

# EL PASO COUNTY COLORADO

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:** Joseph Letke, Planner  
 Charlene Durham, Principal Engineer  
 Meggan Herington, AICP, Executive Director

**RE:** Project File Number: MS239  
 Project Name: 3275 Center Ice View Minor Subdivision Creating Two Lots  
 Parcel Number: 7133007024

OWNER:	REPRESENTATIVE:
Andrew C Alm 2383 Collegiate Drive Colorado Springs, CO 80918	John Fornander 721 South 23 <sup>rd</sup> Street Colorado Springs, CO 80904

**Commissioner District: 3**

<b>Planning Commission Hearing Date:</b>	<b>9/5/2024</b>
<b>Board of County Commissioners Hearing Date:</b>	<b>9/26/2024</b>

### EXECUTIVE SUMMARY

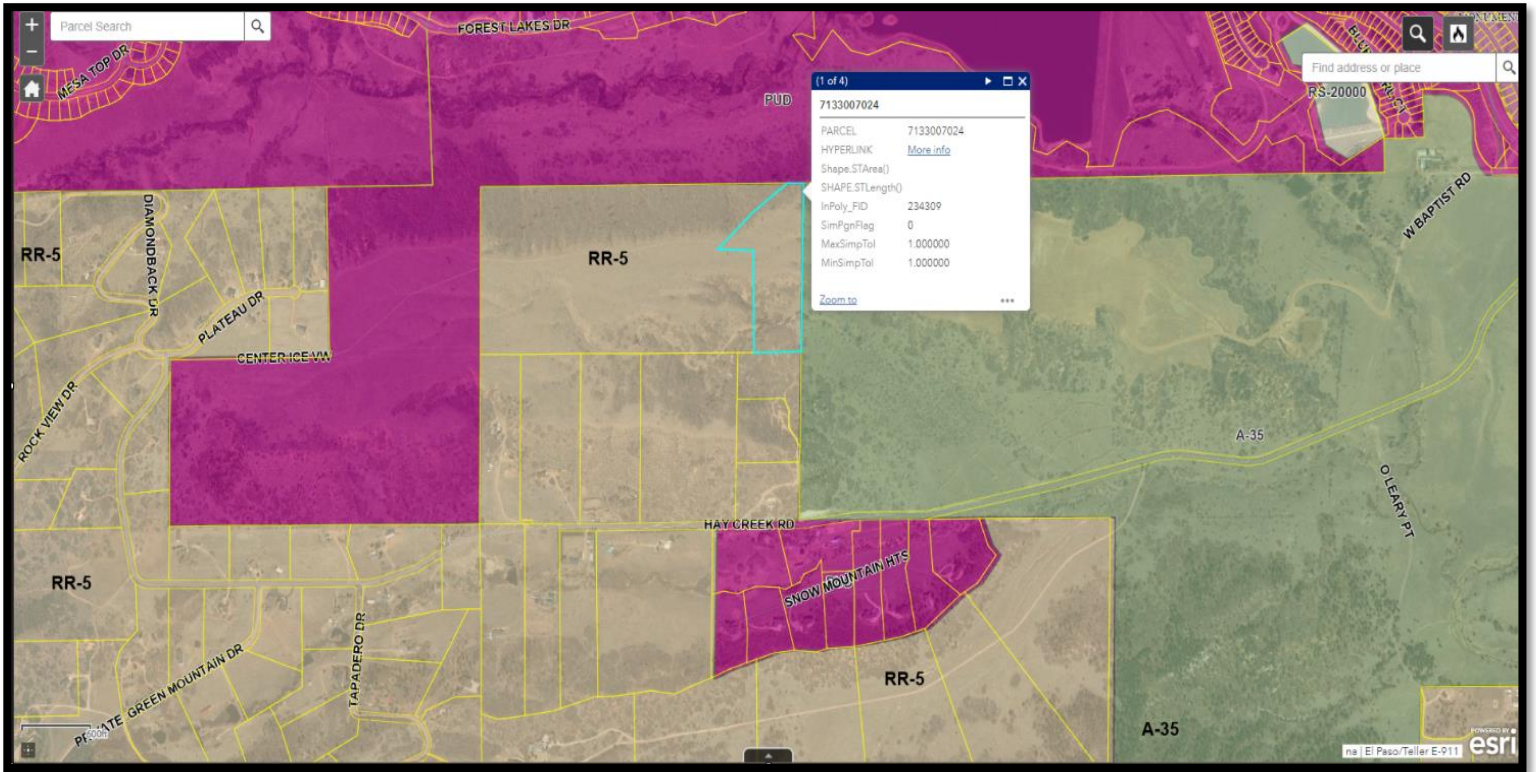
A request by Andrew C Alm for approval of a Final Plat to create two (2) single-family residential lots. The 12.72-acre property is zoned RR-5 (Residential Rural) and is a quarter mile north of Hay Creek Road. If approved, the project would legalize the existing subdivision and add one lot for a total of two (2) single-family lots.

2880 INTERNATIONAL CIRCLE  
 OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
 PLNWEB@ELPASOCO.COM

# Vicinity/Zoning Map



2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

[WWW.ELPASOCO.COM](http://WWW.ELPASOCO.COM)

## A. WAIVERS AND AUTHORIZATION

**Waiver(s):** The applicant requests the following Waiver(s) of the LDC:

The applicants are requesting a Waiver from Section 8.4.4.C of the El Paso County Land Development Code (as amended) to allow the proposed lots to be created without having direct access and 30 feet of frontage along a public road. The applicant is requesting that the lots receive access via an existing private road, Center Ice View, which is not built to County road standards (See Transportation Section).

In approving a Waiver from any of the subdivision design standards and requirements, the Board of County Commissioners shall find that the Waiver meets the criteria for approval outlined in Section 7.3.3 (Waivers) of the El Paso County Land Development Code (as amended):

- The Waiver does not have the effect of nullifying the intent and purpose of this Code;
- The Waiver will not result in the need for additional subsequent waivers;
- The granting of the Waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;
- The conditions upon which the request for a Waiver is based are unique to the property for which the Waiver is sought and are not applicable to other property;
- A particular non-economical hardship to the owner would result from a strict application of this Code;
- The Waiver will not in any manner vary the zoning provisions of this Code; and
- The proposed waiver is not contrary to any provision of the Master Plan.

Section 8.4.3.B, Minimum Frontage, of the Code states: *Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to waiver granted under Section 8.4.4 (E).*

Section 8.4.4.E.2, Private Roads Require Waiver of the Code states: *The use of private roads is limited and allowed only by waiver. In granting a waiver to allow private roads, the BoCC shall make written findings supporting the use of private roads and may require the owner to enter into a Private Road Maintenance Agreement or create covenants whereby the lot owners are required to maintain the private roads.*

The applicant is proposing to create two (2) lots. The property currently does not have frontage on a public road and receives access through an existing private easement, Center Ice View, which connects to Plateau Drive, an existing public road. The proposed



lots and adjacent properties to the west and north are proposed to obtain access from Center Ice View. Because Center Ice View is a private road traversing another property, the applicant is not able to create a public road within the property for the proposed lots. An ingress/egress easement has been provided for the Center Ice View private road.

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

## **B. APPROVAL CRITERIA**

In approving the Waiver(s) and 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:

- 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;

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

- 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:	PUD (Planned Unit Development)	Vacant and Residential Land
South:	RR-5 (Residential Rural)	Residential Land
East:	A-35 (Agricultural)	Vacant Land
West:	RR-5 (Residential Rural)	Conservation Easement

**D. BACKGROUND**

The parcel was created through an illegal subdivision of land on November 4, 2002. The property was previously part of the 70.24-acre parcel to the west. The proposed Final Plat

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

will legalize and plat the property into two new lots which will be 7.71-acres and 5-acres in size. The property is located within the RR-5 (Residential Rural) zoning district. The property will gain access with an access easement agreement with the 70.24-acre parcel to the west.

## **E. LAND DEVELOPMENT CODE AND ZONING ANALYSIS**

The Final Plat application, with proposed conditions, 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: Large-Lot Residential**

*The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more and are generally large and dispersed throughout the area so as to preserve a rural aesthetic. The Large-Lot Residential placetype generally supports accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote than Rural areas. Large-Lot Residential neighborhoods typically rely on well and septic, but some developments may be served by central water and wastewater utilities. If central water and wastewater can be provided, then lots sized less than 2.5 acres could be allowed if; 1.) the overall density is at least 2.5 acres/lot, 2.) the design for development incorporates conservation of open space, and 3.) it is compatible with the character of existing developed areas.*

*Conservation design (or clustered development) should routinely be considered for new development within the Large-Lot Residential placetype to provide for a similar level of development density as existing large-lot areas while maximizing the preservation of contiguous areas of open space and the protection of environmental features. While the Large-Lot Residential placetype is defined by a clear set of characteristics, the different large-lot areas that exist throughout the County can exhibit their own unique characters based on geography and landscape.*

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

## Recommended Land Uses:

### Primary

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

### Supporting

- *Parks/Open Space*
- *Commercial Retail (Limited)*
- *Agriculture*

## Analysis:

The property is located within the Large-Lot Residential Placetype. The subdivision proposal includes two new single-family lots, both 5 acres in size and larger which is consistent with the surrounding development. Relevant goals and objectives are as follows:

**Goal 1.1** - *Ensure compatibility with established character and infrastructure capacity*

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

### b. **Area of Change Designation:** Minimal Change: Undeveloped

*These areas have undergone development and have an established character. Developed areas of minimal change are largely built out but may include isolated pockets of vacant or underutilized land. These key sites are likely to see more intense infill development with a mix of uses and scale of redevelopment that will significantly impact the character of an area. For example, a large amount of vacant land in a suburban division adjacent to a more urban neighborhood may be developed and change to match the urban character and intensity so as to accommodate a greater population. The inverse is also possible where an undeveloped portion of a denser neighborhood could redevelop to a less intense suburban scale. Regardless of the development that may occur, if these areas evolve to a new development pattern of differing intensity, their overall character can be maintained.*

## Analysis:

The property is located in the Minimal Change: Developed area of change designation. This area of change includes isolated pockets of underutilized land which may see increased development.



**c. Key Area Influences:** Tri-Lakes Area

*Tri-Lakes is the northern gateway into the County along Interstate 25 and Highway 83. It is situated between Pike National Forest, the United States Air Force Academy, and Black Forest. With significant suburban development and some mixed-use development, this Key Area supports the commercial needs of many of the residents in northern El Paso County. Tri-Lakes also serves as a place of residence for many who commute to work in the Denver Metropolitan Area. It is also an activity and entertainment center with the three lakes (Monument Lake, Woodmoor Lake, and Palmer Lake) that comprise its namesake and direct access to the national forest. Tri-Lakes is the most well-established community in the northern part of the County with a mixture of housing options, easy access to necessary commercial goods and services, and a variety of entertainment opportunities. Future development in this area should align with the existing character and strengthen the residential, commercial, employment, and entertainment opportunities in the adjacent communities of Monument, Palmer Lake, and Woodmoor.*

**Analysis:**

The property is located in the Tri-Lakes Area key area designation and is located west of the town limits of the Town of Monument.

**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 2 of the Plan, which is an area anticipated to experience growth by 2040. The following information pertains to water demands and supplies in Region 2 for central water providers:

The Plan identifies the current demand for Region 2 to be 7,532 acre-feet per year (AFY) (Figure 5.1) with a current supply of 13,607 AFY (Figure 5.2). The projected demand in 2040 for Region 2 is at 11,713 AFY (Figure 5.1) with a projected supply of 20,516 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region 2 is at 13,254 AFY (Figure 5.1) with a projected supply of 20,756 AFY (Figure 5.2) in 2060. This means that by 2060 a surplus of 7,502 AFY is anticipated for Region 2.

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 high wildlife impact potential. No mitigation measures were recommended by US Fish and Wildlife. The applicant has depicted note No. 13 on the face of the Final Plat below:

5. The 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 Department of Wildlife, Colorado department of transportation, U.S. army corp. of Engineers, the U.S. Fish and Wildlife Service regarding the Endangered Species Act.

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

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

Geologic hazards were identified during the review of the Final Plat. These hazards include areas of 30% grade and a drainage easement. The applicant has added note Number 19 on the face of the Final Plat below:

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

[WWW.ELPASOCO.COM](http://WWW.ELPASOCO.COM)

"A soil and geology report by RMG Engineers, job no. 194552, dated January 11, 2024, is held under the driftwood estates filing no. 1 at the El Paso County Planning and Community Development Department. Geologic hazards that would preclude the proposed development were not found to be present at this site. Geologic constraints and hazards are potentially present and include compressible soils; potentially expansive soils and bedrock; unstable or potentially unstable slopes; seasonally fluctuating surface water and groundwater; scour, erosion, accelerated erosion; faults and seismicity; radon. these geologic and engineering conditions are relatively common to the area and can be satisfactorily mitigated through proper engineering, design, and construction practices."

The geologic hazard areas are graphically depicted as no-build areas on the Final Plat. The Colorado Geological Survey was sent a referral and recommended the supplied Soils and Geology Report be strictly adhered to.

## **2. Floodplain**

FEMA Flood Insurance Rate Map No. 08041C0267G which has an effective date of December 07, 2018, indicates the subdivision is located in Zone X, areas outside of the 500-yr floodplain.

## **3. Drainage and Erosion**

The development is located within the unstudied Beaver Creek drainage basin (FOMO4600). Drainage and bridge fees will be due at time of plat recording.

Per Section 1.7.1.B of the El Paso County Engineering Criteria Manual (ECM) permanent water quality facility is not required for single-family residential lots greater than or equal to 2.5 acres and having a total lot impervious area of less than 10 percent.

## **4. Transportation**

The parcels receive access from Center Ice View, which is a private roadway via an access easement (Reception No. 223000909), which runs through a conversation easement (223001239). The private roadway has not been built per County road standards as the conservation easement prohibits the construction of any new roads. The easement states that the owner shall not construct or establish any improvements

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

wider than necessary to provide access to meet local codes. Access for the parcels is via this private roadway, which connects to Plateau Drive, a County roadway. The length of Center Ice View is longer than what is permissible in the Engineering Criterial Manual (ECM). Section 2.3.8 of the ECM has a maximum length of a road serving rural lots at 1,600 feet. Center Ice View is approximately 5000 feet long and will not meet the maximum length requirement if the proposed Waiver is approved. However, the Waiver for the private road will negate the ECM length requirement.

The Fire Protection District has reviewed the proposed application and has no standing objections (See below). A traffic study was not required since the development will not be generating more than 100 ADT of traffic. The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471).

## **H. SERVICES**

### **1. Water**

Water will be provided by individual onsite wells. Water sufficiency has been analyzed with the review of the proposed subdivision. The State Engineer and the County Attorney's Office have recommended that the proposed Final Plat has a sufficient water supply in terms of quantity and dependability. El Paso County Public Health (EPCPH) has recommended that there is not a sufficient water supply in terms of quality. El Paso County Public Health has made the following statement:

"There is not a finding for sufficiency in terms of water quality. The USGS water quality tests submitted did not indicate where exactly the sampling points were located, and it is unknown if the sample points meet the sampling location criteria of the El Paso County Land Development Code (LDC)."

Condition 12 states, "The Final Plat shall not be recorded until a finding of water quality is made or an appropriate mitigation strategy is addressed by the applicant." Applying this condition will allow appropriate mitigation to be put into place once a finding has been made by EPCPH on suitable sampling points.

### **2. Sanitation**

Wastewater is provided by individual onsite wastewater treatment systems (OWTS). The applicant submitted an OWTS report which El Paso County Public Health had the following comments:

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

“Based on these specific soil test pit excavations the OWTS’s would require professional engineer designs due to rock comprising 35% or more of the soil sample and if the OWTS soil treatment areas were to be installed in the same area. No groundwater or bedrock was encountered in either soil test. Based on the findings of the soil profile test pits performed, the use of onsite wastewater treatment systems is acceptable.”

### **3. Emergency Services**

The property is within the Tri-Lakes Monument Fire Protection District. The property takes access from an un-platted parcel located west of the subject property. An Access, Ingress, Egress, and Evacuation Plan, as requested by the District, demonstrating the exact details of the private access easement was provided by the applicant and reviewed by Tri-Lakes Monument Fire Protection District. After review and revisions, the District approved the fire department access road construction plan.

A Wildland Fire & Hazard Mitigation Plan and Fire Protection Report was prepared and reviewed for compliance with Section 6.3.3, Fire Protection and Wildfire Mitigation.

El Paso County Conservation District and the Colorado State Forest Service were each sent a referral and have the following comments: The Colorado State Forest Service recommends that all forested acres be mitigated to reduce the risk of wildfire and that defensible space be created for each dwelling using the standards in the CSFS "Home Ignition Zone Guide" (formerly known as "Quick Guide FIRE 2012-1: Protecting Your Home From Wildfire") located on the Colorado State Forest Service website.

The applicant has depicted note No. 13 on the face of the Final Plat below:

“Fire protection report recommendations. as a condition of approval of this plat by the board of county commissioners, no conveyance, sale or transfer of title of Lots 1-2 identified hereon, shall be made, nor any building permit or certificate of occupancy be issued by El Paso County, until such times as the following has been accomplished by the property owner. A letter of compliance has been received from the Colorado State Forest Service, fire department, fire marshal, or other qualified professional stating practices designated to reduce wildfire hazards has been completed in accordance with the wildland fire and hazard mitigation plan. Such work may include but is not necessarily limited to the following: forest wide thinning, fuel break thinning, pruning, and debris disposal.”

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

#### **4. Utilities**

Mountain View Electric Association (MVEA) will provide electrical service and has no outstanding comments. Gas will be provided by individual propane tanks.

#### **5. Parks/Trails**

Fees in lieu of park land dedication in the amount of \$1,010.00 for Regional Park, Area 1 fees will be due at the time of recording the Final Plat.

#### **6. Schools**

Fees in lieu of school land dedication in the amount of \$616.00 shall be paid to El Paso County for the benefit of School District 38 at the time of plat recording.

### **I. APPLICABLE RESOLUTIONS**

See attached resolution.

### **J. STATUS OF MAJOR ISSUES**

The applicant is asking for a private road waiver, which precludes ECM Section 2.3.8 from being applied. Center Ice View, a private road, is approximately 5,000 linear feet long where the ECM allows for a maximum of 1,600 linear feet, and the area is within a high wildland fire hazard risk area.

### **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 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.
8. Drainage fees in the amount of \$9335.18. shall be paid for the Beaver Creek Drainage Basin at the time of plat recordation.
9. Park fees in lieu of land dedication for regional parks in the amount of \$1,010.00 shall be paid at the time of plat recordation.

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

[WWW.ELPASOCO.COM](http://WWW.ELPASOCO.COM)

10. Fees in lieu of school land dedication in the amount of \$616.00. shall be paid to El Paso County for the benefit of District 38 at the time of plat recording.
11. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated May 24, 2024, as provided by the County Attorney's Office.
12. The Final Plat shall not be recorded until a finding of water quality is made or an appropriate mitigation strategy is addressed by the applicant.

#### **NOTATIONS**

1. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. 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 19 adjoining property owners on August 23, 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  
Public Health Department Letter  
County Attorney's Letter  
Access Easement Agreement  
Draft Resolution

2880 INTERNATIONAL CIRCLE  
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910  
PLNWEB@ELPASOCO.COM

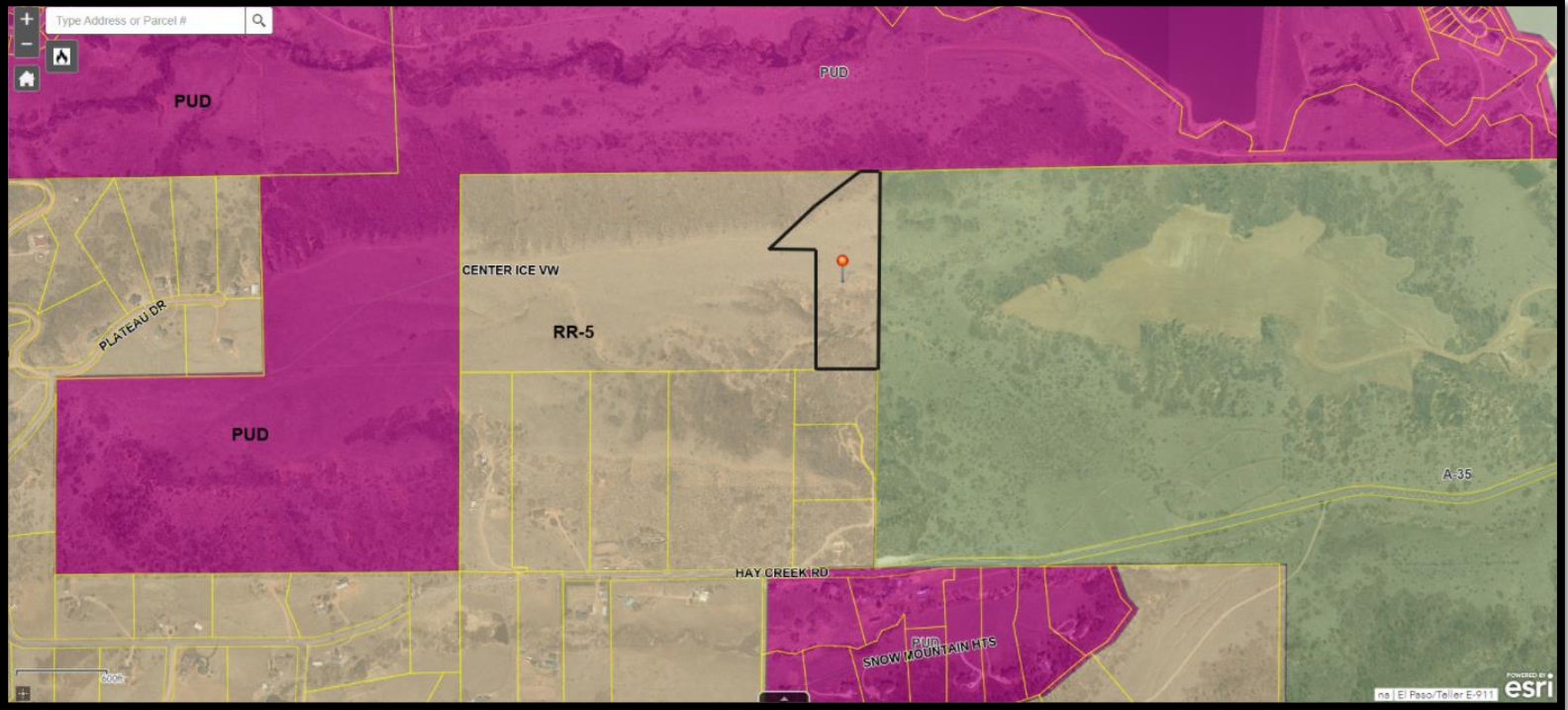
[WWW.ELPASOCO.COM](http://WWW.ELPASOCO.COM)

# Map Exhibit #1: Aerial

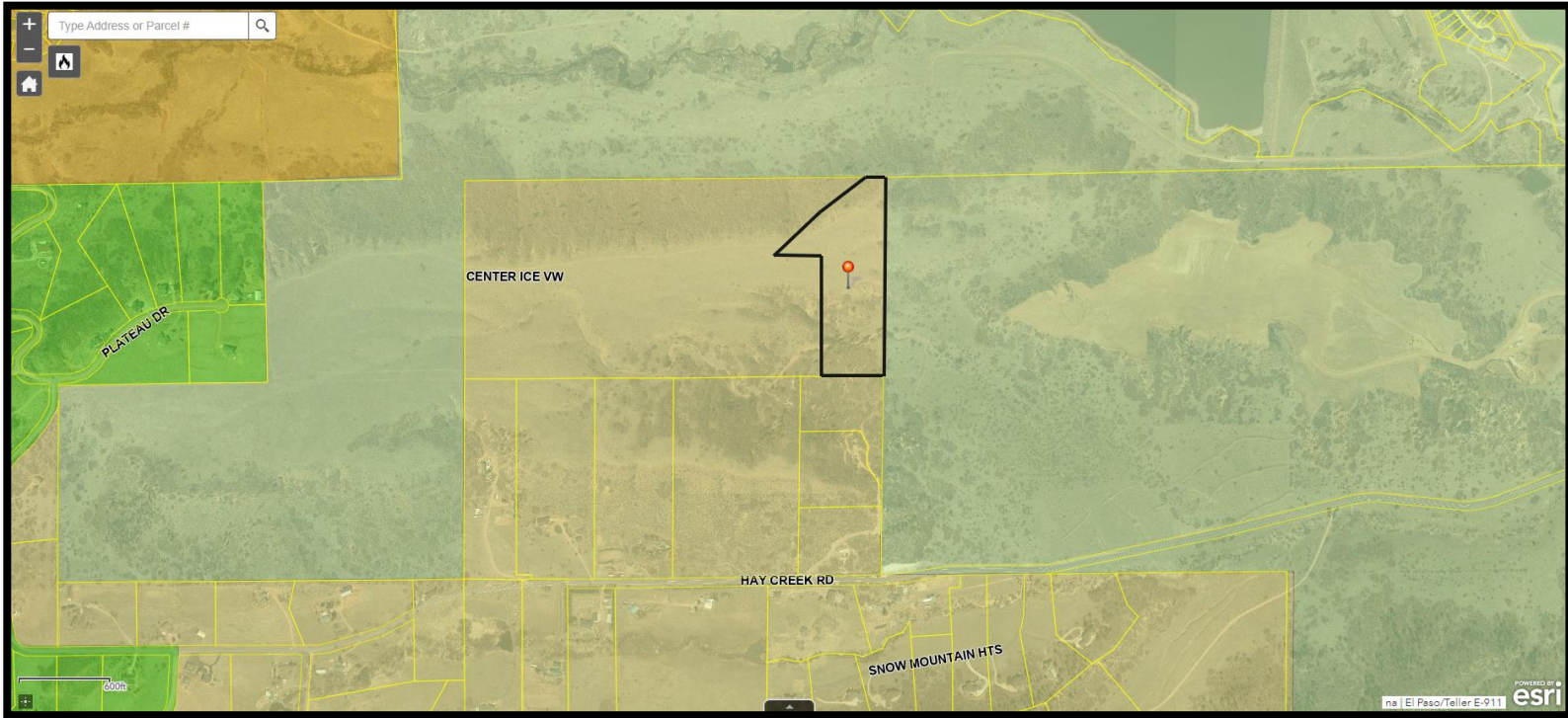










# Map Exhibit #2: Zoning



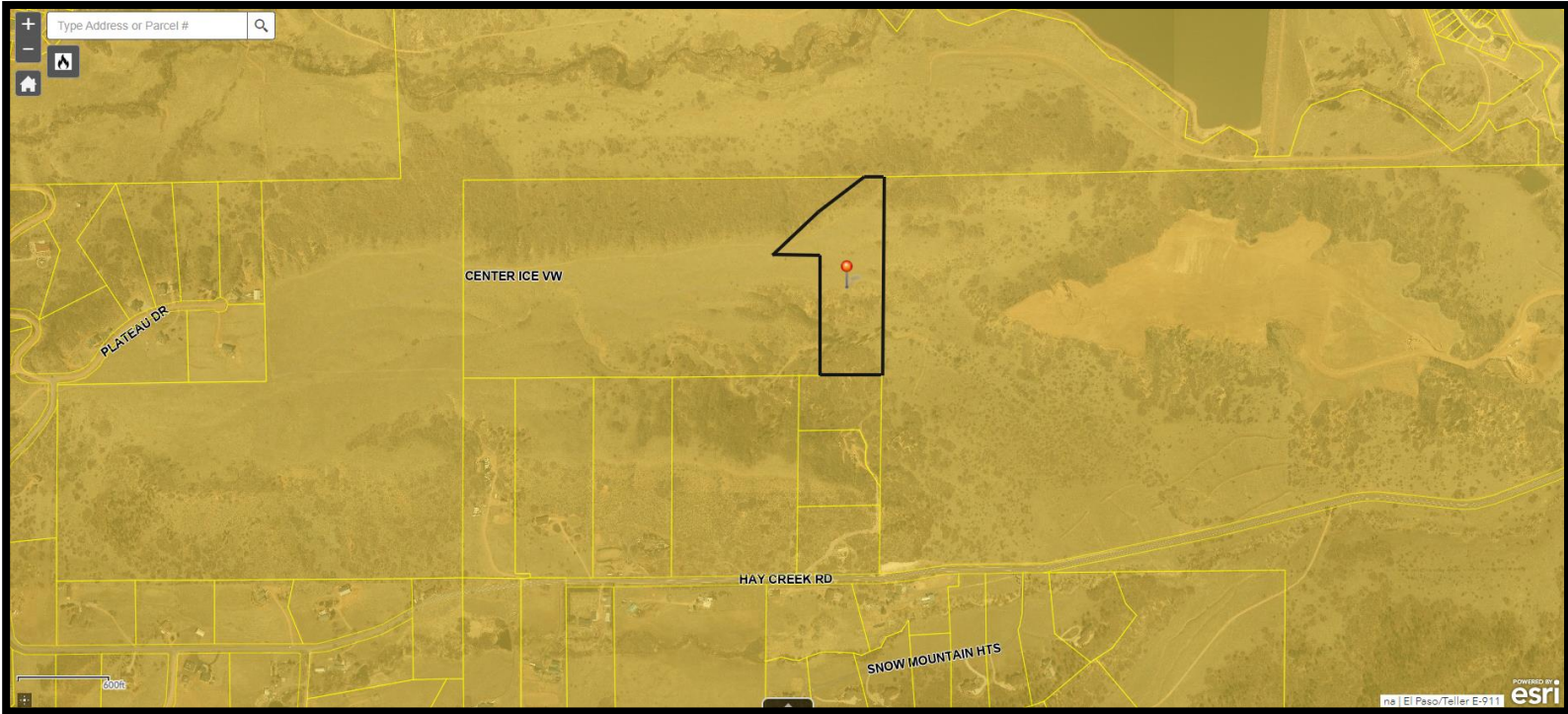
# Map Exhibit #3: Placetype



## Legend

-  Rural
-  Large-Lot Residential
-  Suburban Residential
-  Urban Residential
-  Rural Center
-  Regional Center

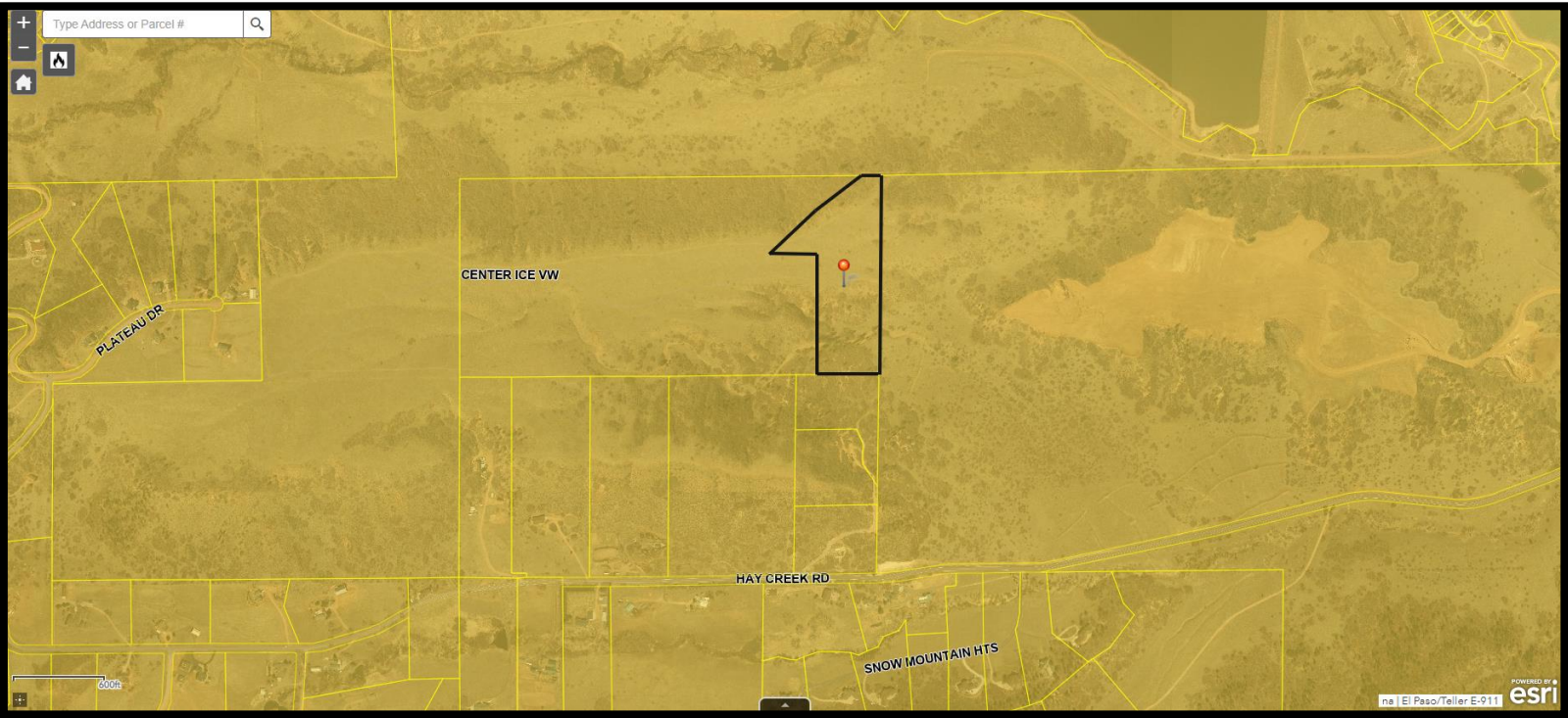
# Map Exhibit #4: Key Areas Of Influence








## Legend

- Military Installations
- Potential Areas for Annexation
- Enclaves or Near Enclaves
- Small Towns & Rural Communities
- Fountain Creek Watershed Flood Control & Greenway District
- Forested Area
- Pikes Peak Influence Area
- Tri-Lakes Area
- Colorado Springs Airport/Peterson Field
- Uncommon Natural Resources

# Map Exhibit #5: Area of Change



## Legend

-  Protected/Conservation Area
-  Minimal Change: Undeveloped
-  Minimal Change: Developed
-  New Development
-  Transition

# Driftwood Estates Filing No. 1

## Letter of Intent (Final Plat) File No: MS239 June 2024

**Owners/Developers:** Andrew C Alm  
2383 Collegiate Drive  
Colorado Springs, CO 80918  
(719) 339-0437

**Planner:** Terra Nova Engineering, Inc.  
721 S. 23<sup>rd</sup> Street  
Colorado Springs, CO 80904  
(719) 635-6422

**Engineer:** Terra Nova Engineering, Inc.  
721 S. 23<sup>rd</sup> Street  
Colorado Springs, CO 80904  
(719) 635-6422

**SITE LOCATION:** 3275 Center Ice View

**SIZE:** 12.72 Acres

**ZONING:** RR-5

**TAX SCHEDULE NUMBER:** 7133007024

**INTRODUCTION:** The owner intends to subdivide an unplatted lot into two rural residential lots. The minimum lot size will be 5 acres as required by the existing zoning. The site does not currently have any significant structures. New wells and septic systems would be constructed as required. The development of this site will involve the addition of a single family residence on Lot 1 and an associated drive.

**PROPOSAL:** The application covered by this Letter of Intent includes a Final Plat for the proposed subdivision of the unplatted lot into two rural residential lots.

**THE PLAN:** The existing site will be subdivided into Driftwood Estates Filing No. 1 Lots 1 & 2. Both lots will be achieve access from an existing 30' access easement that extends west to the intersection of Plateau Drive and Hay Stack Drive. The access will be extended through the proposed Lot 1 to benefit Lot 2. The proposed access drive will be gravel and the imperviousness of the site will be kept under 10%. The parcels to the west which the access

drive extends, have agreed to count the gravel access drive's imperviousness towards the total imperviousness of their parcel. No connections to municipal water or sewer services are proposed.

**EXISTING AND PROPOSED FACILITIES:** There are no existing structures on this site. A single family residence along with an associated gravel drive are proposed for the site with this application.

Due to the site being outside CSU's Electric Service Territory, connecting the proposed lots to a municipal sewer and/or water system is not required.

**WAIVER REQUESTS:** Per 8.4.3 Division of Land Standards, the division of land does not have a minimum of 60 feet frontage on a public road and the lots do not have 30 feet of frontage on and have access from a public road. Therefore, the private drive will required a waiver granted under Section 8.4.4 (E). The Criteria for Approval of Waivers and the responses are included below:

1. **The waiver does not have the effect of nullifying the intent and purpose of this Code. *This site does not share a boundary with a public road making a frontage impossible. This lot would not be developable without a waiver granted for lack of a public road frontage. Granting the waiver under these unique circumstances does not defeat the purpose of the Code.***
2. **The waiver will not result in the need for additional subsequent waivers. *No other waivers will be necessary for this project.***
3. **The granting of the waiver will not be detrimental to the public safety, health, or welfare, or injurious to other property. *The lack of a frontage with a public road will not affect anyone other than the owner of the property.***
4. **The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property. *The conditions on which the waiver is based are unique to the property in that the property has no public road adjacent to it.***
5. **A particular non-economical hardship to the owner would result from a strict application of this Code. *The owner would not be able to develop their lot without the waiver being granted.***
6. **The waiver will not in any manner vary the zoning provisions of this Code. *No zoning provisions will be varied with this waiver.***
7. **The proposed waiver is not contrary to any provision of the Master Plan. *No known provision of the Master Plan is contrary to the proposed waiver.***

**TRANSPORTATION:** A private drive will provide access to an existing public road for both proposed lots.

**TRAFFIC:** A traffic memo is not required for this project.

**DRAINAGE:** A Final Drainage Report has been prepared for Driftwood Estates Filing No. 1. The purpose of this report is to identify and analyze the onsite and offsite drainage patterns and to ensure that post development runoff is routed through the site safely and in a manner that satisfies the requirements set forth by the El Paso County Drainage Criteria Manual. The proposed grading intends to maintain historic drainage patterns.

**UTILITIES:** A private water supply well and wastewater septic system is proposed for the Lot 1. Mountain View Electric can provide electrical services to the proposed subdivision. Propane will be used on this site.

**GEOLOGY AND SOILS:** A soil, geology and geohazard study has been prepared for the subdivision by A Better Soil Solution. See report for more information.

**MINERAL DEPOSITS:** The El Paso County Master Plan for Mineral Extraction shows stream terrace deposit and mesa gravel in the general area of Driftwood Estates Filing No. 1. Research of the County Assessor's records indicated that there are no mineral estate owners on the property. Accordingly, this project will not interfere with the extraction of mineral deposits.

**TIMING:** Construction is intended to being immediately after gaining all necessary approvals.

## **CRITERIA FOR APPROVAL:**

### FINAL PLAT

- ***This plat conforms with the goals, objectives, and policies of the Master Plan.*** Per the El Paso Master Plan Key Areas Map, this site is located within the "Tri-Lakes Area," north of the USAF Academy and within USAF's 2-mile Notification Zone. On the Areas of Change Map, the site lies within the "Minimal Change: Developed" section as part of the 90% portion of the county that is expected to see minimal change opposed to the 10% that is expected to be a developing area. Therefore, the area has "undergone development and has an established character." These areas are "likely to see more intense infill development with a mix of uses and scale of redevelopment that will significantly impact the character of an area." This proposal fits into that description as it intends to install a single family residence on a vacant lot, but it will maintain the rural

residential character of the surrounding area. The site is located within the 'Large-Lot Residential' placetype per the Master Plan Placetype Map. This project proposes a large-lot residence be placed on the site so our proposal would not require a zone change. Residential lot development with a minimum lot area consisting of 5-acres per unit is consistent with this placetype.

- ***This 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.*** Supporting documents and reports which demonstrate that the Driftwood Estates Filing No. 1 final plat satisfies all necessary requirements have been submitted. A waiver is being requested due to the site not being able to achieve a frontage with a public road.
- ***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 Land Development Code.*** Per the 2018 Water Master Plan, the site is within Planning Region 2. The supporting water resource report provided demonstrates that the proposed final plat satisfies all necessary water requirements. A private water supply well is proposed for Lot 1.
- ***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 Land Development Code.*** A private wastewater septic system is proposed for each lot on this site that complies with State and local laws and regulations [C.R.S. §30-28-133(6)(b)], and the requirements of Chapter 8 of the Land Development Code. A Wastewater Study has been prepared by RMG Engineers, dated October 13<sup>th</sup>, 2023, for this project. There are two suitable areas for septic systems on each lot and they are shown in Figure 6 of the Wastewater Study conducted by RMG dated October 13, 2023.
- ***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)].*** The proposed subdivision was evaluated for soil and topographic hazards and was found to be suitable for the proposed development as long as some common geologic hazards were mitigated as described in the Geology and Soils section above. There is a no-build area located at the northern portion of Lot 1 due to existing steep slopes the area will be avoided by the proposed development. There is a second no-build/drainage easement that crosses both lots near the center of the site. This area was placed into the no-build/drainage easement because of the steep slopes and the



significant drainage flow that is conveyed through it. The area includes the 100-year flood elevation plus a foot of freeboard. Lastly, there is a drainage easement placed on the southern portion of the site which crosses both lots and was sized to convey the 100-year flood elevation plus a foot of freeboard.

- ***Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)@VIII] and the requirements of this Code and the ECM.*** Drainage will meet State and local standards. See the provided plans and reports for more information.
- ***Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM.*** This plat provides legal and physical access to each proposed lot per the Land Development Code and Engineering Criteria Manual. All lots have direct access to an existing public road through a 30' access easement. A waiver is being requested due to the site not having frontage with a public road.
- ***Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.*** All necessary commitment letters have been provided for this proposed subdivision.
- ***The final plans provide evidence to show that the proposed methods for fire protections comply with Chapter 6 of this Code.*** The site will be serviced by the Monument Fire Protection District, which will provide fire and emergency services to the property.
- ***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.*** This project will provide fees to the County for Drainage, Parks, ect, to mitigate these impacts.
- ***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 County is charging various fees to mitigate the impacts of this proposed subdivision.
- ***The subdivision meets other applicable sections of Chapter 6 and 8.*** The provided plans and reports show that Driftwood Estates Filing No. 1 meets all applicable sections of the El Paso County Land Development Code.
- ***The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.]*** No commercial mining deposits have been identified within the proposed subdivision.





Prevent • Promote • Protect

Environmental Health Division  
1675 W. Garden of the Gods Road  
Suite 2044  
Colorado Springs, CO 80907  
(719) 578-3199 *phone*  
(719) 578-3188 *fax*  
[www.elpasocountyhealth.org](http://www.elpasocountyhealth.org)

### **3275 Center Ice View, MS-23-9**

Please accept the following comments from El Paso County Public Health regarding the project referenced above:

- The proposed 2-lot residential development 10.54-acre site will be served water by individual private wells and wastewater through onsite wastewater treatment systems (OWTS).
- There is not a finding for sufficiency in terms of water quality. The USGS water quality tests submitted did not indicate where exactly the sampling points were located, and it is unknown if the sample points meet the sampling location criteria of the El Paso County Land Development Code (LDC).
- The RMG Engineers/Architects, Soil and Geology Study dated January 11, 2024, and their Wastewater Study dated October 13, 2023, indicated the two lots were suitable for the installation of onsite wastewater treatment systems (OWTS). Based on these specific soil test pit excavations the OWTS's would require professional engineer designs due to rock comprising 35% or more of the soil sample and if the OWTS soil treatment areas were to be installed in the same area. No groundwater or bedrock was encountered in either soil test. Based on the findings of the soil profile test pits performed, the use of onsite wastewater treatment systems is acceptable.
- Radon resistant construction techniques/practices are encouraged to be used in this area. The EPA has determined that Colorado, and the El Paso County area, have potentially higher radon levels than other areas of the country.

Mike McCarthy  
El Paso County Public Health  
719-332-5771  
[mikemccarthy@elpasoco.com](mailto:mikemccarthy@elpasoco.com)  
23August2024

County Attorney

**Kenneth R. Hodges, County Attorney**  
719-520-6485  
Centennial Hall  
200 S. Cascade, Suite 150  
Colorado Springs, CO 80903  
www.ElPasoCo.com

**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

May 24, 2024

MS-23-9 Driftwood Estates Filing No. 1  
Minor Subdivision

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

**WATER SUPPLY REVIEW AND RECOMMENDATIONS**

Project Description

1. This is a proposal for approval of Driftwood Estates Filing No. 1, a minor subdivision application by Andrew Alm (“Applicant”) for a 2-lot subdivision on a parcel of 12.72 acres of land (the “property”). The property is zoned RR-5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary (“WSIS”), the water demand for the subdivision is 1.27 acre-feet/year, comprised of 0.52 acre-feet/year of indoor household use for two single-residential lots, 0.57 acre-feet per year for irrigation of 0.23 acres, stock watering of up to 8 animals at 0.09 acre-feet per year and 0.09 acre-feet for other uses. In the Water Resources Report (“Report”), the estimated demand is divided between the two lots such that Lot 1 has an estimated demand of 0.85 acre-feet/year (0.26 acre-feet for indoor household use and 0.59 acre-feet for all other uses combined) and Lot 2 has an estimated demand of 0.42 acre-feet per year (0.26 acre-feet for indoor household use and 0.16 acre-feet for all other uses combined). Based on this total demand, Applicant must be able to provide a supply of 381 acre-feet of water (1.27 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement. 255 acre-feet must be supplied to Lot 1, and 126 must be supplied to Lot 2.

**ASSISTANT COUNTY ATTORNEYS**

NATHAN J. WHITNEY  
CHRISTOPHER M. STRIDER  
**PC Report Packet**

STEVEN A. KLAFFKY  
TERRY A. SAMPLE

LORI L. SEAGO  
DOREY L. SPOTTS

BRYAN E. SCHMID  
STEVEN W. MARTYN

MERI GERINGER  
ERIKA KEECH

### Proposed Water Supply

3. The Applicant has provided for the source of water for Lot 1 to derive from the not-nontributary Denver aquifer and the source of water for Lot 2 to derive from either the not-nontributary Denver aquifer or the not-nontributary Dawson aquifer as provided in the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 23CW3022 (“Decree and Augmentation Plan”). In the Decree and Augmentation Plan, the Court granted a vested right to 561 acre-feet of water in the Denver aquifer underlying Applicant’s property and 127 acre-feet of water in the Dawson aquifer. Pumping from the Denver aquifer will be a maximum of 1.7 acre-feet of water per year, with each pumping a maximum of 0.85 acre-feet per year if both wells are constructed to the Denver aquifer. If one lot is utilizing Denver aquifer water and the other lot is using Dawson aquifer water, then maximum pumping from the Denver aquifer will be 0.85 acre-feet per year and maximum pumping from the Dawson will be 0.42 acre-feet per year. Uses for the wells include domestic, structure and equipment washing, hot tub, lawn, garden and greenhouse, irrigation, stock water, commercial, recreation, wildlife, fire protection, and also for storage and augmentation purposes.

The approved augmentation plan has a term of 300 years and requires that non-evaporative septic system return flows be used for augmentation during the pumping period for the 2 approved wells. Applicant must reserve 521 acre-feet total of its water rights in the Arapahoe aquifer to be used for replacement of post-pumping depletions.

### State Engineer’s Office Opinion

4. In a letter dated March 4, 2024, the State Engineer stated that the proposed source of water is individual on lot wells. Lot 1 would contain a well drilled into either the Dawson aquifer or the Denver aquifer. Lot 2 would contain a well drilled into the Denver aquifer. The two wells would operate pursuant to the decree and augmentation in Case. No. 2023CW3022.

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

### Recommended Findings

5. Quantity and Dependability. Applicant’s water demand for the Driftwood Estates Filing No. 1 is 1.27 acre-feet per year for a total demand of 381 acre-feet for the subdivision for 300 years. The Decree and Augmentation Plan allows for 2 wells limited to an annual withdrawal of 0.85 acre-feet per well from the Denver aquifer, for a total permitted withdrawal of 255 acre-feet per well, and 0.42 acre-feet per year from the Dawson aquifer well, for a total permitted withdrawal of 126 acre-feet, if utilized.

**Based on the water demand of 1.27 acre-feet/year for the Driftwood Estates Filing No. 1 and the Decree and Augmentation Plan approving withdrawals in that amount, the County**

**Attorney’s Office recommends a finding of sufficient water quantity and dependability for the Driftwood Estates Filing No. 1.**

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

7. Basis. The County Attorney’s Office reviewed the following documents in preparing this review: a Water Resources Report dated April 30, 2024, the Water Supply Information Summary, the State Engineer’s Office Opinion dated March 4, 2024, and Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 23CW3022 entered on December 13, 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 its successors and assigns shall comply with all requirements of the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 23CW3022, specifically, that water withdrawn by Lot 1 from the Denver aquifer shall not exceed 0.85 annual acre-feet and water withdrawn by Lot 2 shall not exceed 0.85 annual acre-feet if from the Denver aquifer or 0.42 acre-feet from the Dawson aquifer, for a total combined maximum annual withdrawal for Driftwood Estates Filing No. 1 of 1.7 acre-feet. Depletions during pumping shall be replaced by individual on-lot non-evaporative septic systems.

B. The County prefers that when there is an augmentation plan, Applicant create a homeowners’ association (“HOA”) for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water decrees and augmentation plans for the property. For minor subdivisions such as this, however, Applicant may elect to solely rely on the covenant provisions required below and forego creation of an HOA.

C. Applicant shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 23CW3022.

Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve a minimum of 510 acre-feet of Denver aquifer water, 126 acre-feet of Dawson aquifer water, and 521 acre-feet of Arapahoe aquifer water pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 23CW3022 to satisfy El Paso County's 300-year water supply requirement for the 2 lots of Driftwood Estates Filing No. 1. The Covenants shall further identify that 255 acre-feet (0.85 acre-feet/year) of Denver aquifer water and 260.6 acre-feet of Arapahoe aquifer water is allocated to each lot and 126 acre-feet (0.42 acre-feet/year) of Dawson aquifer water is allocated to Lot 2. Said reservations shall not be separated from transfer of title to the property and shall be used exclusively for primary water supply.

2) Advise of responsibility for costs. The Covenants shall advise the lot owners, and their successors and assigns of their obligations regarding the costs of operating the plans for augmentation, which include pumping of the Denver/Dawson wells in a manner to replace depletions during pumping and the cost of drilling Arapahoe aquifer wells in the future to replace post-pumping depletions.

3) Require non-evaporative septic systems and reserve return flows from the same. The Covenants shall require each lot owner to use a non-evaporative septic system to ensure that return flows from such systems are made to the stream system to replace actual depletions during pumping and shall state that said return flows shall not be separately sold, traded, assigned, or used for any other purpose. The Covenants shall also include the following or similar language to ensure that such return flows shall only be used for replacement purposes: "Return flows shall only be used for replacement purposes, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose."

4) Address future lot conveyances. The following or similar language shall be included in the Covenants to address future conveyances of the lots subsequent to the initial conveyance made by Applicant/Declarant:

"The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 23CW3022 and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such

conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

5) Advise of monitoring requirements. The Covenants shall advise the future lot owners of this subdivision and their successors and assigns of their responsibility for any metering and data collecting that may be required regarding water withdrawals from existing and future wells in the Denver, Dawson and/or Arapahoe aquifers.

6) Require well permits. The Covenants shall Require that well permits be obtained pursuant to the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 23CW3022 and C.R.S. § 37-90-137(4) and (10).

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

“Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Driftwood Estates Filing No. 1 pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 23CW3022. Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney’s Office. Any amendments must be pursuant to the District Court, Water Division 2, approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such determination.”

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

“These Covenants shall not terminate unless the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 23CW3022 are also terminated by the Division 2 Water Court and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

D. Applicant and its successors and assigns shall reserve in any deeds of the Property Denver aquifer water in the decreed amount of 510 acre-feet (0.85 acre-feet/lot/year), 126 acre-feet of Dawson aquifer water (0.42 acre-feet/year for Lot 2), and 521 acre-feet of Arapahoe aquifer water (260.5 acre-feet/lot). Said reservation shall recite that this water shall



not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply.

E. Applicant and its successors and assigns shall convey by recorded warranty deed these reserved Denver and Dawson aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Denver, Dawson, and Arapahoe aquifers underlying the respective lots to satisfy El Paso County's 300-year water supply requirement.

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary and replacement supply (Denver, Dawson, and Arapahoe aquifers): "These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during and after pumping, for both lots of the Driftwood Estates Filing No. 1. The water rights so conveyed and the return flows therefrom shall be appurtenant to each of the respective lots with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

F. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions, and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney's Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney's Office prior to recording the final plat. Said Declaration shall cross-reference Findings of Fact, Conclusions of Law, Ruling of Referee and Decree: Adjudicating Denver Basin Groundwater and Approving Plan for Augmentation in Division 2 Case No. 23CW3022 and shall identify the obligations of the individual lot owners thereunder.

G. Applicant and its successors and assigns shall record all applicable documents, including but not limited to the Decree and Augmentation Plan, agreements, assignments, and warranty deeds regarding the water rights, and Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

H. The following plat note shall be added that addresses the State Engineer's admonition to advise landowners of potential limited water supplies in the Denver Basin:

"Water in the Denver Basin aquifers is allocated based on a 100-year aquifer life; however, for El Paso County planning purposes, water in the Denver Basin aquifers is evaluated based on a 300-year aquifer life. Applicant and all future owners in the subdivision should be aware that the economic life of a water supply based on wells in a given Denver Basin

aquifer may be less than either the 100 years or 300 years used for allocation indicated due to anticipated water level declines. Furthermore, the water supply plan should not rely solely upon non-renewable aquifers. Alternative renewable water resources should be acquired and incorporated in a permanent water supply plan that provides future generations with a water supply.”

cc: Christian Haas, Project Manager, Planner

**AMENDMENT  
ACCESS EASEMENT AGREEMENT**


This Access Easement Agreement ("Agreement") Amendment is entered into and made effective this 11 day of June, 2024, between **Forest Lakes Metropolitan District**, a quasi-municipal corporation and political subdivision of the State of Colorado whose address is 2 N. Cascade Avenue, Suite 1280, Colorado Springs, CO 80903 ("Grantor"), and **Andrew C. Alm** ("Grantee"), whose address is 2383 Collegiate Drive, Colorado Springs, CO 80918.

Background and Purpose

- A. The original Agreement was granted to provide Grantee with access to the Grantee property sufficient to get a building permit and to build a house.
- B. The original owner of the property covered by the easement, Forest Lakes LLC, deeded the said property to Forest Lakes Metropolitan District by Bargain and Sale Deed recorded in the Official Records of EL Paso County as 223001405 dated 1/6/2023 8:21 am.
- C. The original Agreement specifies a maximum width of 15 feet for a non-paved driveway within a 30-foot-wide easement.
- D. Monument Fire District's approval of the driveway is part of the El Paso County subdivision process, which is required prior to the start of new house construction.
- E. The 2015 Amended Internation Fire Code Appendix D Table D103.4 requires a minimum driveway width of 20 feet.
- F. The Grantor and Grantee desire to amend the Agreement to comply with the governmental requirements.
- G. This Amendment is to be amended to the original 12-page Agreement 223000909 dated 1/5/2023 8:05AM and Electronically Recorded Official Records El Paso County CO.
- H. Both parties recognize that the only item changing on the original Agreement is the width of the non-paved road changing from a maximum of 15 feet wide to a maximum of 22 feet wide within the original 30-foot access easement.

FOR VALUABLE CONSIDERATION, receipt of which is acknowledged, Grantor and Grantee agree to the following update (Only item #2 below is to be amended.):

2. Limitations on Use of Easement Area by Grantee. Any Road constructed by Grantee within the Easement Area must not be paved and may not exceed ~~fifteen (15)~~ **twenty-two (22)** feet in width. Once the Road is constructed, the remainder of the Easement Area may not be used or improved by Grantee for any purpose without the prior written consent of Grantor. Grantee may not construct another road within the Easement Area if there is already a Road constructed within the Easement Area. Grantee acknowledges the Grantor Property will be subject to a perpetual Deed of Conservation Easement (the "CE Deed") in which the Palmer Land Conservancy, a charitable Colorado nonprofit corporation, will hold a property interest in the Grantor Property and which will restrict the use of the Grantor Property to ensure its conservation values are preserved forever. Grantee acknowledges Grantee's use of the Easement Area will

1	Steve Schleiker 06/19/2024 04:24:43 PM Doc \$0.00 5 Rec \$33.00 Pages	El Paso County, CO  <b>224046752</b>
---	--	---

be subject to enforcement by Grantor. Grantor may allow the Grantor Property to be used for passive non-motorized recreational use and trails may be constructed that intersect, cross or parallel the Road. Grantee shall not fence any portion of the Easement Area or Road nor prohibit access on, across, over or along the Road without Grantor's prior written consent, except that Grantee may post signs along the Road approved in advance by Grantor indicating the Road is private.

[ SIGNATURES ON NEXT PAGES ]

**GRANTOR:**

**FOREST LAKES Metropolitan District**  
a quasi-municipal corporation and political subdivision of the State of Colorado

By: *Ann Nichols*  
Ann Nichols, FLMD District Manager

STATE OF COLORADO        )  
  ) ss.  
COUNTY OF EL PASO        )

The foregoing instrument was acknowledged before me this 11<sup>TH</sup> day of June, 2024, by Ann Nichols, FLMD District Manager.

Witness my hand and official seal.

My commission expires:

*Christine L. Wise*  
Notary Public

CHRISTINE L WISE  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 19974021715  
MY COMMISSION EXPIRES DECEMBER 02, 2025

GRANTEE:

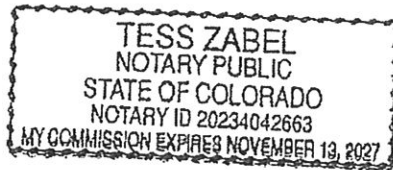
Andrew C. Alm  
Andrew C. Alm

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF EL PASO     )

The foregoing instrument was acknowledged before me this 11 day of June, 2024, by Andrew C. Alm.

Witness my hand and official seal.

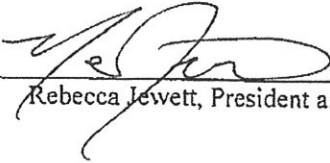
My commission expires: NOV 13 2027



[Signature]  
Notary Public

**ADDITIONAL CONSENT:**

**William J. Palmer Parks Foundation, Inc. dba Palmer Land Conservancy**  
a charitable nonprofit Colorado corporation

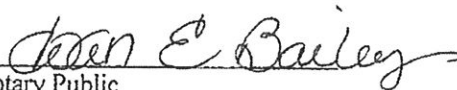
By:   
Rebecca Jewett, President and Chief Executive Officer

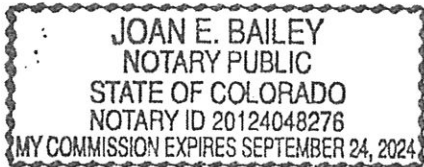
STATE OF COLORADO        )  
  ) ss.  
COUNTY OF EL PASO        )

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of June, 2024, by  
Rebecca Jewett, President and Chief Executive Officer.

Witness my hand and official seal.

My commission expires:  
Sept. 24, 2024

  
Notary Public



FINAL PLAT (RECOMMEND APPROVAL)

\_\_\_\_\_ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. MS239  
3275 CENTER ICE VIEW - MINOR SUBDIVISION

WHEREAS, Andrew C Alm did file an application with the El Paso County Planning and Community Development Department for approval of a Final Plat for the Driftwood Estates Filing No. 1 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 5, 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; and



7. For the above-stated and other reasons, the proposed Minor Subdivision Final Plat 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 Minor Subdivision Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the following criteria outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code ("Code") (as amended):

1. The proposed Subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
2. The Subdivision is consistent with the purposes of the Code;
3. The Subdivision is in conformance with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analysis, studies, reports, plans, designs, documents, and other supporting materials.
4. 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.
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 the proposed Subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)].
7. Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual ("ECM") are provided by the design.
8. 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.
9. Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement acceptable to the County and in compliance with the Code and the ECM.
10. The proposed Subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the Subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if

appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the Subdivision to provide a transition between the Subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, reasonably related to the proposed Subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.

11. Necessary services, including police and fire protection, recreation, utilities, open space, and transportation systems, are or will be available to serve the proposed Subdivision.
12. The Subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.
13. The proposed Subdivision meets other applicable sections of Chapters 6 and 8 of the Code.
14. 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.
15. 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.
16. 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 conditional 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 Andrew C Alm for a Final Plat for the Driftwood Estates Filing No. 1 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 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.
8. Drainage fees in the amount of \$9335.18. shall be paid for the Beaver Creek Drainage Basin at the time of plat recordation.
9. Park fees in lieu of land dedication for regional parks in the amount of \$1,010.00 shall be paid at the time of plat recordation.
10. Fees in lieu of school land dedication in the amount of \$616.00. shall be paid to El Paso County for the benefit of District 38 at the time of plat recording.
11. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated May 24, 2024, as provided by the County Attorney's Office.
12. The Final Plat shall not be recorded until a finding of water quality is made or an appropriate mitigation strategy is addressed by the applicant.

#### NOTATIONS

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

- 2. 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.

\_\_\_\_\_ seconded the adoption of the foregoing Resolution.

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

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

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

DONE THIS 5th day of September 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: \_\_\_\_\_  
Chair

EXHIBIT A

A PARCEL OF LAND BEING A PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY AS FOLLOWS:  
BEGINNING AT THE NORTHEAST CORNER OF SECTION 33;  
THENCE  $500^{\circ} 43' 31''$  W, ON THE EAST LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER SAID SECTION 33, ALSO BEING THE EASTERLY BOUNDARY OF A PARCEL OF LAND DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 216068387 OF THE RECORDS OF EL PASO COUNTY, COLORADO, A DISTANCE OF 1307.38 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 33 AND OF SAID PARCEL DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 216068387;  
THENCE  $S89^{\circ} 35' 39''$  W ON THE SOUTH LINE OF SAID PARCEL AND THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER A DISTANCE OF 404.73 FEET TO THE SOUTHWESTERLY CORNER OF SAID PARCEL;  
THENCE ON THE WESTERLY BOUNDARY OF SAID PARCEL OF LAND DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 216068387 THE FOLLOWING (5) COURSES:  
1. THENCE  $N00^{\circ} 00' 11''$  W A DISTANCE OF 790.12 FEET;  
2. THENCE  $N89^{\circ} 07' 30''$  W A DISTANCE OF 309.62 FEET;  
3. THENCE  $N46^{\circ} 26' 07''$  E A DISTANCE OF 404.68 FEET TO A POINT OF CURVE;  
4. THENCE ON THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 170.00 FEET, THROUGH A CENTRAL ANGLE OF  $06^{\circ} 26' 46''$ , AN ARC DISTANCE OF 19.13 FEET TO A POINT OF TANGENT;  
5. THENCE  $N52^{\circ} 52' 53''$  E A DISTANCE OF 370.35 FEET TO A POINT ON THE NORTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 33 ;  
THENCE  $N89^{\circ} 46' 34''$  E ON SAID NORTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 33 A DISTANCE OF 127.78 FEET TO THE POINT OF BEGINNING.  
CONTAINING A MEASURED AREA OF 12.72 ACRES, MORE OR LESS.