimate of



1,929.85 acre-feet/year of supply available to the FAWWA. Therefore, there appears to be more than sufficient legal supply to supply this development on a 300-year basis.

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. The Denver Basin water rights adjudications have been decreed by the State of Colorado, Water Division 1 District Court, Water Division 2 District Court, and the Colorado Groundwater Commission. According to 37-90-137(4)(b)(I), C.R.S., "Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years." Based on this allocation approach, the annual amounts of water decreed are equal to one percent of the total amount, as determined by rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Additionally, 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 allocated in the determinations 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 shown on attached Table 1 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 would be reduced to one third of that amount which is greater than the annual demand of FAWWA's commitments. As a result, the water may be withdrawn in those annual amounts for 300 years.

Additional Comments

The application materials indicate that a storm water detention pond will be constructed as a part of this project. The applicant should be aware that unless the structure can meet the requirements of a "storm water detention and infiltration facility" as defined in section 37-92-602(8), C.R.S., the structure may be subject to administration by this office. The applicant should review DWR's *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado*, attached, to ensure that the notification, construction and operation of the proposed structure meets statutory and administrative requirements. The Applicant is encouraged to use *Colorado Stormwater Detention and Infiltration Facility Notification Portal* to meet the notification requirements, located at <https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>.

State Engineer's Office Opinion

Based upon the above and pursuant to section 30-28-136(1)(h)(I) and 30-28-136(1)(h)(II), 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 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 Division 1 Water Court and 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 a non-renewable aquifer, 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 Wenli Dickinson at Wenli.Dickinson@state.co.us or (303) 866-3581 x8206 with any questions.

Sincerely,



Ioana Comaniciu, P.E.
Water Resource Engineer

Attachment: *Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado*

Ec: Subdivision Referral No. 30974
FAWWA file



Administrative Statement Regarding the Management of Storm Water Detention Facilities and Post-Wildland Fire Facilities in Colorado

February 11, 2016

The Division of Water Resources (DWR) has previously administered storm water detention facilities based on DWR's "Administrative Approach for Storm Water Management" dated May 21, 2011. Since the passage of Colorado Senate Bill 15-212, that administrative approach has been superseded. This document describes SB 15-212, codified in section 37-92-602(8), Colorado Revised Statutes (C.R.S.), and how the law directs administrative requirements for storm water management. The document is for informational purposes only; please refer to section 37-92-602(8) for comprehensive language of the law.

Pursuant to section 37-92-602(8), storm water detention facilities and post-wildland fire facilities shall be exempt from administration under Colorado's water rights system only if they meet specific criteria. The provisions of SB15-212 apply to surface water throughout the state. SB15-212 *only* clarifies when facilities may be subject to administration by the State Engineer; all facilities may be subject to the jurisdiction of other government agencies and must continue to obtain any permits required by those agencies.

Storm Water Detention Facilities

Pursuant to section 37-92-602(8), a storm water detention and infiltration facility ("Detention Facility") is a facility that:

- Is owned or operated by a government entity or is subject to oversight by a government entity, including those facilities that are privately owned but are required by a government entity for flood control or pollution reduction.
- Operates passively and does not subject storm water to any active treatment process.
- Has the ability to continuously release or infiltrate at least 97 percent of all of the water from a rainfall event that is equal to or less than a five-year storm within 72 hours of the end the rainfall event.
- Has the ability to continuously release or infiltrate at least 99 percent of all of the water from a rainfall event that is greater than a five-year storm within 120 hours of the end the rainfall event.
- Is operated solely for storm water management.



In addition, to qualify for the allowances provided in SB-212, the facility:

- Must not be located in the Fountain Creek watershed, unless the facility is required by or operated pursuant to a Colorado Discharge Permit System Municipal Separate Storm Sewer System Permit issued by the Department of Public Health and Environment pursuant to Article 8 of Title 25, C.R.S.
- Must not use water detained in the facility for any other purpose nor release it for subsequent diversion by the person who owns, operates, or has oversight over the facility. The facility cannot be operated as the basis for a water right, credit, or other water use right.
- Must not expose ground water.
- May include a structure or series of structures of any size.

If the Detention Facility was constructed *on or before* August 5, 2015 and meets all the requirements listed above, it does not cause material injury to vested water rights and will not be subject to administration by the State Engineer.

If the Detention Facility is constructed after August 5, 2015, meets the requirements listed above, and the operation of the detention facility does not cause a reduction to the natural hydrograph as it existed prior to the upstream development, it has a rebuttable presumption of non-injury pursuant to paragraph 37-92-602(8)(c)(II). A holder of a vested water right may bring an action in a court of competent jurisdiction to determine whether the operation of the detention facility is in accordance with paragraph 37-92-602(8)(c)(II)(A) and (B) has caused material injury. If the court determines that the vested water rights holder has been injured, the detention facility will be subject to administration.

In addition, for Detention Facilities constructed after August 5, 2015, the entity that owns, operates, or has oversight for the Detention Facility must, prior to the operation of the facility, provide notice of the proposed facility to the Substitute Water Supply Plan (SWSP) Notification List for the water division in which the facility is located. Notice must include: the location of proposed facility, the approximate surface area at design volume of the facility, and data that demonstrates that the facility has been designed to comply with section 37-92-602(8)(b) paragraphs (B) and (C). The State Engineer has not been given the statutory responsibility to review notices, however, DWR staff may choose to review notices in the course of their normal water administration duties. Not reviewing notices does not preclude the Division Engineer from



taking enforcement action in the event that the above criteria are not met in design and/or operation.

To satisfy the notification requirement, operators are encouraged to use the Colorado Stormwater Detention and Infiltration Facility Notification Portal developed by Urban Drainage and Flood Control District (“UDFCD”), located at:

<https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>.

Types of detention Facilities contemplated under this statute include underground detention vaults, permanent flood detention basins,¹ extended detention basins,² and full spectrum detention basins.³ Storm Water Best Management Practices⁴ (BMPs) not contemplated above, including all Construction BMPs and non-retention BMPs, do not require notice pursuant to SB-212 and are allowed at the discretion of the Division Engineer. Green roofs are allowable as long as they intercept only precipitation that falls within the perimeter of the vegetated area. Green roofs should not intercept or consume concentrated flow, and should not store water below the root zone. BMPs that rely on retention, such as retention ponds and constructed wetlands, will be subject to administration by the State Engineer.

Any detention facility that does not meet all of the statutory criteria described above, in design or operation, is subject to administration by the State Engineer.

¹ Flood detention basin: An engineered detention basin designed to capture and slowly release peak flow volumes to mitigate flooding (Urban Drainage and Flood Control, 2010).

² Extended detention basin: An engineered detention basin with an outlet structure designed to slowly release urban runoff over an extended time period (Urban Drainage and Flood Control, 2010).

³ Full spectrum detention basin: An extended detention basin designed to mimic pre-development peak flows by capturing the Excess Urban Runoff Volume and release it over a 72 hour period (Urban Drainage and Flood Control, 2010).

⁴ Best management practice: A technique, process, activity, or structure used to reduce pollutant discharges in stormwater (Urban Drainage and Flood Control, 2010).



Post-Wildland Fire Facilities

Pursuant to section 37-92-602(8), a post-wildland fire facility is a facility that:

- Includes a structure or series of structures that are not permanent.
- Is located on, in or adjacent to a nonperennial stream⁵.
- Is designed and operated to detain the least amount of water necessary, for the shortest duration of time necessary, to achieve the public safety and welfare objectives for which it is designed.
- Is designed and operated solely to mitigate the impacts of wildland fire events that have previously occurred.

In addition, to qualify for the allowances provided in SB-212, the facility:

- Must be removed or rendered inoperable after the emergency conditions created by the fire no longer exist, such that the location is returned to its natural conditions with no detention of surface water or exposure of ground water.
- Must not use water detained in the facility for any other purpose nor release it for subsequent diversion by the person who owns, operates, or has oversight over the facility. The facility will not be operated as the basis for a water right, credit, or other water use right.

If the post-wildland fire facility meets the requirements listed above, it does not cause material injury to vested water rights. While DWR recognizes that post-wildland fire facilities are essential to the protection of public safety and welfare, property, and the environment, DWR may, from time to time, request that the person who owns, operates, or has oversight of the post-wildland fire facility supply information to DWR to demonstrate they meet the criteria set forth above.

If a post-wildland fire facility does not meet all the criteria set forth above, it will be subject to administration by the State Engineer.

⁵ DWR may use the National Hydrography Dataset or other reasonable measure to determine the classification of a stream



Resources and References

Colorado Stormwater Detention and Infiltration Facility Notification Portal:

<https://maperture.digitaldataservices.com/gvh/?viewer=cswdif>

Colorado Senate Bill15-212:

http://www.leg.state.co.us/CLICS/CLICS2015A/csl.nsf/fsbillcont3/13B28CF09699E67087257DE8006690D8?Open&file=212_enr.pdf

United States Geological Survey National Hydrography Dataset: <http://nhd.usgs.gov/>

Urban Drainage and Flood Control District 37-92-602(8) explanation memo and FAQ's:

<http://udfcd.org/crs-37-93-6028-explanation-memo-and-faqs/>

Urban Drainage and Flood Control District. (2010). *Urban Storm Drainage Criteria Manual: Volume 3, Best Management Practices*, updated November 2015. Located at:

<http://udfcd.org/volume-three>



County Attorney

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Board of County Commissioners
Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

October 25, 2023

SF-23-25 Sterling Recycling Subdivision

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

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a proposal by Rhetoric Real Estate LLC (“Applicant”), to subdivide an approximately 32.43 +/- acre tract of land into 2 lots (“Property”). Lot 1 will be 6.59 acres and used for a warehouse and Lot 2 will be 24.06 acres for asphalt and concrete storage. The property is zoned I-3 (Heavy Industrial).

Estimated Water Demand

2. The Applicant has provided for the source of water to derive from a central water system – Falcon Area Water & Wastewater Authority (“FAWWA or Authority”). As described in the *Water Supply Information Summary* (“WSIS”), the Applicant estimates the following water requirements to serve 2 lots at 0.353 acre-feet/year for household use, 0.53 acre-feet/year for commercial use (dust suppression), and 0.63 acre-feet/year for irrigation of 0.25 acres, for a total requirement of 1.51 acre-feet/year. The Applicant would need to provide a supply of 453 acre-feet of water (1.51 acre-feet/year x 300 years) to meet El Paso County’s 300-year water supply requirement.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from FAWWA. The Authority was recently created to serve Sterling Ranch and The Retreat at TimberRidge, previously served by Sterling Ranch Metropolitan District. The *Water Resources Report* (“Report”) indicates the Authority’s water supply is sourced from a variety of water rights,

ASSISTANT COUNTY ATTORNEYS

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STEVEN W. MARTYN

MERI GERINGER
DOREY L. SPOTTS

including on-site water from non-tributary and not non-tributary Denver, Arapahoe and Laramie-Fox Hills aquifer wells pursuant to the Water Decree in 20CW3059 and on-site rights at the Retreat at Timber Ridge. The *Report* indicates that the current total water commitment for FAWWA is currently at 959.35 annual acre-feet/300 years, which includes active water commitments current through September 15, 2023. The total available water supply for FAWWA is 1930.03 annual acre-feet for 300 years. After subtracting active water commitments, the current available water supply is now 970.68 annual acre-feet/300 years.

4. The Authority provided a letter of commitment for Sterling Recycling Subdivision dated September 19, 2023, in which FAWWA committed to providing water service for the 2 lots, for an annual water requirement of 1.51 acre-feet/year.

State Engineer's Office Opinion

5. In a letter dated October 9, 2023, the State Engineer's Office reviewed the application to subdivide the 32.43 +/- acres into 2 lots. The proposed supply of water to the subdivision will be served by FAWWA to meet an estimated demand of 1.51 acre-feet/year.

The State Engineer estimates that FAWWA has a total available water supply of 1,929.85 acre-feet/year based on a 300-year supply. After subtracting the 959.35 acre-feet of existing service commitments, the State Engineer agrees that "there appears to be more than sufficient legal supply to supply this development on a 300-year basis."

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

Recommended Findings

6. Quantity and Dependability. Applicant's water demand is 1.51 acre-feet per year for a total demand of 453 acre-feet for the subdivision for 300 years, to be supplied by FAWWA. **Based on the Authority's available water supply of approximately 970.68 annual acre-feet, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for Sterling Recycling Subdivision.**

7. Quality. The water quality requirements of Section 8.4.7.B.10.g. of the El Paso County Land Development Code must be satisfied. Section 8.4.7(B)(10)(g) of the Code allows for a presumption of water quality when water is supplied from an existing Community Water Supply operating in conformance with the Colorado Primary Drinking Water Regulations unless there is evidence to the contrary.

8. Basis. The County Attorney's Office reviewed the following documents in preparing this review: the *Water Supply Information Summary*, the *Water Resources Report* dated September 15, 2023, the *Falcon Area Water & Wastewater Authority* letter dated September 19,

2023, and the *State Engineer Office's Opinion* dated October 9, 2023. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

REQUIREMENTS:

- A. Applicant and all future owners of lots within this filing shall be advised of and comply with the conditions, rules, regulations, limitations, and specifications set by the District.
- B. Prior to recording the final plat:
 - 1. Applicant shall upload into eDARP a corrected commitment letter from the water provider that states it is for the Sterling Recycling final plat rather than the Lot 1 Site Development Plan.
 - 2. Applicant shall upload into eDARP a corrected Water Resource Report making the same correction.
- C. Please note the comments of the State Engineer's Office regarding FAWWA's total water supply and make corrections, if needed, in Water Resource Reports for future subdivisions served by this District.

cc: Kylie Bagley, Project Manager, Planner

RESOLUTION NO. 24-
BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO
STATE OF COLORADO
APPROVAL OF FINAL PLAT
STERLING RECYCLING SUBDIVISION
(SF-2325)

WHEREAS, N.E.S. Inc., did file an application with the El Paso County Planning and Community Development Department for the approval of a final plat for the Sterling Recycling 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 the El Paso County Planning Commission on September 19, 2024, upon which date the Planning Commission did by formal resolution recommend approval of the final plat application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on October 10, 2024; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, comments by the El Paso County Planning Commission Members, and comments by the Board of County Commissioners during the hearing, this Board finds as follows:

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;

5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;
6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations.
7. For the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, when approving a Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code (as amended):

1. The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
2. The subdivision is in substantial conformance with the approved preliminary plan;
3. The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;
4. Either a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code, or, with respect to applications for administrative final plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval;
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of the Code;
6. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];
7. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the ECM;

8. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM;
9. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;
10. The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code;
11. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code;
12. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;
13. The subdivision meets other applicable sections of Chapter 6 and 8 of the Code; and
14. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

WHEREAS, a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code; and

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the final plat application for the [Click here to enter text](#). Subdivision;

BE IT FURTHER RESOLVED that the following conditions and notations shall be placed upon this approval:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition

that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.

3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
7. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
8. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the Final Plat is recorded.
9. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated October 25, 2023, as provided by the County Attorney's Office.

NOTATIONS

1. The following fees are required to be paid to El Paso County at the time of plat recordation:
 - a. Drainage Fees in the amount of \$556,837.03 and bridge fees in the amount of \$227,754.47 for the Sand Creek Drainage Basin.
 - b. Park fees in lieu of land dedication are not applicable for an industrial subdivision
 - c. Fees in lieu of school land dedication are not applicable for an industrial subdivision.

2. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
3. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

AND BE IT FURTHER RESOLVED that the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 10th day of October, 2024, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
President

By: _____
County Clerk & Recorder

EXHIBIT A

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE NORTH HALF OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE NORTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5 BY A 3-1/4" ALUMINUM CAP STAMPE "LS 10376" AND AT THE NORTH QUARTER CORNER BY A 3-1/4" ALUMINUM CAP STAMPED "LS 4842 1996", BEARING S89°14'13"W.

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 13 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN;

THENCE ON THE NORTH LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5, N89°12'38"E A DISTANCE OF 792.39 FEET;

THENCE S49°38'29"E A DISTANCE OF 638.55 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5;

THENCE ON SAID EAST LINE, S06°22'37"W A DISTANCE OF 586.31 FEET;

THENCE S89°16'22"W A DISTANCE OF 1460.40 FEET;

THENCE N00°43'38"W A DISTANCE OF 1000.44 FEET, TO A POINT ON THE NORTH LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 5;

THENCE ON SAID NORTH LINE, N89°14'13"E A DISTANCE OF 259.23 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 1,412,489 SQUARE FEET OF 32.4263 ACRES.