

EL PASO COUNTY COLORADO

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COLORADO

HOLLY WILLIAMS
 STAN VANDERWERF
 LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
 Thomas Bailey, Chair

FROM: Kylie Bagley, Planner III
 Lupe Packman, Engineer I
 Meggan Herington, AICP, Executive Director

RE: Project File Number: MS237
 Project Name: Graupner Subdivision
 Parcel Number: 413200010

OWNER:	REPRESENTATIVE:
Christopher Villanueva 14710 Tanner Trail Elbert, CO 80106	M.V.E. Inc. David Gorman 1903 Learay Street, Suite 200 Colorado Springs, CO 80909

Commissioner District: 1

Planning Commission Hearing Date:	3/7/2024
Board of County Commissioners Hearing Date:	3/28/2024

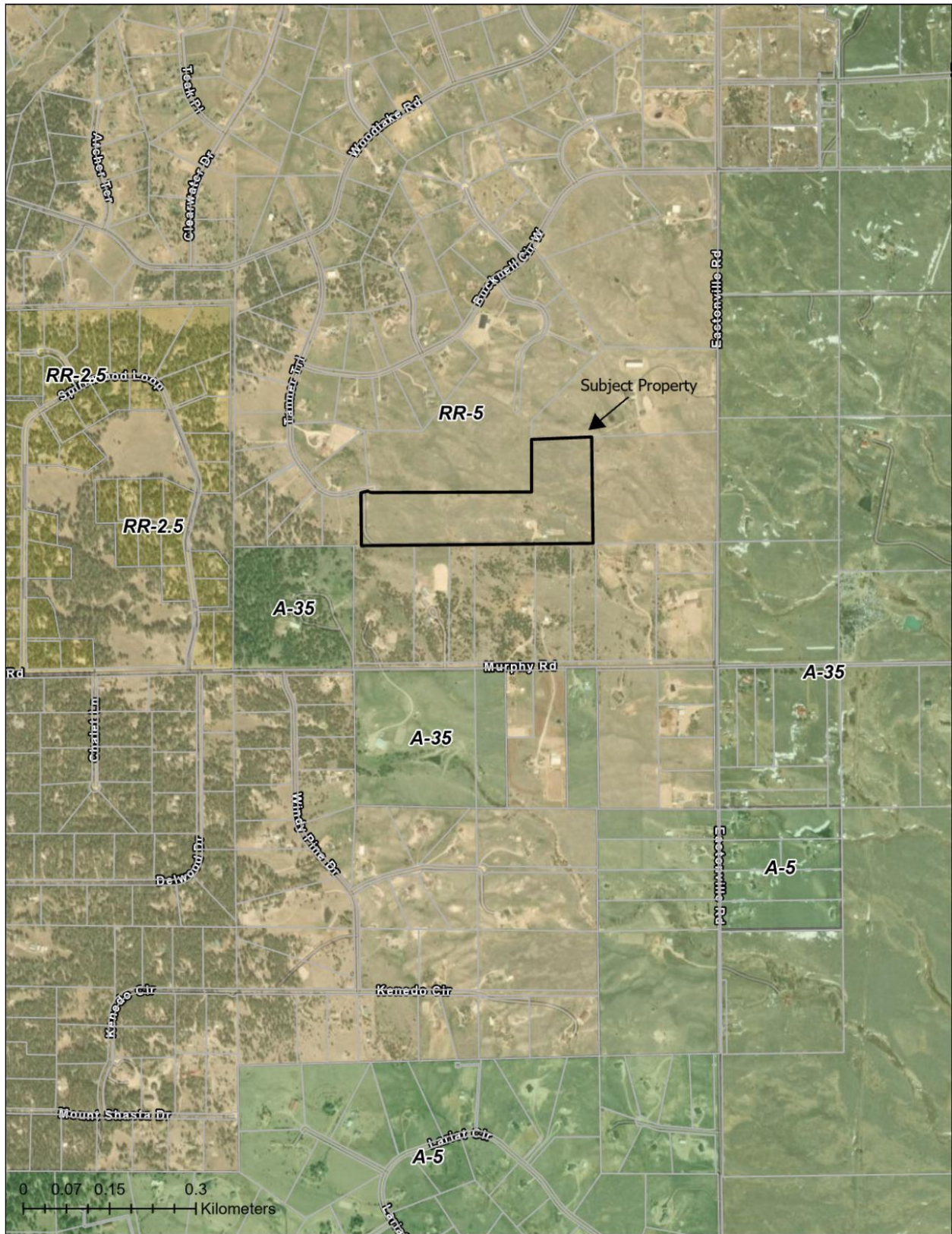
EXECUTIVE SUMMARY

A request by M.V.E. Inc. for approval of a 41.37-acre Minor Subdivision creating four single-family lots. The property is zoned RR-5 (Residential Rural) and is located at 14710 Tanner Trail, 0.64 miles south of the intersection of Woodlake Road and Tanner Trail.

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A. WAIVERS AND AUTHORIZATION

Waiver(s):

The applicant requests the following waiver of the LDC:

- 8.4.3 (B) "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". Proposed Lots 2-4 will gain access by way of the existing driveway to be dedicated into a private road which connects the site to Tanner Trail near the northwest corner of the site. Proposed Lot 1 will have direct access to Tanner Trail and access to the private road is not necessary. The responsibility and maintenance of said access shall be carried out as described in a separate private access maintenance agreement.

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.

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

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B. APPROVAL CRITERIA

In approving a Minor Subdivision, 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

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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)	Vacant Land
South:	RR-5 (Residential Rural)	Single-Family Dwelling
East:	RR-5 (Residential Rural)	Single-Family Dwelling
West:	RR-5 (Residential Rural)	Single-Family Dwelling

D. BACKGROUND

The applicant is requesting approval of a Minor Subdivision which contains 41 acres. The subject property is zoned RR-5 (Rural Residential) and is proposing a 4-lot subdivision containing a minimum of 5 acres per lot. There is an existing single-family residence,

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garage, horse stable, and a well and onsite wastewater treatment system located in the eastern portion of the property. Access for the existing buildings is from an existing gravel driveway connected to Tanner Trail found on the south and west property lines.

E. ANALYSIS

1. Land Development Code and Zoning Analysis

The Minor Subdivision 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: Rural

The Rural placetype comprises rangeland, farms, and other agricultural uses. The primary land use in this placetype is agriculture however residential uses such as farm homesteads and estate residential are allowed as support uses. Residential lot development within the Rural placetype typically cover 35 acres or more per two units with the minimum lot area consisting of 5-acres per unit. The Rural placetype covers most of the eastern half of the County.

Rural areas typically rely on well and septic and parcels for residential development tend to be substantial in size. Rural areas are remotely located and distant from high activity areas or dense suburban or urban places, making access to regional transportation routes, such as Highway 24 and Highway 94, vital to the quality of life for rural community residents.

The agricultural lands that Rural areas contain represent a valuable economic resource and unique lifestyle that should be preserved. The Rural placetype includes agricultural lands which represent a valuable economic resource and allow for a unique lifestyle that should be preserved. As growth occurs, some Rural areas may develop and transition to another placetype, however leapfrog development should be discouraged, by pro-actively permitting changing areas contiguous to existing development to another placetype.



Recommended Land Uses:

Primary

- Agriculture
- Parks/Open Space
- Farm/Homestead Residential

Supporting

- Estate Residential (Minimum 1 unit/5-acres)
- Institutional

Analysis:

The property is located within the Rural Placetype. The Rural Placetype supports the County's established agricultural and rural identity. This Placetype is uniquely sensitive to new development due to limited water access and infrastructure making sustainable growth a priority. Relevant goals and objectives are as follows:

Goal LU1: *Ensure compatibility with established character and infrastructure capacity.*

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.*

The proposed Minor Subdivision is consistent with the supporting land use recommended density of the Rural Placetype.

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.

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Analysis:

The character of the surrounding area is consistent with the Area of Change designation, which identifies that existing vacant land may be developed in the future. Since the subject property is surrounded primarily by developed land, it is unlikely that the character of the area may change substantially in the future. The current Minor Subdivision proposal is consistent with the Area of Change designation and with the current development pattern of the surrounding properties.

c. Key Area Influences: Forested Area

This Key Area includes parts of the County where natural forests are the predominant feature such as Black Forest, areas north of Peyton, and areas along Highway 115 as well as lands within Pike National Forest. Pike National Forest is one of the County's largest natural amenities and tourist destinations. Continued coordination with the U.S. Forest Service is critical to ensuring future development in areas adjacent to the Forest do not negatively impact the natural environment. There are also many established communities within Pike National Forest particularly in Ute Pass and along Highway 115. New development and any redevelopment in these locations should be of a lower intensity to mitigate any impacts on the Forest, properly manage stormwater, provide safe access to major roads and state highways for the traveling public and emergency response vehicles and adhere to the strictest building codes to prevent any hazards such as fires and soil erosion related to poor planning, design, and construction.

Managed residential growth, along with supportive commercial uses, have helped the other forested areas preserve their natural amenities while supporting the daily needs of a thriving local community. The seamless connection between the natural environment and small-scale, low intensity development is critical to their identity. All new development and redevelopment in this Key Area should strictly adhere to the transportation and infrastructure, stormwater requirements, built form, and transition guidelines outlined in their appropriate placetypes. Each development proposal should also be reviewed on a case-by-case basis to determine its specific impact on the forested area and the established character of the individual community.



Analysis:

The property is located within the Forested Area. A relevant specific strategy is as follows:

***Goal LU1 Specific Strategy** – New development and any redevelopment in Forested Areas should be of a lower intensity to mitigate any impacts on the Forest, properly manage stormwater, provide safe access to major roads and state highways for the traveling public and emergency response vehicles and adhere to the strictest building codes to prevent any hazards such as fires and soil erosion related to poor planning, design, and construction.*

The proposed 5 acre lots are allowed within the current RR-5 zoning district and are consistent with the existing development pattern in the area, which consists of lots and unplatted parcels varying in size. The property is directly adjacent to 5-acre lots.

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.*

***Goal 4.3** – Collaborate with the State and other stakeholders to extend the economic life of the Denver Basin aquifers.*

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within

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Planning Region 4c of the Plan. The following information pertains to water demands and supplies in Region 4c for central water providers:

The Plan identifies the current demand for Region 4c to be 2,970 acre-feet per year (AFY) (Figure 5.1) with a current supply of 2,970 AFY (Figure 5.2). The projected demand in 2040 for Region 4c is at 3,967 AFY (Figure 5.1) with a projected supply of 3,027 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region is 4c is at 4,826 AFY (Figure 5.1) with a projected supply of 3,027 AFY (Figure 5.2) in 2060. This means that by 2060 a deficit of 1,799 AFY is anticipated for Region 4c.

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 moderately wildlife impact potential. Colorado Parks and Wildlife and EPC Environmental Services were each sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies 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

No hazards were identified that would preclude development if mitigation were to occur. The applicant has provided a map of the constraints and hazards impacting the development and have included the following note on the plat:

Geologic Hazard Note: 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 the Soils & Geology Report by Entech Engineering, Inc. dated May 2, 2023, in file MS237 available at the El Paso County Planning and Community Development Department.

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- *Expansive soils and bedrock: all lots: mitigation measures include: lot specific over-excavation as determined in the site-specific subsurface soil investigation.*
- *Seasonal surface and subsurface water: all lots: mitigation measures include: extension of foundations a minimum of 30 inches below grade, installation of foundation perimeter drains and provision of swales to intercept and carry surface flows away from structures. No elements of wastewater treatment systems should be placed in areas of potentially seasonal shallow groundwater.*
- *Radon: all lots: mitigation measures include: specialized building design.*

2. Floodplain

The property is not located within a defined floodplain as determined by FEMA Flood insurance Rate Map panel number 08041C0340G, dated December 7, 2018.

3. Drainage and Erosion

The property is located in the Upper Black Squirrel Drainage Basin (CHBS2000) which is not included in the El Paso County Drainage Basin Fee program.

Because of the large lot nature of the subdivision, water quality and detention is not required for this subdivision. Public improvements are also not required.

4. Transportation

The subdivision receives access off Tanner Trail, which is owned and maintained by El Paso County. A traffic study was not required as the proposed subdivision is not expected to generate 100 daily vehicle trips. Lots 1-4 will be accessed by a private driveway via a proposed easement along the southern boundary of site.

The El Paso County 2016 Major Transportation Corridors Plan Update does not depict roadway improvements in the immediate vicinity.

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471, as amended).

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 applicant has shown a sufficient water supply for the required 300-year period. The State Engineer and the County

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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 onsite wastewater treatment systems.

3. Emergency Services

The property is within the Falcon Fire Protection District.

4. Utilities

Mountain View Electric Association (MVEA) will provide electrical service to the subject property. MVEA has no outstanding comments for the proposed subdivision.

5. Metropolitan Districts

The subject property is not within a metropolitan district.

5. Parks/Trails

Fees in lieu of park land dedication in the amount of \$2,020 for regional fees and \$0 for urban park 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 \$960 shall be paid to El Paso County for the benefit of El Paso County School District #49 at the time of plat recording.

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:

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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.

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8. Park fees in lieu of land dedication for regional parks in the amount of \$2,020 and urban park fees in the amount of \$0 shall be paid at the time of plat recordation.
9. Fees in lieu of school land dedication in the amount of \$960 shall be paid to El Paso County for the benefit of School District #49 at the time of plat recording.
10. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 1/18/2023, as provided by the County Attorney's Office.

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 14 adjoining property owners on February 14, 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
Draft Resolution

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Subject Property

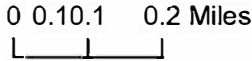


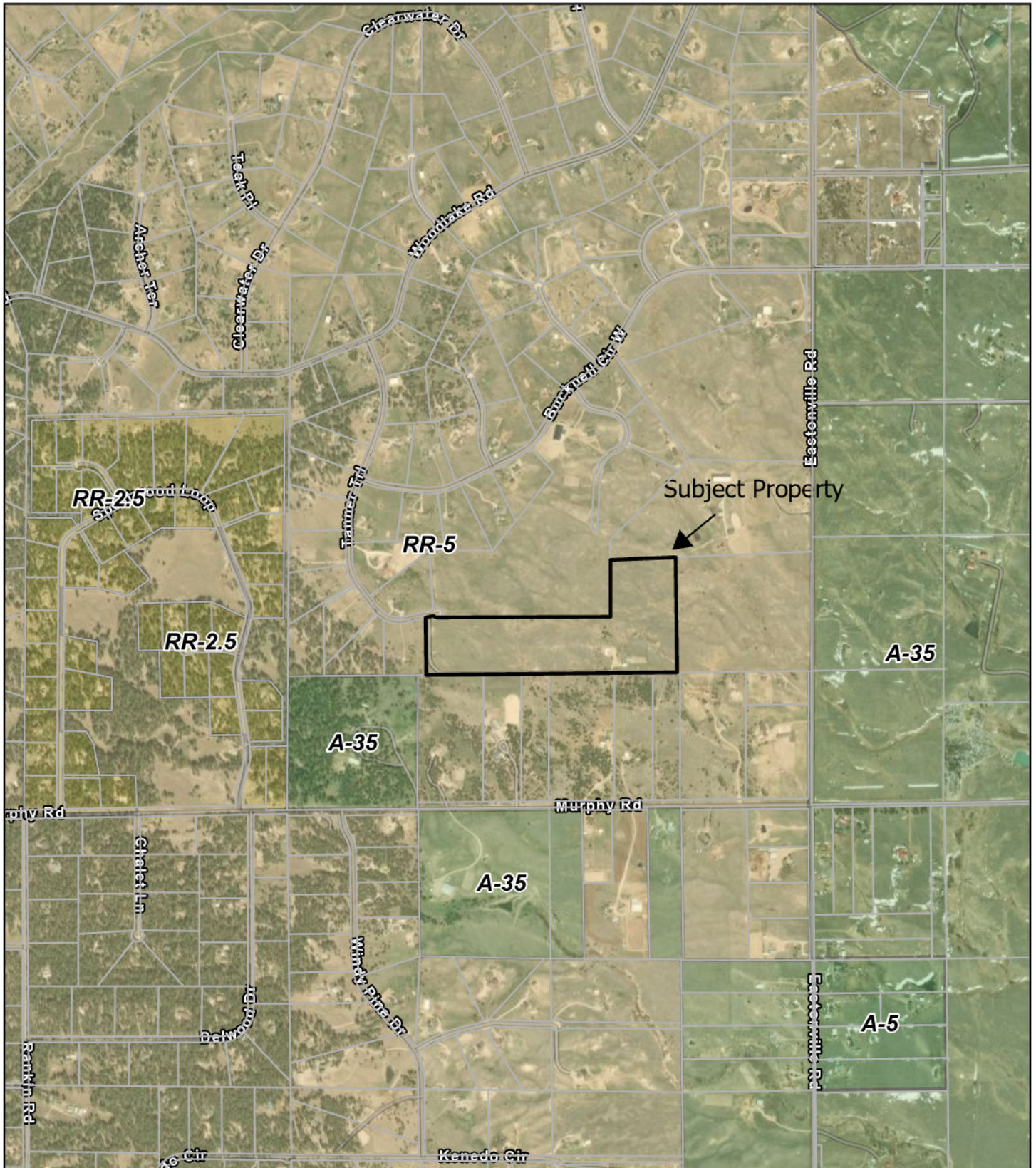
Aerial Map



File No. MS237

Map Series No. 1



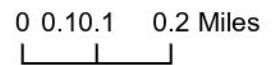


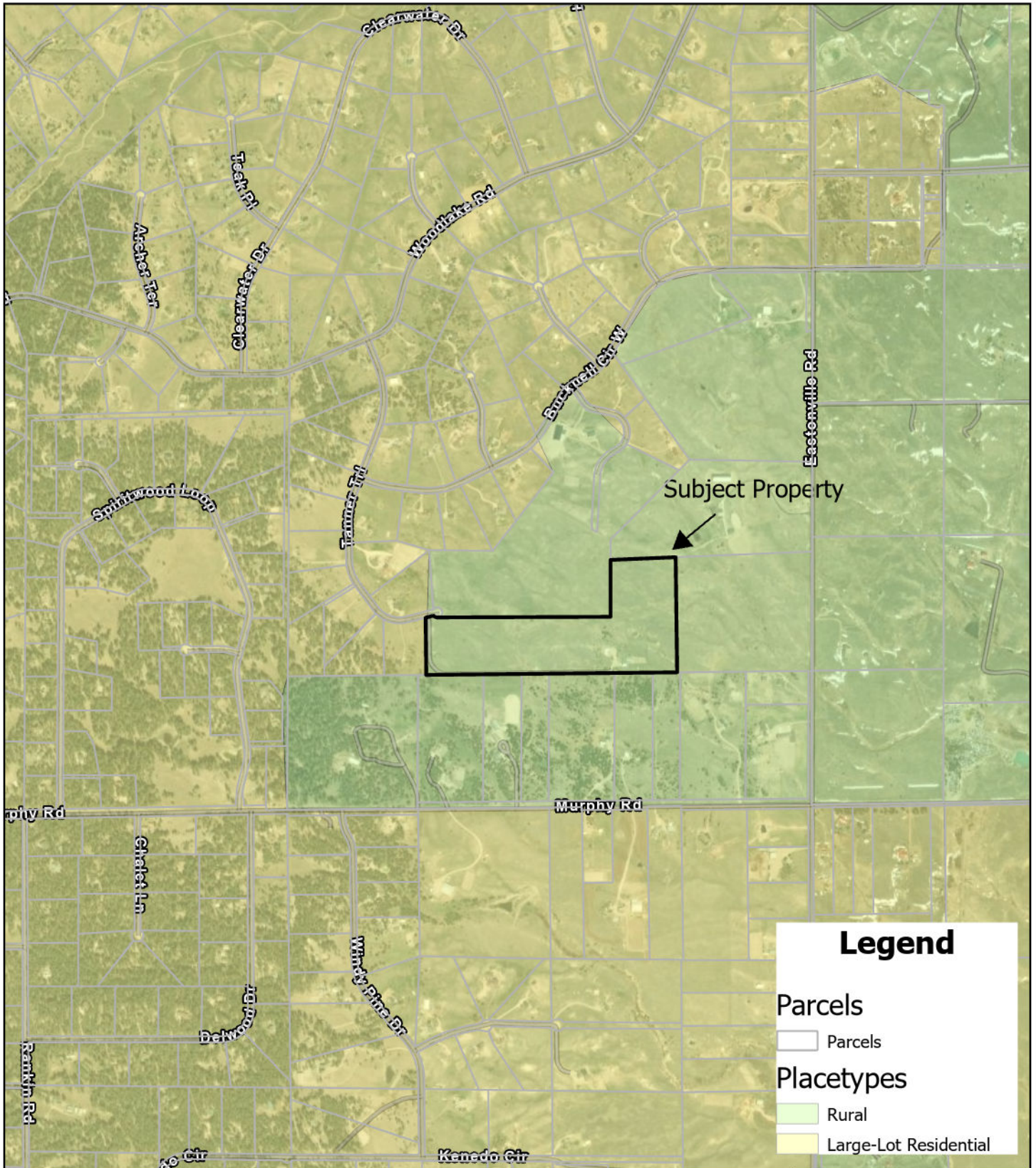
Zoning Map



File No. MS237

Map Series No. 2





Legend

Parcels

▭ Parcels

Placetypes

▭ Rural

▭ Large-Lot Residential

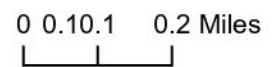


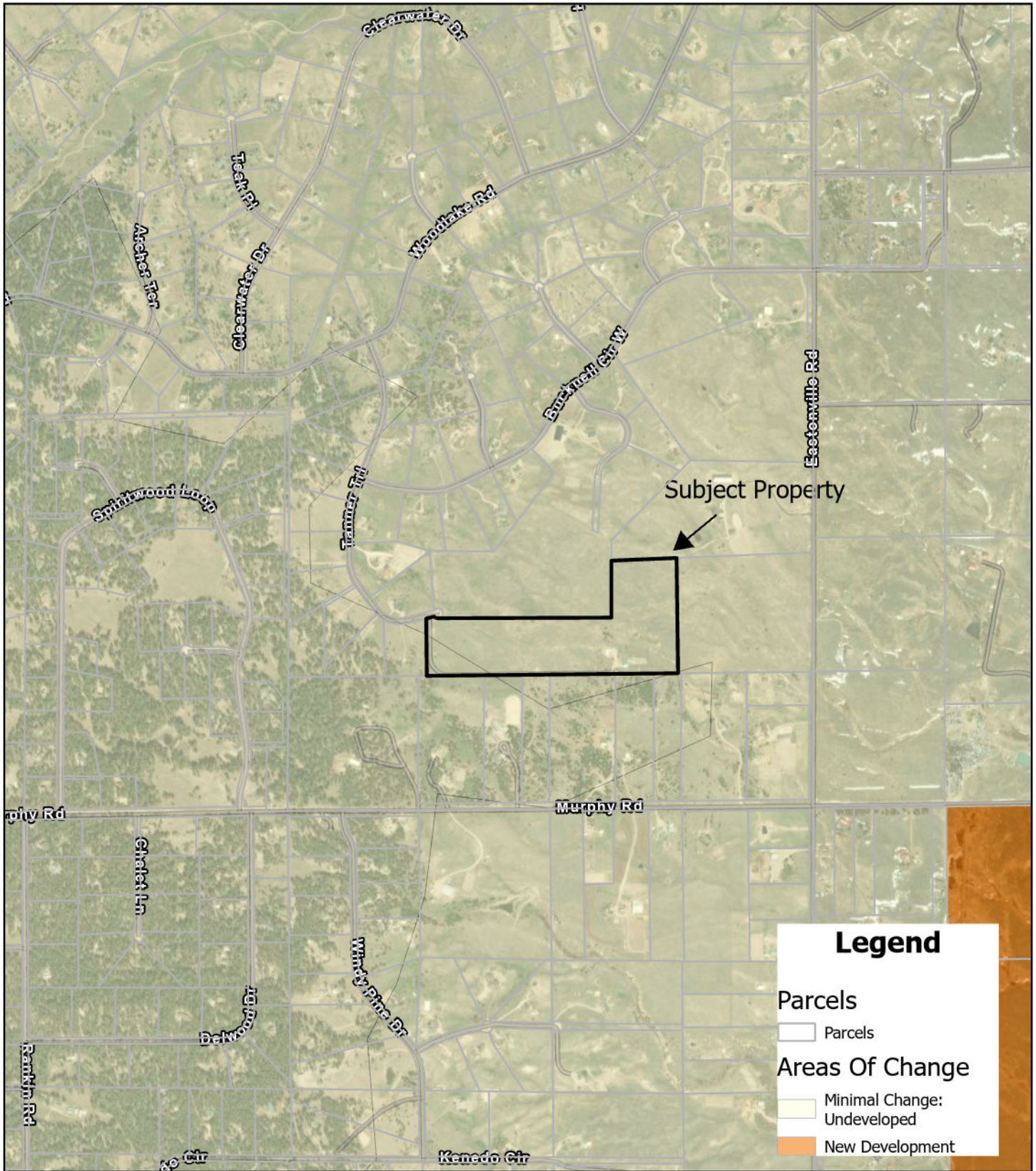
Placetype Map



File No. MS237

Map Series No. 3





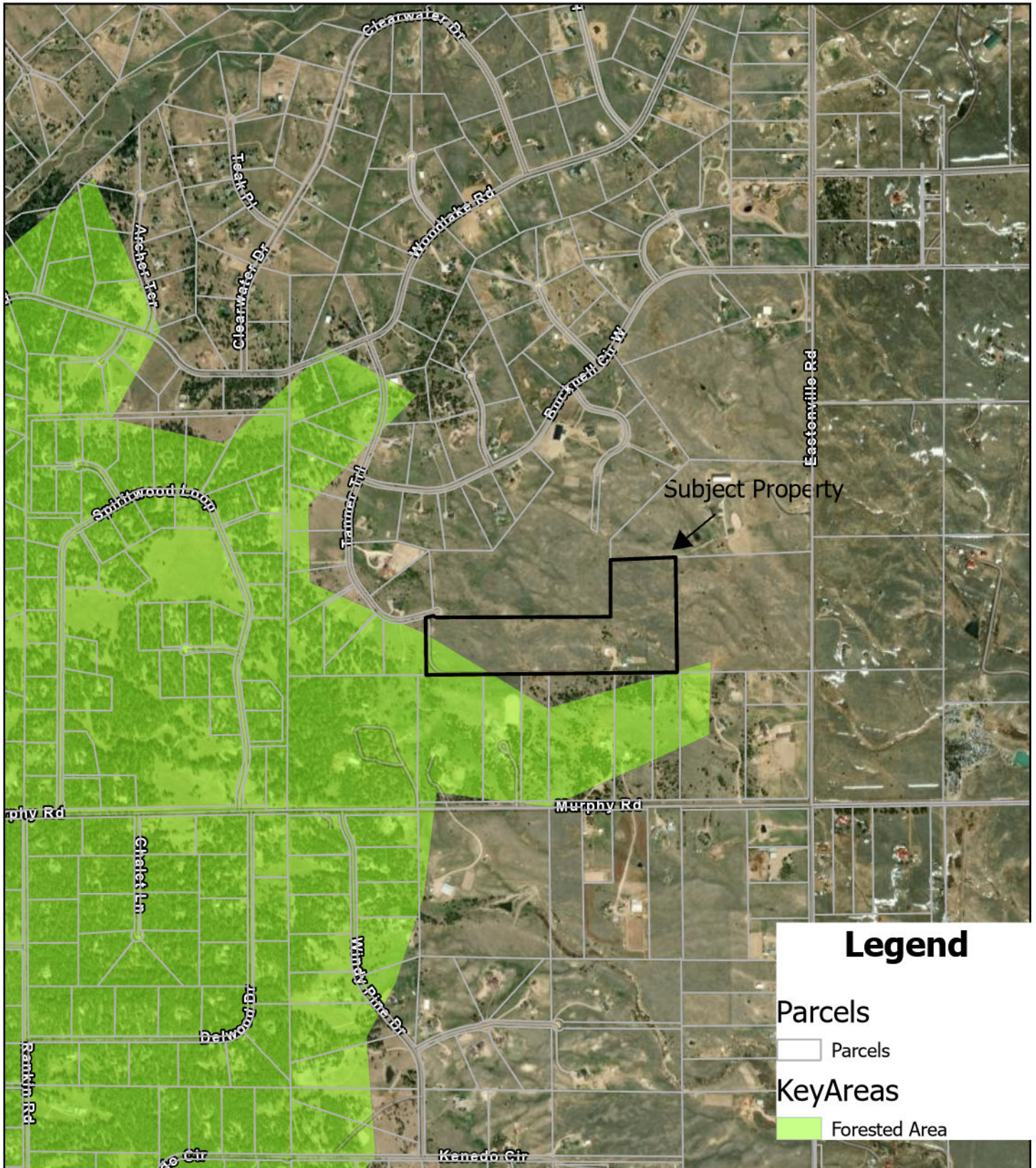
Areas of Change Map

File No. MS237

Map Series No. 4



0 0.10.1 0.2 Miles



Legend

- Parcels
- Parcels
- KeyAreas
- Forested Area

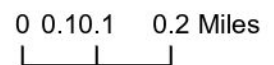


Key Areas Map



File No. MS237

Map Series No. 5





August 11, 2023

PCD File No.:

**LETTER OF INTENT
GRAUPNER SUBDIVISION
MINOR SUBDIVISION**

Owner/Applicant:

Garrett Graupner
14710 Tanner Trail
Elbert, CO 80106

Consultant:

M.V.E., Inc.
1903 Lelaray Street, Suite 200
Colorado Springs, CO
(719) 635-5736
David Gorman
daveg@mvecivil.com

Site Location Size and Zoning:

The proposed subdivision to be known as "Graupner Subdivision" is located within the South ½ of Section 32, Township 11 South, Range 64 West, of the 6th Principal Meridian in Colorado Springs, Colorado. The site is situated west of Eastonville Road and north of Murphy Road. The site is made up of a single unplatted 41.021 ± parcel having El Paso County Tax Assessor's Schedule Number: 41320-00-010. The unplatted parcel is zoned Rural Residential - 5 Acres (RR-5) with an existing single family residence, garage, horse stable, and a well & septic system located in the east portion of the site. Access for the existing buildings is from an existing gravel driveway connected to Tanner Trail found on the south and west property lines.

Request and Justification:

The request is for approval of a Minor Subdivision to be known as "Graupner Subdivision", containing 41.021 ± acres collectively. This proposed Minor Subdivision will create four new rural residential lots to be available for single-family residential construction. Specifically, there will be three lots containing 5 acres and one 26 ± lot containing the existing structures.

This minor subdivision for proposed Lots 1-4 are consistent with the requirements of their respective zoning such as: land use (single-family residential), lot size, minimum building setbacks, water supply, and wastewater disposal. The proposed lots are compatible with the surrounding land uses and neighborhood and coincides with the adjacent zoning and platted lot sizes found in all directions being approximately 5 acres or larger. All four lots will each have a single family residence with individual well & septic.

Proposed Lot 1 will have immediate access to Tanner Trail with a gravel driveway. Proposed Lots 2, 3, & 4 will access Tanner Trail via the existing gravel driveway which is to be dedicated as a private road. An Ingress/Egress Waiver will be need to be approved to provide access to proposed Lots 2-4 along said private road. The justification for the requested waiver is included in a separate section below.

Engineers • Surveyors

1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736

Fax 719-635-5450 • e-mail mve@mvecivil.com

This application meets the Minor Subdivision submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivisions in Chapter 8 of the El Paso County Land Development Code (2021). Final Plats are reviewed and approved in consideration of the review criteria found in the El Paso County Land Development Code. Each criteria is listed below followed by the appropriate justification.

1. *The subdivision is in conformance with the goals, objectives, and policies of the Master Plan.* **“Your El Paso Master Plan” (2021)** is a comprehensive document communicating a vision for many factors that influence the quality of in El Paso County, including Land Use. The Master Plan provides a strategy to achieve the vision by putting forth goals and policies that can be used as a framework for decision-making regarding development of the County.

The site is not located within a key area according to the Master Plan. The placetype for this area is Large Lot Residential with primary land use of detached single-family residential. The supporting land uses are Agriculture, Commercial Retail & Service, and Parks & Open Space. The location of this site and existing infrastructure is suited to single family residential use. In the Land Use category, Goal 1.1 is *“Ensure compatibility with established character and infrastructure capacity”*. This area of the County is conducive to rural residential development that allows residential use of property but preserves the natural character of the landscape. The proposed subdivision is compatible and identical to the existing neighborhood and surrounding development. The existing community character is preserved with this proposed minor subdivision. The proposed density is less than allowed by zoning. The proposed density is unlikely to overburden the existing roadway infrastructure or capacity of the land to support the water and wastewater needs of the development. The proposed minor subdivision will not create the need for additional public roadways or facilities. Goal 2.2 is *“Preserve the character of rural and environmentally sensitive areas”*. The proposed subdivision will keep the forested nature of the area intact. The five-acre lot density has reduced impact on environmental conditions. Density and land use are compatible with the surrounding area and the natural features of the site will remain preserved, even with the addition of three more residences on the site. The private roadway to be used for access will have minimal impact on the existing terrain.

No new public roads are proposed with this subdivision since access for these lots will be from the proposed private road connected to Tanner Trail. An Ingress/Egress easement along said gravel road will be placed along the west and south property lines which will provide access for proposed Lots 2-4. The advantage of private driveways is lot access is provided while eliminating the need for additional access points and additional public roadway. The existing private road presents a reduced impact on the natural terrain, land forms, and vegetation. Therefore, this project's access road maintains the rural character of site and neighborhood.

The proposed subdivision is in compliance with the **2040 Major Transportation Corridors Plan (MTCP)**. Currently, the major roads west and east of the site, Meridian Road and Eastonville Road are paved two-lane county roads and designated as unimproved county roads in the 2040 Major Transportation Corridors Plan. The proposed subdivision will not significantly impact the traffic on this roadway.

The proposed minor subdivision is in compliance with the **Parks Master Plan**, which does not call for trails or parks in the site. Any required park fees will be paid at the time of plat recording. The proposed subdivision is also in compliance with the Master Plan for Mineral Extraction and the severed mineral right owners for this property have been notified.

2. The proposed subdivision is in compliance with the **El Paso County Water Master Plan (2018)**. The Colorado Ground Water Commission performed a Groundwater Determination for Dawson, Laramie Fox Hills, Denver, and Arapahoe aquifers. In this determination, the total number of wells (existing & proposed) was eight to originally accommodate eight proposed lots. In this proposed minor subdivision, there will be four wells in total. These groundwater determinations

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are recorded under reception numbers: 221185794, 221185791, 221185792, 221185793, 221185794, 221185795 of the records of El Paso County for Dawson, Laramie-Fox Hills, Arapahoe, Denver, Dawson, and Dawson Replacement Plan respectively. The owner seeks a finding of sufficiency from the Colorado Division of Water Resources and the eventual granting of the three additional well permits based on the groundwater determination.

Graupner Subdivision is located within Region 4c in the Water Master Plan. The region is comprised of the southwest portion of Peyton and north of Falcon. The site is not located in a designated Growth Area as determined in the Water Master Plan. The Water Master Plan contains estimates of the demands and available supply by region at the years 2018, 2040 and 2060 Build-Out. The 2018/2040/2060 demands in Region 4c are estimated to be 2,970 acre-feet per year, 3,967 acre-feet per year, and 4,826 acre-feet per year, respectively. The 2018/2040/2060 supplies in Region 4c are estimated to be 2,970 acre-feet per year, 3,027 acre-feet per year, and 3,027 acre-feet per year, respectively, indicating a shortage of supply for the region at each time.

However, a significant portion of the supply is derived from non-renewable Dawson Basin groundwater. Considering only Graupner Well No. 1, demands are estimated to be 0.485 acre-feet of water per year for the current, 2040 and 2060 time frames, respectively. Water supply available by groundwater determination to the subdivision is 9.67 acre-feet per year for each of the current, 2040 and 2060 time frames for the use of eight lots. However the subdivision will utilize 1.94 acre-feet per year for 300 years for the use of four lots. The owner intends to install three new wells to pump 0.485 acre-feet of water per year each for the three 5 acre lots for a combined total of 1.94 acre-feet of water per year for the subdivision. For each lot, the determination describes to 0.260 acre-feet of water per year for residential use and 0.105 acre-feet for either irrigation of up to 1,800 square feet of landscaping and the use of 0.12 acre-feet per year for watering of livestock. In practice, every lot owner may not keep livestock and residents in the county limit water use for landscape irrigation in favor of natural grasses.

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

3. *The subdivision is in substantial conformance with the approved preliminary plan.*
This is a proposed Minor Subdivision and requires no Preliminary Plan for approval. The subdivision will be developed in accordance with the currently proposed land use applications.
4. *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.*
The proposed Minor Subdivision is prepared in accordance with applicable subdivision design standards. No public improvements are required for this subdivision.
5. *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.*
Water service is to be provided by individual on site wells operated under a State approved Water Augmentation Plan.

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6. *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.*
Wastewater is intended to be treated via individual on site septic systems designed, constructed and operated under State and County Health Department rules and regulations and in accordance with the Groundwater Determination or future water decree.
7. *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)].*
A soils report has been prepared for the site and the owner will comply with the recommendations of the report. Areas were encountered where the geologic conditions will impose some constraints on development and land use. These include areas of potentially seasonal shallow groundwater, potential expansive soils, locations of On-site Wastewater Treatment Systems (OWTS), and radon which can be satisfactorily mitigated through avoidance or proper engineering design and construction practices. Based on the proposed minor subdivision, it appears that these areas will have minor impacts on the development. These conditions are discussed in further detail in the Soil, Geology, and Geologic Hazard Study produced by Rocky Mountain Group (RMG).
8. *Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM.*
The proposed minor subdivision is consistent with the submitted Final Drainage Report. There are no Drainage facilities needed or proposed with this development at this time. The owner will comply with the requirements of the drainage report.
9. *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.*
Lots 2-4 shall have access to Tanner Trail along an existing gravel driveway which will be dedicated as a private road. A proposed ingress/egress easement will be placed along the west lot line of Lot 1 and along the south property line of all lot lines which will contain the proposed gravel road. The responsibility and maintenance of said access shall be carried out as described in a separate private access maintenance agreement. Lot 1 will have direct access to Tanner Trail via a separate gravel driveway.
10. *Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.*
The site is located within the jurisdiction of the El Paso County Sheriff's Office. The sheriff's office currently provides police protection for the site and surrounding area. Graupner Subdivision is located within the Falcon Fire Protection District which already provides fire protection for the site and has agreed to serve this subdivision. Water and sanitary sewer provisions are discussed in items 4 & 5 above. The property is located within the service areas of Mountain View Electric Association and El Paso County School No. 49 which will serve the subdivision. Future owners will utilize propane instead of a natural gas line as a natural gas main is not located within 1 mile of the subdivision. Transportation is being facilitated by the existing adjacent roadway system.
11. *The Minor Subdivision plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code.*

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Graupner Subdivision is located within the Falcon Fire Protection District which is providing fire protection for the site and the surrounding area. The district has agreed to serve this subdivision. Building permits for each structure shall be in accordance with the requirements of the fire district as administered by the Pikes Peak Regional Building Department.

12. *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.*

All offsite impacts are determined to be insignificant with the addition of two residences to the site already containing one residence. The owner(s) will be responsible to pay park, school, drainage and Traffic Impact fees.

13. *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.*

There are no public facilities or infrastructure required or proposed for this subdivision. The platting of the site will include the collection of the applicable School Fees, Park Fees, Drainage Fees and Traffic Impact Fees due for this project.

14. *The subdivision meets other applicable sections of Chapter 6 and 8.*

Upon approval of a waiver to the LDC section 8.4.3 (B) stating “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)”, the subdivision will meet the requirements of the Land Development Code. The subdivision is in accordance with the Land Development Code with respect to zoning, lot size, building setbacks, provision of utilities and storm drainage. The waiver is requested with this application to allow access by one common private driveway for the three proposed lots. The code allows up to three lots to access one driveway, however the waiver is needed to address the lack of road frontage onto a public roadway for proposed Lots 2,3, and 4. The waiver is more fully discussed below.

15. *The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et seq.].*

There are no Mineral estate owners found for this site.

Requested Waiver:

As previously mentioned, a waiver from LDC section 8.4.3 (B) is requested. The provision requires that “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”. Proposed Lots 2-4 will gain access by way of the existing driveway to be dedicated into a private road which connects the site to Tanner Trail near the northwest corner of the site. Proposed Lot 1 will have direct access to Tanner Trail and access to the private road is not necessary. The responsibility and maintenance of said access shall be carried out as described in a separate private access maintenance agreement.

Proposed Lots 2-4 can be connected along the proposed private road where an ingress/egress easement is found along the west and south lot lines. Since the Land Development Code allows access for up to three lots from one private driveway, it is most practical for proposed Lots 2-4 to be able to access by a single drive, rather than extending a public roadway into the site. The arrangement eliminates the need for additional public right-of-way and additional public maintenance to serve the three large lot rural residential single family lots. Private access drives, coupled with private maintenance agreements have been shown to be effective and efficient modes of access for up to three lots within the county. The driveway will also have a much diminished impact on the natural terrain and landscape of the site compared to a public roadway which would be much larger dedication and require far more disturbance than a smaller private road.

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Each criteria for approval of waivers as stated in section 7.3.3 of the El Paso County Land Development Code (2021) is listed below followed by the appropriate justification.

1. *The waiver does not have the effect of nullifying the intent and purpose of this code;* The request for a waiver of the LDC section 8.4.3 (B) does not go against the intent and purpose of this code. This request is in line with the requirements set forth in the LDC, and the shared driveway will comply with all applicable design standards.
2. *The waiver will not result in the need for additional subsequent waivers;* With the approval of this waiver the lots will each be provided the required access necessary for their development. There will be no need for additional waivers as all applicable requirements of the El Paso County Land Development Code will be met.
3. *The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;* The proposed shared driveway will be constructed to provide safe and reliable access to each lot on the site. The responsibility and maintenance of said driveway shall be carried out as described in a private access maintenance agreement. The driveway will not pose a threat to the public safety, health, or welfare, nor will it be injurious to any other 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;* Because proposed Lots 2-4 are adjacent to each other and does not contain more than three lots, a single driveway may be used to provide access to the entire site in lieu of a public road.
5. *A particular non-economical hardship to the owner would result from a strict application of this code;* With strict application of this code, the subdivision would be required to access by a public roadway in a 60-foot right-of-way constructed to El Paso County standards. The public road would significantly increase disturbance of the natural terrain and forest as well as the impervious area of the site while increasing the maintenance responsibility of the county.
6. *The waiver will not in any manner vary the zoning provisions of this code;* The proposed shared driveway will comply with all zoning provisions of this code.
7. *The proposed waiver is not contrary to any provision of the master plan;* The proposed shared driveway is in harmony with the goals of the master plan with regard to preserving place type characteristics and preserving natural features.

Existing and Proposed Facilities:

Existing improvements within these parcels are related to the existing residential use of the site, located in the center-south portion of proposed Lot 4. There are no proposed facilities/improvements as the existing gravel road already connects the existing buildings in proposed Lot 4 to Tanner Trail.

Total Number Of Residential Units And Densities:

The gross area of Graupner Subdivision is 41.021 ± acres and the site is proposed to contain four single-family residential units. The average lot size for the four proposed lots is 10.255 ± acres. The gross density of the site is 0.097 units per acre. Each lot meets the minimum lot size of 5 acres or greater.

Fire Protection:

The Graupner Subdivision property is located within the Falcon Fire Protection District. The Falcon Fire Protection District already serves existing parcel and has sent a Service Commitment Letter for the proposed lots. The lots and homes are subject to the codes and policies adopted by the said district regarding fire protection.

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Proposed Access Locations:

The current access location for Graupner Subdivision is 14710 Tanner Trail located at the northwest property corner of the existing parcel. The existing gravel driveway along the west and south property lines serves as the current access for the existing buildings in proposed Lot 4. Proposed Lot 1 will have a separate gravel driveway with direct access to Tanner Trail at the northwest corner of said lot. Proposed Lots 2-4 will be accessed via the existing gravel driveway which will be dedicated as a private road.

Traffic Impact and Traffic Impact Fees:

For all proposed lots, there will be one existing and three proposed single family residential units with access to Tanner Trail. The development is expected to generate a total of 38 trips per day based on 9.44 trips per unit for Single Family Detached Housing (Average weekday trips ends), 3 trips in the peak AM Hour (0.75 trips/unit for peak AM traffic), and 4 trips in the peak PM hour (1.00 trips/unit for peak PM traffic) according to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers. This number of trips is below the County threshold of 100 trips per day or 10 trip during the peak hour. Therefore, a Transportation Impact Study (TIS) is not required for the project. This development is subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 19-471. The owners have elected to not be included in any Public Improvements District. Traffic Impact Fees will be paid at time of building permit.

Z:\61176\Documents\Letter of Intent\61176-LetterOfIntent- Minor Sub.odt



October 31, 2023

Kylie Bagley
El Paso County Planning and Community Development
Transmission via EDARP portal

**Re: The Ranch at Woodlake Minor Subdivision/Grapner Subdivision EA223 MS237
Sec. 32, T11S, R64W of the 6th PM
Water Division 2, Water District 10**

Dear Kylie Bagley,

We have reviewed your October 23, 2023 submittal concerning the above referenced proposal to subdivide 41.016 acres into 4 lots ranging in size from 5 acres to 26 acres.

Water Supply Demand

According to the submittal, the proposed uses and estimated water requirements for the four lots are per lot 0.26 acre-feet per year for household use, 0.105 acre-feet per year for irrigation of 1,800 square feet of lawn or garden, 0.12 acre-feet per year for watering 2 horses or equivalent livestock which totals 1.94 acre-feet per year.

Source of Water Supply

The proposed source of water is individual on lot wells producing from the not-nontributary Dawson aquifer that will operate pursuant to the Determination of Water Right and replacement plan) No. 4232-BD. The allowed average annual amount of withdrawal provided for in Determination of Water Right no. 4232-BD is 9.67 acre-feet. The replacement plan approved for Determination of Water Right 4232-BD allows for an average diversion of 3.88 acre-feet annually for a maximum of 300 years.

The subdivision lies within the allowed place of use of Determination of Water Right no. 4232-BD, and the proposed uses are uses allowed by that Determination.

The proposed source of water for this subdivision is a bedrock aquifer 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. According to 37-90-107(7)(a), C.R.S., "Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years." Based on this allocation approach, the annual amounts of water determined in 4232-BD are equal to one percent of the total amount, as determined by rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

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

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

The 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 three hundred years, the allowed average annual amount of withdrawal of 9.67 acre-feet/year would be reduced to one third of that amount, or



3.22 acre-feet/year, which is greater than the annual demand for this subdivision. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

State Engineer's Office Opinion

Based upon the above and 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.

Our opinion that the water supply is **adequate** is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.

Our opinion that the water supply can be **provided without causing injury** is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory **allocation** approach, for the proposed uses on the subdivided land is greater than the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision.

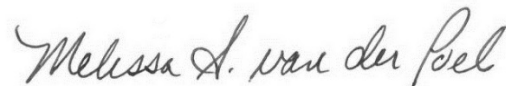
Our opinion is qualified by the following:

The Ground Water Commission has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, and identified in this letter, are calculated based on estimated current aquifer conditions. For planning purposes the county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 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.

Should you have any questions, please contact me in this office at 303-866-3581.

Sincerely,



Melissa A. van der Poel, P.E.
Water Resources Engineer

cc: Subdivision File 31014
Water well permit nos. 86101-F

County Attorney

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January 18, 2023

MS-23-7 Graupner 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 the Graupner Subdivision, a minor subdivision application by Christopher and Rachel Villanueva (“Applicant”) for a 4-lot subdivision on 41.016 acres (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 1.94 acre-feet/year, comprised of 1.04 acre-feet/year for household use for 4 single-family dwellings, 0.42 acre-feet/year for irrigation of 1,800 sq. ft. per lot, and 0.48 acre-feet/year for stock watering of 2 animals per lot. Based on this total demand, Applicant must be able to provide a supply of 582 acre-feet of water (1.94 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from up to four (4) wells,¹ including one existing (Well Permit No. 86101-F), withdrawing from the not-nontributary Dawson aquifer as provided in Determination of Water Right No. 4232-BD (“Determination”) and Replacement Plan No. 4232-RP (“Replacement Plan”). The Determination allocated 2,900 acre-feet of Dawson aquifer water to the property. The Replacement Plan allows water to be withdrawn from the Dawson aquifer through up to 8 wells in an annual amount that shall not exceed 3.88 acre-feet for up to 300

¹ The Replacement Plan allows for withdrawal from up to eight (8) wells, which was initially what the Applicant requested. The demand has been changed to accommodate four lots.

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years. The allowed annual amount of water to be withdrawn from each on-lot well shall not exceed 0.485 acre-feet to be used for domestic, irrigation (indoor and outdoor), agricultural, livestock, replacement, commercial, industrial and fish and wildlife.

The approved Replacement Plan has a term of 300 years and requires that septic system return flows be used for replacement during the pumping period for the approved wells.

State Engineer's Office Opinion

4. In a letter dated October 31, 2023, the State Engineer stated that “[t]he proposed source of water is individual on lot wells producing from the not-nontributary Dawson aquifer that will operate pursuant to the Determination of Water Right and replacement plan No. 4232-BD. The allowed average annual amount of withdrawal provided for in Determination of Water Right no. 4232-BD is 9.67 acre-feet. The replacement plan approved for Determination of Water Right 4232-BD allows for an average diversion of 3.88 acre-feet annually for a maximum of 300 years.” This equates to 0.485 annual acre-feet for each of eight (8) lots, which in turn totals 1.94 acre-feet per year for the four (4) requested lots.

Finally, the State Engineer stated that, “... pursuant to 30-28-136(1)(h)(l) 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 Graupner Subdivision is 1.94 acre-feet per year for a total demand of 582 acre-feet for the subdivision for 300 years. The Replacement Plan allows for four (4) wells necessary to meet the needs of this subdivision, limited to an annual withdrawal of 0.485 acre-feet per well, for a total of 1.94 acre-feet.

Based on the water demand of 1.94 acre-feet/year for the Graupner Subdivision and the Replacement Plan permitting withdrawals in that amount, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the Graupner Subdivision.

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 August 1, 2023, the Water Supply Information Summary, the State Engineer's Office Opinion dated October 31, 2023, Replacement Plan No. 4232-RP for Determination of Water Right No. 4232-BD entered on September 28, 2021. 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 Colorado Ground Water Commission Determination of Water Right No. 4232-BD and Replacement Plan No. 4232-RP, specifically, that water withdrawn from the Dawson aquifer shall not exceed 0.485 annual acre-feet per well for up to eight (8) wells,² based on a total combined annual withdrawal of 1.94 acre-feet. Depletions during pumping shall be replaced by individual on-lot non-evaporative septic systems.

B. The County prefers that when there is a replacement plan, Applicant create a homeowners' association ("HOA") for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water decree and replacement plan for the property. For a four-lot subdivision such as this, however, in which the replacement of post-pumping depletions is not required, 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 Determination of Water Right No. 4232-BD and Replacement Plan No. 4232-RP, including the limitations on diversions and use of water for each well and lot, the requirement to meter and record all well pumping, and information on how records are to be recorded.

Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 582 acre-feet of not-nontributary Dawson aquifer water pursuant to Determination of Water Right No. 4232-BD and Replacement Plan No. 4232-RP to satisfy El Paso County's 300-year water supply requirement for the four (4) lots of the Graupner Subdivision. The Covenants shall further identify that 145.5 acre-feet (0.485 acre-feet/year) of Dawson aquifer water is allocated to each lot. 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 Dawson wells in a manner to replace depletions during pumping.

² The Applicant is only requesting a total of 4 wells which equals to 1.94 acre-feet.

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 more specifically shall require that at least one well must be serving an occupied single-family dwelling that is generating return flows via a non-evaporative septic system before any other use is allowed to be served by any of the wells. 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 Determination of Water Right No. 4232-BD and Replacement Plan No. 4232-RP 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 Dawson aquifer.

6) Require well permits. The Covenants shall require that well permits be obtained pursuant to the requirements of Determination of Water Right No. 4232-BD and Replacement Plan No. 246-RP 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 Graupner Subdivision pursuant to Determination of Water Right No. 4232-BD and Replacement Plan No. 4232-RP. 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 Colorado Ground Water Commission 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 Determination of Water Right No. 4232-BD and Replacement Plan No. 4232-RP are also terminated by the Colorado Ground Water Commission 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 Dawson aquifer water in the decreed amount of 582 acre-feet (1.94 acre-feet per year). 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 Dawson aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Dawson aquifer 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 supply (Dawson aquifer): "These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during pumping, for each of the lots of the Graupner Subdivision. 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 Determination of Water Right No. 4232-BD and Replacement Plan No. 4232-RP 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 Determination of Water Right No. 4232-BD, Replacement Plan No. 4232-RP, 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. Applications for well permits submitted by persons other than the Applicant must include evidence that the permittee has acquired the right to the portion of the water being requested.

I. 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: Kylie Bagley, Project Manager, Planner

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. MS237

GRAUPNER SUBDIVISION

WHEREAS, M.V.E. Inc. did file an application with the El Paso County Planning and Community Development Department for approval of a final plat for the Graupner Subdivision for the 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 March 7, 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 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 minor subdivision, the Planning Commission and Board of County Commissioners 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):

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 Land Development Code ("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 system, 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 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.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of M.V.E Inc. for a minor subdivision final plat of the Graupner 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. Park fees in lieu of land dedication for regional parks in the amount of \$2,020 and urban park fees in the amount of \$0 shall be paid at the time of plat recordation.
9. Fees in lieu of school land dedication in the amount of \$960 shall be paid to El Paso County for the benefit of School District #49 at the time of plat recording.

10. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 1/18/2023, as provided by the County Attorney's Office.

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
Brandy Merriam	aye / no / non-voting / recused / absent
Eric Moraes	aye / no / non-voting / recused / absent
Kara Offner	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 Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 7th day of March 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
Thomas Bailey, Chair

EXHIBIT A

THAT PORTION OF THE NORTH HALF OF THE SOUTHEAST QUARTER AND THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH P.M., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS ON THE SOUTHERLY LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF SECTION 32 AND IS THE MOST SOUTHEASTERLY CORNER OF WOODLAKE FILING NO. 3 AS RECORDED IN PLAT BOOK G-3 AT PAGE 60 OF THE RECORDS OF EL PASO COUNTY, COLORADO;

THENCE FOLLOWING ALONG THE EAST BOUNDARY OF SAID FILING NO. 3 FOR ONE COURSE;

(1) THENCE NORTH 00 DEGREES 33 MINUTES 14 SECONDS WEST, 569.89 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF TANNER TRAIL;

THENCE EASTERLY FOLLOWING ALONG SAID RIGHT-OF-WAY LINE FOR THE NEXT TWO (2) COURSES;

(1) THENCE ANGLE RIGHT 79 DEGREES 47 MINUTES 36 SECONDS TO THE TANGENT OF A CURVE TO THE RIGHT, WHOSE RADIUS IS 670.00 FEET, THROUGH A CENTRAL ANGLE OF 06 DEGREES 57 MINUTES 50 SECONDS, AN ARC LENGTH OF 81.43 FEET TO A POINT OF CURVATURE; THENCE ANGLE RIGHT 60 DEGREES 05 MINUTES 38 SECONDS TO THE TANGENT OF A CURVE TO THE LEFT WHOSE RADIUS IS 50.00 FEET, THROUGH A CENTRAL ANGLE OF 49 DEGREES 53 MINUTES 14 SECONDS, AN ARC LENGTH OF 43.53 FEET;

THENCE NORTH 89 DEGREES 26 MINUTES 46 SECONDS EAST 1739.61 FEET;

THENCE NORTH 00 DEGREES 59 MINUTES 53 SECONDS WEST, 567.20 FEET;

THENCE NORTH 87 DEGREES 37 MINUTES 00 SECONDS EAST, 653.67 FEET;

THENCE SOUTH 00 DEGREES 44 MINUTES 06 SECONDS EAST, 1148.01 FEET TO INTERSECT THE SOUTHERLY LINE OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 32;

THENCE FOLLOWING ALONG SAID SOUTHERLY LINE SOUTH 89 DEGREES 22 MINUTES 15 SECONDS WEST, 1279.05 FEET;

THENCE ALONG THE SOUTHERLY LINE OF THE NORTH HALF OF THE SOUTHWEST QUARTER, SOUTH 89 DEGREES 26 MINUTES 46 SECONDS WEST, 1232.19 FEET TO THE POINT OF BEGINNING, COUNTY OF EL PASO, STATE OF COLORADO.