

**EL PASO**  **COUNTY**  
COLORADO

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

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**TO: El Paso County Board of County Commissioners**  
**Stan VanderWerf, Chair**

**FROM: Kari Parsons, Senior Planner**  
**Lupe Packman, PE, Engineer I**  
**Kevin Mastin, Interim Executive Director**

**RE: Project File Nos.: P-20-006 and MS-20-005**  
**Project Name: Jeanette Mose Map Amendment (Rezone) and Minor**  
**Subdivision**  
**Parcel No.: 42080-00-013**

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
Perry and Jeanette Marie Mose 12572 Mount Oxford Place Peyton, CO. 80831	Joseph Alessi 2989 Broadmoor Valley Road Colorado Springs, CO. 80906

**Commissioner District: 2**

Planning Commission Hearing Date:	7/7/2022
Board of County Commissioners Hearing Date:	7/19/2022

**EXECUTIVE SUMMARY**

A request by Perry and Jeanette Mose for approval of a map amendment (rezoning) of 5.31 acres from A-5 (Agricultural) to RR 2.5 (Residential Rural), and for approval of a minor subdivision to create two (2) single-family residential lots. The 6.11-acre property is located north of Latigo Boulevard, west of Eastonville Road, south of the intersection of Pawnee Trail Court and Halleluiah Trail and is within Section 8, Township 12 South, Range 64 West of the 6th P.M.

## **A. REQUEST/WAIVERS/DEVIATIONS/ AUTHORIZATION**

**Request:** A request by Perry and Jeanette Mose for approval of a map amendment (rezoning) of 5.31 acres from A-5 (Agricultural) to RR 2.5 (Residential Rural), and for approval of a minor subdivision to create two (2) single-family residential lots. A finding of water sufficiency for water quality, quantity and dependability is also requested.

**Waiver(s)/Deviation(s):** There are no waivers or deviations associated with this request.

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

## **B. Planning Commission Summary**

**Request Heard:** As a consent item on July 7, 2022

**Recommendation:** Approval based on recommended conditions and notations.

**Waiver Recommendation:** N/A

**Vote:** 8 to 0

**Vote Rationale:** N/A

**Summary of Hearing:** The applicant was represented at the hearing. Planning Commission minutes are attached.

**Legal Notice:** Advertised in Shopper's Press on June 29, 2022

## **C. APPROVAL CRITERIA**

In approving a map amendment (rezoning), the Planning Commission and the Board of County Commissioners (BoCC) shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2021):

- The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
- The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

In approving a minor subdivision, the BoCC shall find that the request meets the final plat criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2021):

Final Plat Criteria for Approval:

- 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 the Land Development Code (“Code”).
- 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.
- 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.
- 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.
- 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 the Code and the Engineering Criteria Manual (“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 and in compliance with the Code and the ECM.
- The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, 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 the Code.
- The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.
- 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.
- 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 extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

**D. LOCATION**

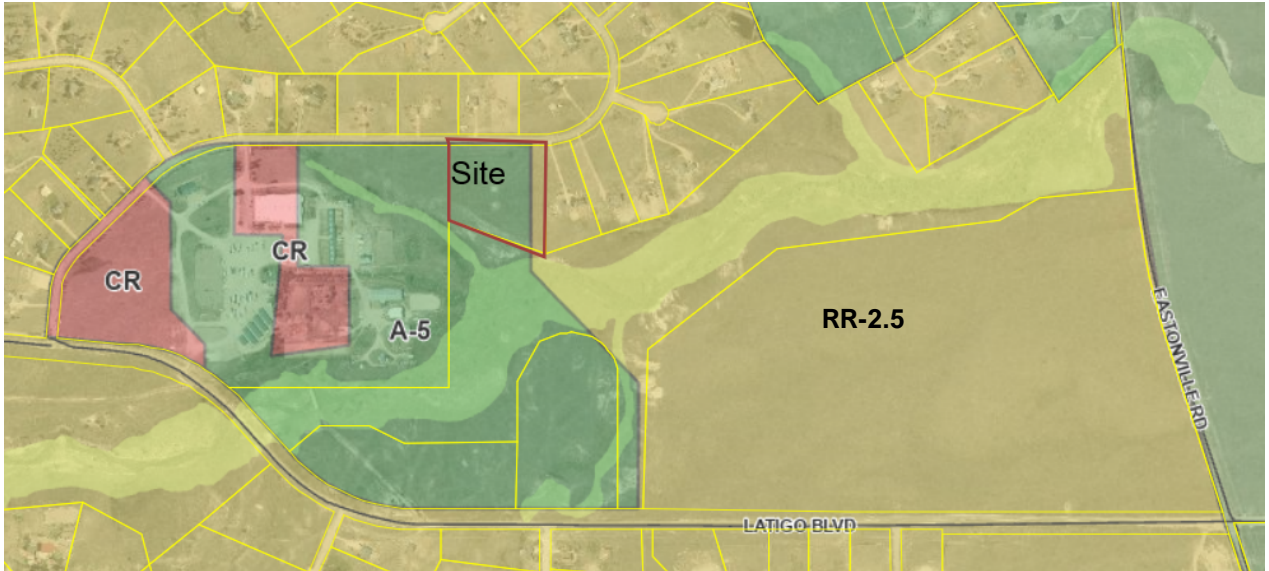
North:	RR-2.5 (Residential Rural)	Single-family detached residential
South:	A-5 (Agricultural)	Open-space
	RR 2.5 (Residential Rural)	
East:	RR-2.5 (Residential Rural)	Single-family detached residential
West:	A-5 (Agricultural)	Agricultural/ Equestrian Center

**E. BACKGROUND**

5.31-acres of the property was initially zoned A-2 (Agricultural) on February 28, 1985, (PCD File No. P-84-051) as part of the Trails at Latigo Development. Due to changes in nomenclature of the El Paso County Land Development Code, the A-2 zoning district was renamed in 1991 to A-1 (Agricultural) and was again renamed in 2007 to A-5 (Agricultural). This portion of the subject property is requested to be rezoned to from A-5 to RR-2.5 (Residential Rural) zoning district.

The eastern portion (0.8-acres) of the 6.11-acre subject property, was initially zoned A-6 (Agricultural) on February 28, 1985 (PCD File No. P-84-47) also, as part of the Trails at Latigo Development). Due to changes in nomenclature of the El Paso County Land Development Code, the A-6 zoning district was renamed in 1991 to RR-2 (Residential Rural) and was again renamed in 2007 to RR-2.5 (Residential Rural).

The Pikes Peak Range Riders Foundation / Latigo Trails Equestrian Center zoned A-5, and CR (Commercial Regional) lies immediately adjacent to the west of the property which was established in 1977, prior to zoning for the area. South of the subject parcel, a 65-acre open space and drainage tract was dedicated to the County in 2007 as part of the overall Trails at Latigo development via warranty deed, containing the Black Squirrel Creek which is owned by El Paso County.



Zoning Map

The applicants are requesting to rezone the A-5 zoned (5.31-acres) portion of the property to RR-2.5 zoning district, so that the entire 6.11-acre parcel may be platted into two (2) lots for single-family residential development. The final plat must be recorded prior to conveyance of the lots, or issuance of a building permits for single-family residences. No public improvements are required with this plat request.

## F. ZONING ANALYSIS

### 1. Land Development Code Analysis

The applicants are proposing a map amendment (rezoning) of 5.31 acres from A-5 to RR-2.5. Section 5.3.5, Map Amendment of the Land Development Code (2021) states:

“The purpose of zoning is to locate particular land uses where they are most appropriate, considering public utilities, road access, and the established development pattern. In addition to categorizing land by uses such as residential, commercial, and industrial, the LDC also specifies such details as building setback lines, the height and bulk of buildings, the size and location of open spaces, and the intensity to which the land may be developed. The zoning of parcels of land generally conforms to and promotes the County's Master Plan. Zoning protects the rights of property owners while promoting the general welfare of the community. By dividing land into categories according to use, and setting regulations for these categories, zoning governs private land use and segregates incompatible uses.

Generally, rezoning is justifiable under one of the following circumstances:

- When the requested rezoning is in general conformance or consistency with the County's Master Plan;
- If inconsistent with the Master Plan, a material change in the character of the area since the date of the current zoning is demonstrated;
- When there was an error or oversight in the original zoning of the property; or
- The zone change is necessary for the general health, safety, or welfare of the community.”

The map amendment (rezoning) request is contiguous to existing RR-2.5 zoned properties within the Trails at Latigo development and is consistent with the Your El Paso County Master Plan (2021). The map amendment application meets the purpose of zoning and criteria of approval, in Chapter 5, and of the El Paso County Land Development Code (2021).

The final plat application meets the final plat submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the El Paso County Land Development Code (2021).

## 2. Zoning Compliance

The subject parcel is proposed to be zoned RR-2.5 (Residential Rural). The RR-2.5 zoning district is intended to accommodate low-density, rural, single family residential development. The density and dimensional standards for the RR-2.5 zoning district are as follows:

- Minimum lot size: 2.5 acres \*
- Minimum width at the front setback line: 200 feet
- Minimum setback requirement: front 25 feet, rear 25 feet, side 15 feet \*
- Maximum lot coverage: none
- Maximum height: 30 feet

\*Agricultural stands shall be setback a minimum of 35 feet from all property lines.

The two (2) proposed lots will meet the minimum lot size of two and one-half (2.5) acres.

## G. MASTER PLAN ANALYSIS

### 1. Master Plan Analysis

#### a. Your El Paso Master Plan

- i. **Placetype:** Large Lot Residential

**Placetype Character:**

“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 waste-water 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.”

**Recommended Land Uses:****Primary**

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

**Supporting**

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





Figure: Placetype Map

**Analysis:**

The property is located within the Large Lot Residential placetype. The Large Lot Residential placetype supports the rural character of El Paso County which enables unique and desirable neighborhoods. Relevant goals and objectives are as follows:

**Goal 1.3** – *Encourage a range of development types to support a variety of land uses.*

**Objective LU1-1** – *Some areas of the County should be planned for new development, while other areas should be preserved, protected, or see little new development*

**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 E2-1** – *Promote conservation design techniques for any future development near riparian areas to protect them through incorporation into the development.*

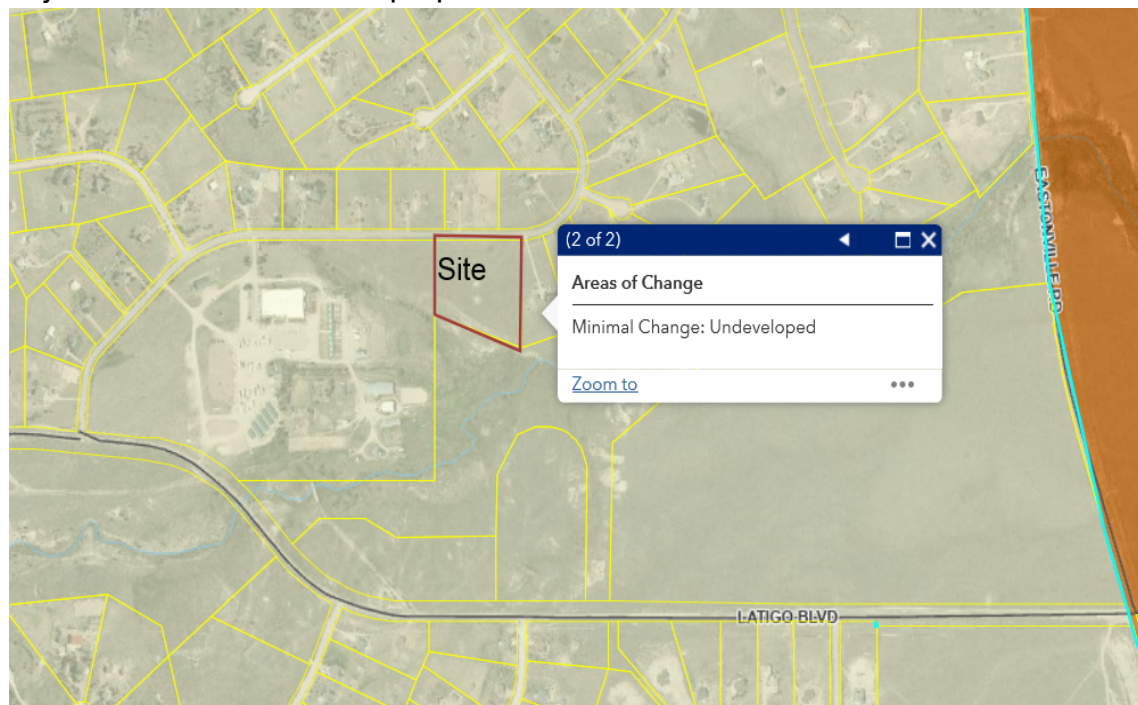
**Objective HC2-6** – *Continue to carefully analyze each development proposal for their location, compatibility with the natural environment, and cohesion with the existing character.*

- ii. **Area of Change Designation:** The subject parcel is within an area of Minimal Change: Undeveloped Area designation. The Plan states:

“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.”

**Analysis:**

The proposed rezone from A-5 to RR-2.5 and requested two-lot subdivision plat is not anticipated to cause a change in character of the area. The adjacent properties to the north and west are zoned RR-2.5. The proposed density and use are consistent with the adjacent residential zoned properties.



- iii. **Other Implications (Priority Development, Housing, etc.)**  
The subject property is not located within a Priority Development Area.

iv. **Key Area Influences:**

The subject property is not located within a Key Area.

**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.*

***Goal 1.2** – Integrate water and land use planning*

***Policy 4.3.5** – Encourage plans to recharge the Upper Black Squirrel Creek Aquifer if such plans are based on sound science and can be demonstrated to not adversely impact water quality or water rights, with a preference for those plans which will maintain or enhance the available water supply at a regional scale.*

The subject parcels are in Region 4c of the El Paso County Water Master Plan. Region 4c contains one small projected growth area by 2040 located between Highway 94 and Highway 24 along the Region 8 boundary. Further development will likely be located along the Highway 94 corridor in Region 4c by 2060, due to proximity to Schriever Air Force Base. The largest development in Region 4c is expected to occur by 2060 along the west side of Meridian Road north of Fountain.

Region 4c has a current water supply of 2,970-acre feet per year and a current demand of 2,970-acre feet per year. The 2040 water supply is projected to be 3,027-acre feet per year and the projected demand is 3,967-acre feet. The 2060 water supply is projected to be 3,027-acre feet per year, whereas the demand is anticipated to be 4,826-acre feet per year; therefore, there is projected to be a shortage supply of water for central water providers in this region of the County. The requested two (2) lots within the final plat are proposed to be served by individual wells.

A finding of water sufficiency regarding quantity, dependability, and quality is being requested with the proposed minor subdivision request.

## 1. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. El Paso County Community Services Department, Environmental Services Division, and the US Fish & Wildlife Services were each sent referrals and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies valley fill comprised of sand and gravel with silt and clay deposited by water in one or a series of stream valley in the area of the subject parcel. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

The Parks Advisory Board has provided a response which includes an analysis regarding conformance with The El Paso County Parks Master Plan (2013). Please see the attached Parks Advisory Board response for more information. Fees in lieu of regional park land dedication (Area 2) in the amount of \$934.00 will be due at the time of plat recordation.

Please see below for more information regarding the El Paso County 2016 Major Transportation Corridors Plan Update (MTCP).

## H. PHYSICAL SITE CHARACTERISTICS

### 1. Hazards

No hazards were identified in the Soils Report for Lot 1, prepared by Geoquest, LLC dated May 27, 2020, that would preclude development. The applicants have placed a large no-build area within the rear of the lots which serves to avoid the geological constraints associated with the adjacent Black Squirrel Creek riparian corridor and is anticipated to protect the natural features located within and adjacent to the corridor. In addition, the following note has been depicted on the plat:

“All structural foundations shall be located and designed by a Professional Engineer, currently registered in the State of Colorado. May include engineered drain systems to mitigate high groundwater conditions. Natural drainage locations shall be avoided by construction and site-specific foundation/septic investigations shall be required. May include engineered drain systems to mitigate high groundwater conditions. As noted in the site-specific Soils Report for Lot 1, prepared by Geoquest, LLC dated May 27, 2020. Seasonally shallow groundwater

was encountered at the time of drilling on May 12, 2020. Geoquest, LLC recommends, "the excavation of foundation components must not penetrate more than 5 feet". The foundation is to rest directly on undisturbed material and be designed for a loading of not greater than 1,500 pounds per square foot. Any design by any engineer is subject to revision based on the result of the open hole observation". The OWTS Study by RMG, dated July 24, 2021, addresses Lot 1 and Lot 2. There are no additional hazards on Lot 1 or Lot 2 that cannot be mitigated with appropriate planning, engineering and local construction practices."

## **2. Floodplain**

FEMA Flood Insurance Rate Map panel number 08041C0339G shows the site is in Zone X. There are no requirements for any improvements for this application.

## **3. Drainage and Erosion**

The property is located within the Upper Black Squirrel (CHBS2000) drainage basin, which does not have associated drainage or bridge fees. Drainage reports providing hydrologic and hydraulic analysis were not required since the subdivision only includes two lots. The site also does not have any major drainage features that would need to be analyzed. There are no drainage requirements with this application.

## **4. Transportation**

The property obtains access from Halleluiah Trail, a paved rural road which is owned and maintained by El Paso County.

A traffic study was not required with this application since the development does not meet Engineering Criteria Manual criteria thresholds for a traffic study. [El Paso County 2016 Major Transportation Corridors Plan Update](#) (MTCP) depicts roadway improvements in the immediate vicinity. Latigo Boulevard, which is approximately 1,500 feet south of the site, will be updated from a residential collector to a non-residential collector. There are no traffic related requirements other than driveway permits with this application.

The development will be subject to the El Paso County Road Impact Fee program (Resolution 19-471), as amended.

## **I. SERVICES**

### **1. Water**

Sufficiency:

Quality: Sufficient

Quantity: Sufficient

Dependability: Sufficient

Attorney's summary: Water service to the subject property is provided by on-site wells. The State Water Engineer's Office has made a recommendation regarding a finding of adequacy and has stated water can be provided without causing injury to decreed water rights. The County Attorney's Office recommends a finding of sufficiency with regard to water quantity and dependability. El Paso County Public Health has made a recommendation regarding a finding of sufficiency for water quality and has no outstanding comments.

### **2. Sanitation**

The proposed subdivision is intended to be served by individual onsite wastewater treatment systems (septic systems). Individual septic permits will be required to be permitted through El Paso County Public Health and Environment.

### **3. Emergency Services**

The property is within the Falcon Fire Protection District. The District was sent a referral and has no outstanding comments. The applicants have provided a commitment to serve from the District.

### **4. Utilities**

Electrical service is provided by Mountain View Electric Association (MVEA).

Natural gas service is provided by Black Hills Energy. Both agencies were sent a referral and have no outstanding comments.

### **5. Metropolitan Districts**

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

### **6. Schools**

Fees in lieu of school dedication in the amount of \$480.00 for the benefit of Falcon School District No. 49 are required with the minor subdivision application and are due at the time of plat recordation.

## **J. APPLICABLE RESOLUTIONS:**

The map amendment (rezoning) request must be approved prior to the minor subdivision approval.

Map Amendment (Rezoning)

Approval Page 27

Disapproval Page 28

Final Plat

Approval Page 19

Disapproval Page 20

## **K. STATUS OF MAJOR ISSUES**

There are no major issues at this time.

## **L. RECOMMENDED CONDITIONS AND NOTATIONS**

- a. Should the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5, Map Amendment (Rezoning), of the El Paso County Land Development Code (2021), staff recommends the following conditions and notations.

### **CONDITIONS**

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and 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 threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 (Residential Rural) zoning district and with the applicable sections of the El Paso County Land Development Code and Engineering Criteria Manual.

### **NOTATIONS**

1. If a map amendment (rezoning) application has been disapproved by the Board of County Commissioners, resubmittal of the previously denied application will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is an application for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said application. The time limitation of

one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.

2. Map amendment (rezoning) requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.
- b. Should the 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 (2021) 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. 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 Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.



6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 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 (Area 3) in the amount of \$943.00 shall be paid at the time of plat recordation.
9. School fees in lieu of land dedication for the benefit of Falcon School District No. 49 in the amount of \$480.00 shall be paid at the time of plat recordation.
10. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.

## **NOTATIONS**

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

## **M. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified seventeen (17) adjoining property owners on June 16, 2022 for the Planning Commission and the Board of County Commissioner's meeting. Responses will be provided at the hearing.

## **N. ATTACHMENTS**

Vicinity Map  
Letter of Intent  
Rezone Map  
Plat Map  
State Engineer Office Comments  
County Attorney Office Comments

EPCPHE Comments  
PC Draft Minutes  
PC Resolution  
BoCC Resolution

# El Paso County Parcel Information

PARCEL	NAME
4208000013	MOSE GILBERT PERRY JR

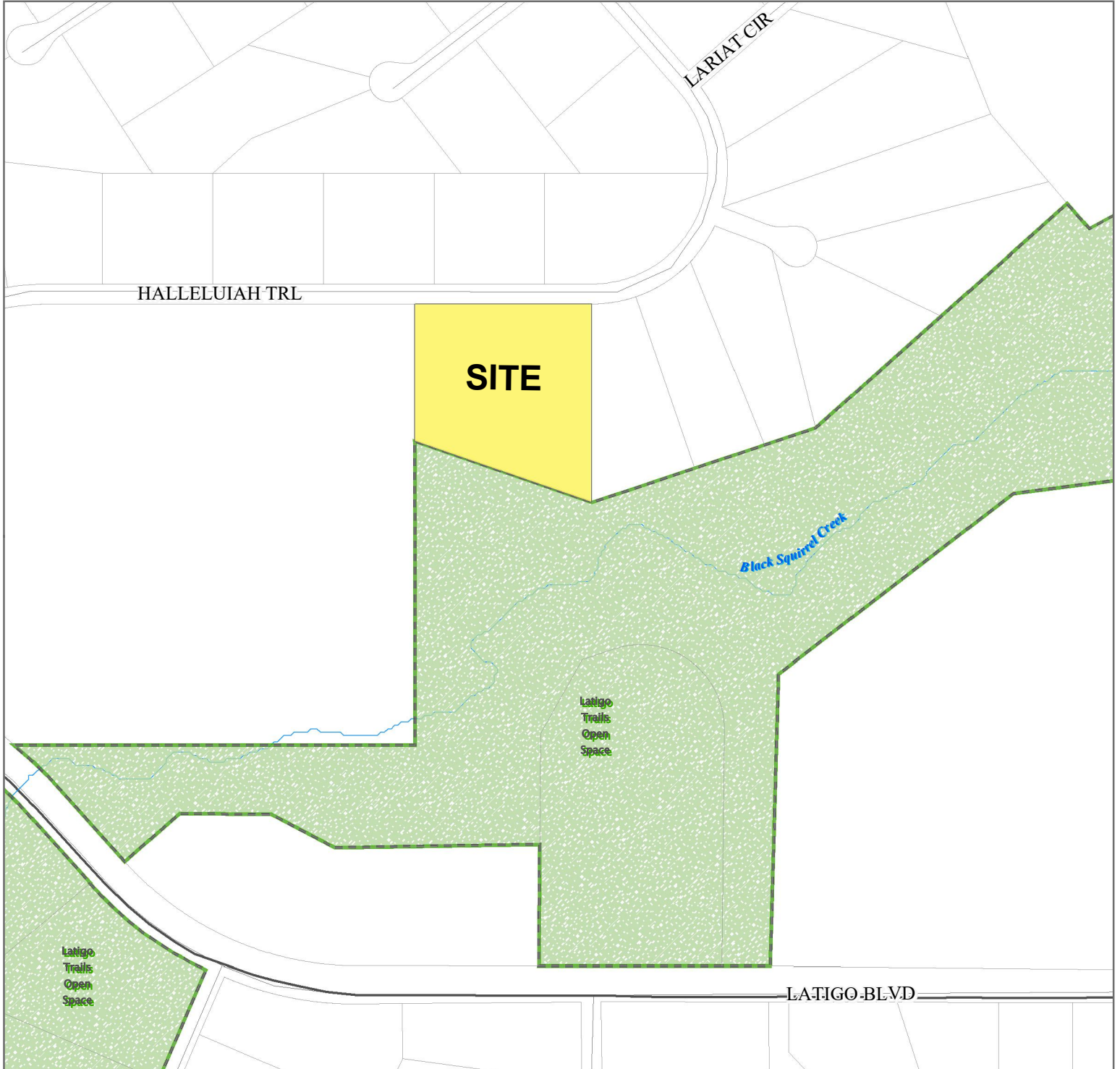
File Name: P-20-006

Zone Map No.: --

ADDRESS	CITY	STATE
12752 MT OXFORD PL	PEYTON	CO

ZIP	ZIPLUS
80831	8205

Date: June 21, 2022



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



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**ALESSI**  
AND ASSOCIATES, Inc.



April 20, 2022

## Letter of Intent

**Jeanette Mose Subdivision  
Minor Subdivision and Zone Change  
0 `Halleluia Trail**

**OWNER:** *Gilbert Perry Mose Jr.  
Jeanette Marie Mose*  
12752 Mt. Oxford Pl.  
Peyton, CO 80831

**CONSULTANT:**

Joseph Alessi PLS  
Alessi and Associates, Inc.  
2989 Broadmoor Valley Road, Suite C  
Colorado Springs, CO 80906  
Tele: 719-540-8832                      fax# 719-540-2781

**SITE LOCATION:**

Property Address: 0 Halleluia Trail, Peyton, CO. The property is approximately two and one half miles East of the intersection of Meridian Road and Latigo Boulevard, and within a portion of the Southeast Quarter of Section 8, Township 12 South, Range 64 West of the 6th P.M., El Paso County, Colorado.

**SITE BACKGROUND:**

Property currently is a 6.12 acre more or less unplatted and vacant site. A 5.3-acre portion of the site is currently zoned A-5, and an 0.8-acre portion is zoned RR-2.5. The existing land uses in the area are single-family residential to the north and east zoned RR 2.5. To the west is an equestrian center zoned A-5. To the south is an open-space area with an intermittent creek, zoned A-5. Halleluia Trail provides legal access to the site as existing gravel road along the North boundary line. Parcel # 4208000013

# ALESSI and ASSOCIATES, Inc.

Letter of Intent, Page 2  
0 Halleluiah Trail

## **REQUEST:**

1. A request to rezone the 5.3 acres of A-5 land to RR-2.5 zoning district.
2. Request to subdivide into two Lots comprised of proposed Lot 1 = 3.12 Acres, Lot 2 = 3.00 Acres, = 6.12 Acres. Water wells and individual septic systems are proposed for rural/residential use on each Lot. Water sufficiency requested.  
Halleluiah Trail provides access to the proposed Lots. Overhead and underground utility lines located along Halleluiah Trail provide electrical and communication service to the site. Electrical Service is to be provide by MVEA. Natural gas service provided by Black Hills energy is proposed.

## Rezone Criteria:

- *The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;*
- *The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116;*
- *The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and*
- *The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.*

## **JUSTIFICATION:**

The RR-2.5 would allow 2.5 acre residential subdivision with 2.5 plus acre Lots. The total site is comprised of 6.12 acres with a proposed 2 Lot plan with single family dwellings. Proposed lot sizes are 3.0 acres and 3.12 acres with 236 to 293 feet in width and 410 to 595 feet in length. Individual single family construction will take place after the approval of Zoning and Minor Subdivision. During seasonal construction year 2021. Individual well and septic systems are proposed and typical of the area. Access will be to Halleluiah Trail with El Paso County access permits. Off-street parking will be on site as a single family dwelling. Landscaping will be consistent with single family dwelling and inclusive of fire migration protection plan. The application is in general conformance with the El Paso County Master Plan (see MP discussion below). The rezoning is in

compliance with all applicable statutory provisions, including but not limited to CRS 30-28-111, 30-28-113, 30-28-116. The proposed land use and zone district is compatible with the existing and permitted land use and zone districts in North and East directions. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code for the intended zone district.

Final Plat Criteria:

- *The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;*
- *The subdivision is in substantial conformance with the approved preliminary plan;*
- *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;*
- *Either a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code, or, with respect to applications for administrative final plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval;*
- *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 that the proposed subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];*
- *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;*
- *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;*

- *Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;*
- *The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code;*
- *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.]*

**JUSTIFICATION:**

1. The El Paso County Master Plan is an expression of the community's desires for the future of El Paso County. The Plan establishes Core Principals in Housing and Communities to preserve the character of rural and environmentally sensitive areas. This area is built around protecting the forest and preserving its rural quality. Due to this natural amenity, many new residents seek to live in this area when moving to the County areas. The Plan focuses primarily on Land Use as a fundamental core component of a comprehensive plan and represents the first building block upon which other plan components are structured. The approach to land use retains established places, identifies opportunities for growth, and provides strategies to mitigate impacts to the natural environment.

The request complies with the Master Plan and is in general conformance with the Land Use Applications.

- a. The proposed minor subdivision is not located a key area.
- b. This is an area of minimal change undeveloped with significant natural area. Although, this area can see infill development by maintaining the overall character.
- c. The Master Plan identifies this area as Rural Residential. This place type consists mostly of agriculture farm development with single family homes of 2.5 acres or more. This type minor subdivision typically relies on wells and septic systems.

- d. This proposed subdivision is limited with existing infrastructure to this property, i.e. gas, electric and communication services.

#### Core Principles and Goals

Goal 1. Preserve and enhance the sensitive natural environment and unique community character of the Rural Area.

Goal 2. Recognize that agriculture, and other open lands are vital natural resources which should be protected from needless misuse and urban sprawl.

Goal 3. Promote an agriculture farm and residential environment which perpetuates the rural-residential character of the Area.

This proposed rezone and Minor Subdivision are consistent with the existing development along Halleluiah Trail with 2 ½ acre residential building lots exist East and North of the subject property. The subject property appears to be the only undeveloped site along Halleluiah Trail with a majority of 2 ½ acre residential sites. The site is considered an infill area with utility, transportation, emergency services, schools and shopping in the area. The applications are in general conformance with the El Paso County Master Plan.

2. The proposed Minor Subdivision is in conformance with the requirements of the El Paso County Code.  
This request for a two Lot subdivision complies with the El Paso County Minor subdivision requirements. The proposed project meets acceptable soils, geology, drainage, wildfire mitigation and positive construction conditions.
3. The proposed Minor Subdivision is compatible with Existing and proposed Land Uses within the area.  
The request for zone change is consistent with the adjacent Land uses of existing RR-2.5 zones North and East of subject property.
4. The water supply report provides sufficient information to identify probable compliance with the water standards and identifies any need for additional water supplies. Attached documents pertaining to water supply, Determination of Water Rights, Water Replacement Plan, and Quitclaim deed assignment of assumption.  
Annual appropriation is 0.92 acre-feet per year for two homes on well for 300 years. In the findings of the June 27, 2007 Replacement Plan for BD-573, Paragraph 7.b states that the replacement plan includes an annual amount of 2.3 AF to serve a 5-lot subdivision (0.46 AF/lot) for 300 years. The project site will consists of two of the five proposed lots. The specified uses per home includes 0.49 AF/YR for 300 years total to include 0.3 AF/YR in-home use, 1,600 sq. feet of lawn and garden and up to 4 large animals.



- Sufficient for two lots with 0.46 AF/year.
5. Services are or will be available to meet the needs of the subdivision including. El Paso County maintained roads, County Sherriff and the Falcon Fire protection report, Wild fire Hazards Reports and utility services, Mountain View Electric, Black Hills Gas.
  6. The soil is suitable for the subdivision. Clay soils were found on the site and are anticipated to possess low to moderate expansive potential. The soils material are readily mitigated with typical construction practices common to this region of El Paso County, reference Soils and Geology Report by RMG engineers.
  7. The geological hazards do not prohibit the subdivision, or can be mitigated. Based upon the evaluation of geological conditions by RMG engineers Soils and Geology Report, the proposed development is feasible. Geological Hazards were not found to be present on the site.
  8. No known commercial mining operation exist in the subdivision area. Mineral owners have been notified.
  10. The design of the subdivision protects the natural resources as open rangeland. Design of access road protects natural drainage flows and excavation of construction will be confined to the area of individual home construction.
  11. The proposed methods for fire protection are adequate to serve the subdivision. The Falcon Fire District has committed service area protection, with attached mitigation of wildfire report.
  12. The subdivision is appropriate and the design is based on mitigating the constraints of topography, soil types, geologic hazards and environmental resources. Design of access road protects natural drainage flows, topographic constraints and excavation of construction will be confined to the area of individual home construction. This criterion meets with County policy for land development.
  13. Halleluiah Trail connects the Black Forest area to Falcon, Halleluiah Trail to Latigo Blvd East to Meridian Road South to the Falcon area.

### ***SUMMARY***

A gradual transition between rural and urban has affected the area. Major trends and forces affecting the area are the expansions of personnel from Schriever AFB and Peterson AFB, along with the City of Colorado Springs expansion of the Colorado Springs City limits to the East. The subject area has become a desirable place to live and within a close proximity to employment. The changes in the area are smaller 5- and 2.5-acre sites and continuing with the existing rural character. The increase density areas are not recommended in areas of steep slopes, floodplains, subsidence areas, strip mined areas and other unbuildable issues. The subject property is located in an area of rural character predominately single-family homes with accessory buildings. The proposed two Lot subdivision will utilize private wells and individual septic systems. Electric power and communication facilities are available. Community services are available, schools, fire protection, law enforcement, emergency medical services etc. Halleluiah Trail fronts

the property and is an existing County maintained public roadway providing access to the site.

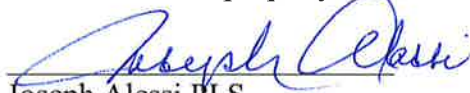
The adjacent properties North and East of the subject property are all Zoned RR-2.5. Request is typical to the area existing land use and Zoning. This zone request will correct the split zone of the subject property and be consistent with adjacent property and typical of the area conditions. The property West of the subject site is the Latigo Trails Equestrian Center, Zoned A-5.

The RR-2.5 would allow 2.5 acre residential subdivision with 2.5 plus acre Lots. The total site is comprised of 6.12 acres with a proposed 2 Lot plan with single family dwellings. Proposed lot sizes are 3.0 acres and 3.12 acres with 236 to 293 feet in width and 410 to 595 feet in length. Individual single-family construction will take place after the approval of Zoning and Minor Subdivision. During seasonal construction year 2021. Individual well and septic systems are proposed and typical of the area. Access will be to Halleluiah Trail with El Paso County access permits. Off-street parking will be on site as a single-family dwelling. Landscaping will be consistent with single family dwelling and inclusive of fire migration protection plan. Both requests, the rezone and minor subdivision applications, meet the approval criteria of the El Paso County Land Development Code.

Note: See attached Zone Map

Your consideration of this request will be greatly appreciated.

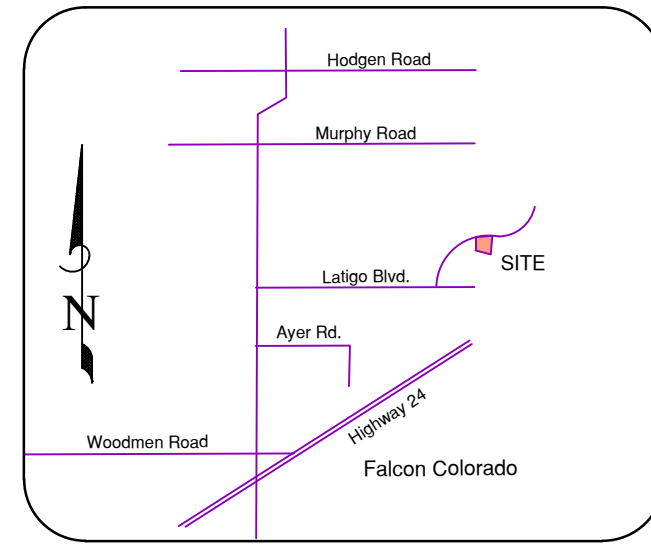
Respectfully Submitted  
On behalf of the property owner

  
Joseph Alessi PLS

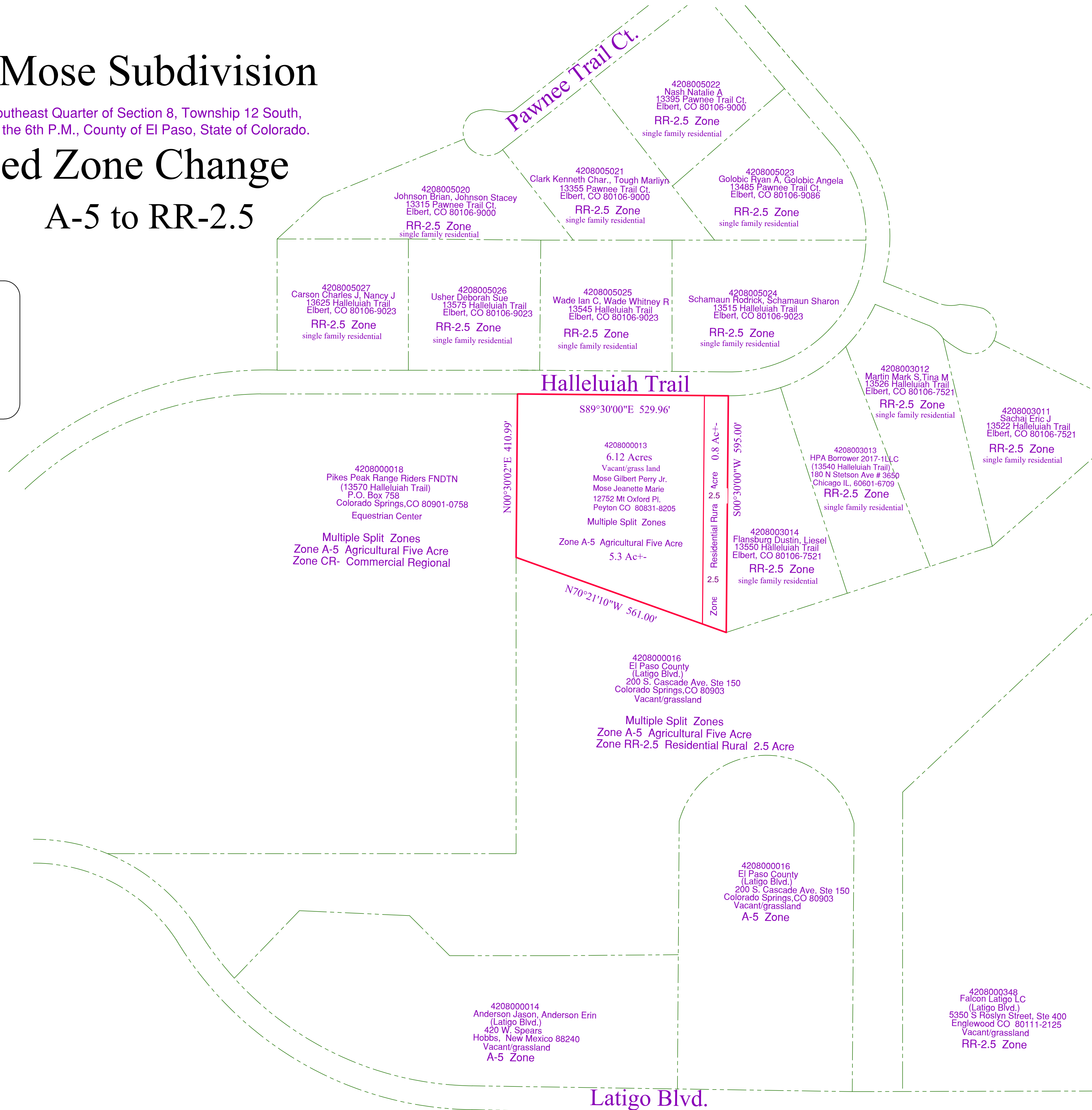
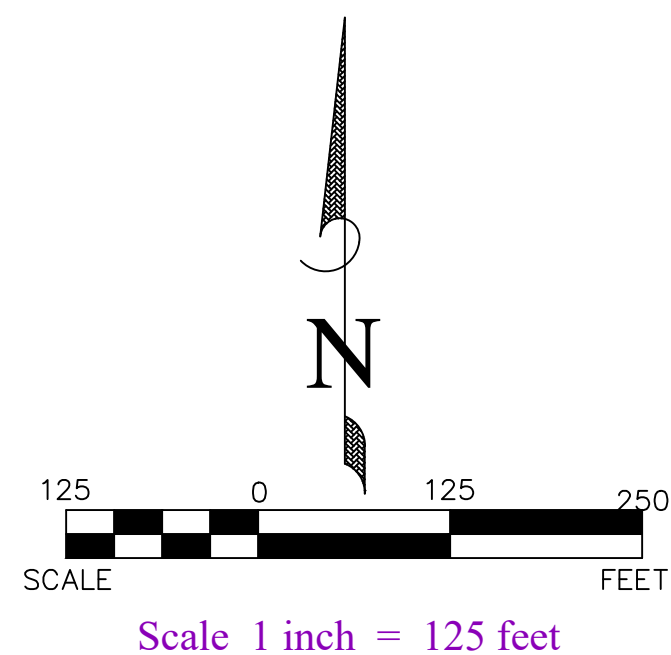
# Jeanette Mose Subdivision

A portion of the Southeast Quarter of Section 8, Township 12 South, Range 64 West of the 6th P.M., County of El Paso, State of Colorado.

## Proposed Zone Change A-5 to RR-2.5



VICINITY MAP  
Not to Scale



### Legal Description:

A tract of land located in Section 8, Township 12 South, Range 64 West of the 6th P.M., El Paso County, State of Colorado, more particularly described as follows:  
Commencing at the Southeast Corner of Lot 60 of the Trails Filing No. 1 as platted in Plat Book Y-3 at Page 13 of the records of said El Paso County; thence N89°30'00"W a distance of 158.00 feet; thence S00°30'00"W a distance of 60.00 feet to a point on the Southerly right of way line of Halleluia Trail; thence S89°30'00"E along the Southerly right of way line of Halleluia Trail, a distance of 1089.99 feet to the true Point of Beginning of this description; thence S89°30'00"E continuing along the Southerly right of way line of Halleluia Trail, a distance of 529.96 feet; thence S00°30'00"W a distance of 595.00 feet; thence N70°21'10"W a distance of 561.00 feet; thence N00°30'00"E a distance of 411.00 feet to the true Point of Beginning of the description.  
(Bearings are based on the Southwesterly line of Lots 4, 5, & 6, a replat of Lots 42 through 48 inclusive in Latigo County Estates Filing No. II, as platted in Plat Book G-3 at Page 1 of the records of El Paso County, Colorado, which is assumed to bear N21°08'47"W from an angle point on the West side of said Lot 6 (#5 rebar, no cap) to the Westerly Northwest corner of said Lot 4 (#5 rebar, no cap))

### Professional Consultants:

Land Surveyor:  
**Joseph Alessi, PLS**  
Alessi and Associates, Inc.  
2989 Broadmoor Valley Road  
Colorado Springs, CO 80906  
540-8832

### Owner:

Mose Gilbert Perry Jr. and Jeanette Marie Mose  
12752 Mt Oxford Place  
Peyton, CO 80831-8205  
719-827-0466  
perry.mose@ngc.com

### Mineral Owners:

1. Mineral Rights in Book 1432 at Page 385, June 1, 1954  
Hugh L. and Josie Bennett, all Section 8, subdivided
2. Mineral Rights in Book 6036 at Page 621, September 4, 1992  
Key Kinney Rutherford, 1404 E. 36th St., Odessa, Texas 76762  
Corinna Kinney Robbins, P.O. Box 372, Luling, Texas 78646  
Evelyn Kinney Allen, Rt. 2, Box 217, Gonzales, Texas, 78629
3. Mineral Rights Reception No. 96102002, August 12, 1996  
Paul Allen Jr., Rt. 2, Box 217, Gonzales, Texas 78629

### Property Address:

0 Halleluia Trail

### Site Plan Notes:

Total Acres: Total = 6.12 Acres  
Zoning: Existing - A-5 & RR-5 PROPOSED ZONE CHANGE to RR-2.5  
Easements: Halleluia Trail 60 Ft. Right of Way  
Existing Structures: Vacant  
Vehicular Access: Access to Halleluia Trail

### Service Providers:

Falcon Fire Protection District  
Mountain View Electric Association  
Black Hills Energy  
Individual Sewage Disposal Systems  
Individual Wells

Notice:  
According to Colorado Law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.



**ALESSI and ASSOCIATES, Inc.**  
APPRAISERS • ENGINEERS • SURVEYORS  
2989 Broadmoor Valley Road, Suite C  
Colorado Springs, CO 80906  
Tele. 719/540-8832  
Fax 719/540-2781

A portion of the SE 1/4 of Section 8, Township 12 South, Range 64 West  
6th Principle Meridian, El Paso County, Colorado

Job No. 211035      Zone Map      DATE February 23, 2022

Revised April 13, 2022









December 17, 2020

John Green  
El Paso County Development Services Department  
[DSDcomments@elpasoco.com](mailto:DSDcomments@elpasoco.com)

RE: Jeanette Mose Minor Subdivision  
Part of the NW ¼ of the SE ¼ of Sec. 8, T12S, R64W, 6<sup>th</sup> P.M.  
Water Division 2, Water District 10  
Upper Black Squirrel Designated Basin  
Upper Black Squirrel Groundwater Management District

Dear Mr. Green:

We have reviewed your November 25, 2020 submittal concerning the above referenced proposal to subdivide 6.12 acres into 2 residential lots.

### **Water Supply Demand**

According to the submitted Water Supply Information Summary Sheet and Water Resources Report for Jeanette Mose Minor Subdivision dated August 3, 2020 by Julia Murphy (“Water Resources Report”) the total estimated water requirement is 0.92 acre-feet/year (0.46 acre-feet per year per residential lot). The estimated water requirement of 0.46 acre-feet/year per residential lot assumes that 0.3 acre-foot per year is required for in-house use; 0.11 acre-feet per year is required for irrigation of up to 1,600 square feet of lawn and garden; and 0.05 acre-feet per year is required for watering of four large domestic animals.

### **Source of Water Supply**

According to the Water Resources Report, the proposed source of water supply is individual on-lot wells producing from the not-nontributary Dawson Aquifer that would be permitted pursuant to the replacement plan for Determination of Water Right no. 573-BD. The submitted information includes a Quitclaim Deed, Assignment and Assumption transferring to Gilber and Jeanette Mose, 276 acre-feet total, limited to 0.92 acre-feet per year and 0.46 acre-feet per year per well for no more than two wells from the Dawson aquifer subject to the terms and conditions of Determination of Water Right no. 573-BD dated August 25, 2004 and the Replacement Plan for Determination of Water Right No. 573-BD dated June 27, 2007.

Determination of Water Right no. 573-BD was issued by the Ground Water Commission (“Commission”) on August 25, 2004 for an allowed average annual amount of withdrawal of ground water of 26.5 acre-feet from the Dawson Aquifer (based on an aquifer life of 100 years) to be used on 60.17 acres described as the North Tract (which include the 6.12 acre subject subdivision) and 4.2 acre-feet from the Dawson Aquifer (based on an aquifer life of 100 years) to be used on 9.55 acres described as the South Tract.

On June 27, 2007 the Commission approved Replacement Plan for Determination of Water Right no. 573-BD. Replacement Plan No. 1 for Determination of Water Right no. 573-BD allows for



the withdrawal of 2.3 acre-feet per year of ground water from the Dawson aquifer for 300 years, through individual wells to be located on 5 residential lots on the 9.5 acres of the South Tract and a portion of the North Tract, of which the subject 6.12 acres is a part. Each well may withdraw 0.46 acre-feet per year of ground water to be used for use in-house use, the irrigation of 1,600 square feet of lawn and gardens and the watering of up to four large domestic animals. These allowed uses are consistent with the proposed uses specified in the Water Supply Report for the two lots of the minor subdivision.

The proposed source of water for this development is a bedrock aquifer allocation from the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which the bedrock aquifer sources will be a physically and economically viable source of water. According to 37-90-107(7)(a), C.R.S., "Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years." Based on this allocation approach, the annual amounts of water determined in Determination of Water Right No. 573-BD is 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 the bedrock aquifer sources 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 2.76 acre-feet/year of Determination of Water Right no. 573-BD would be reduced to one third of that amount, or 0.92 acre-feet/year. As a result, the water may be withdrawn in those annual amounts for a maximum of 300 years. In addition, the Applicant's replacement plan allows withdrawal of Dawson aquifer water for 300 years, therefore withdrawals under that plan would meet the county's requirement of providing the average annual demand of the subdivision for a period of 300 years.

### State Engineer's Office Opinion

Based upon the above and pursuant to Sections 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to water rights.

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

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

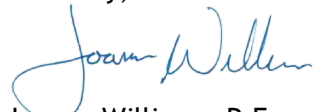
Our opinion is qualified by the following:

The Colorado Ground Water Commission has retained jurisdiction over the final amount of water available pursuant to the above-referenced Determination of Water Right(s), 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. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100 year aquifer life. The county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 300 years used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.

If you, or the applicant, have any questions, please contact Ailis Thyne at 303-866-3581 ext. 8216.

Sincerely,

A handwritten signature in blue ink that reads "Joanna Williams". The signature is fluid and cursive, with the first name "Joanna" being larger and more prominent than the last name "Williams".

Joanna Williams, P.E.  
Water Resources Engineer

Ec: Division 2  
Project no. 27026

Jeanette Mose Minor.docx

# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

**Steven A. Klaffky, Interim County Attorney**

### Assistant County Attorneys

Lori L. Seago  
Mary Ritchie  
Bryan E. Schmid  
Nathan J. Whitney  
Christopher M. Strider  
Terry A. Sample  
Dorey L. Spotts  
Steven W. Martyn

May 24, 2022

MS-20-5 Mose Minor Subdivision

Reviewed by: Lori L. Seago, Senior Assistant County Attorney  
Edi Anderson, Paralegal, ACP

## WATER SUPPLY REVIEW AND RECOMMENDATIONS

### Project Description

1. This is a proposal by Gilbert Mose, Jr. and Jeanette Mose ("Applicant") for a 2-lot minor subdivision on a parcel of 6.12 acres of land (the "Property"). Lot 1 is estimated at 3.12 acres; Lot 2 is estimated at 3.00 acres. The Property is currently zoned RR-5 (Rural Residential) and A-5 (Agricultural); however, there is a concurrent request to rezone the Property to RR-2.5 (Rural Residential).

### Estimated Water Demand

2. Pursuant to the Water Supply Information Summary ("WSIS"), the water demand is 0.92 acre-feet/year for the subdivision, which includes 0.60 acre-feet for household use, "up to" 0.22 acre-feet for irrigation, and "up to" 0.10 acre-feet for stock watering (0.46 acre-feet/lot/year). Based on this demand, Applicant must be able to provide a supply of 276 acre-feet of water (0.92 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 individual on-lot wells as provided in the determination and replacement plan identified as Colorado Ground Water Commission Findings and Order 573-BD. The Determination was issued on August 25, 2004 and provided for an average annual amount of withdrawal of groundwater of 26.5 acre-feet from the Dawson aquifer from the north tract of 60.17 acres and 4.2 acre-feet from the south tract of 9.55 acres, both from the Dawson aquifer (for a period of 100 years) to be used on the 69.72-acre property. A Replacement Plan for Water Right 573-BD ("Replacement Plan") was issued on June 27, 2007, permitting withdrawal of 0.46 acre-feet of ground water from each of five wells in the Dawson aquifer.



The Determination and Replacement Plan were issued to RMBG, LLC #2 and the Pikes Peak Range Riders Foundation. The water rights were transferred to the Applicant via a Quitclaim Deed, Assignment and Assumption on November 5, 2019 and as recorded on November 15, 2019 at Reception No. 219144395 in the records of the El Paso County Clerk and Recorder.

4. The Applicant provided a *Water Supply Report* for the Mose Minor Subdivision dated September 28, 2021, by GroundWater Investigations, LLC (GWI). The *Report* notes that Replacement Plan 573-BD includes an annual amount of 2.3 acre-feet of water to serve a 5-lot subdivision at 0.46 acre-feet/lot for a period of 300 years. The actual project consists of 2 of the 5 proposed lots at 0.46 acre-feet/year, to include 0.30 acre-feet for in-home use, 1,600 square-feet of lawn and garden and up to 4 large animals. The *Report* states that the “water supply is sufficient to meet the County’s requirement for two homes in terms of Quality, Quantity, and Dependability.”

#### State Engineer’s Office Opinion

5. In a letter dated December 17, 2020, the State Engineer reviewed the submittal to plat the 6.12-acre parcel into a 2-lot minor subdivision. The State Engineer stated that the “source of water supply is individual on-lot wells producing from the not-nontributary Dawson Aquifer that would be permitted pursuant to the replacement plan for Determination of Water Right no. 573-BD.” The State Engineer further states that “Determination of Water Right no. 573-BD allows for the withdrawal of 2.3 acre-feet per year of ground water from the Dawson aquifer for 300 years through individual wells to be located on 5 residential lots on the 9.5 acres of the South Tract and a portion of the North Tract, of which the subject 6.12 acres is a part. Each well may withdraw 0.46 acre-feet per year of ground water to be used for in-house use, the irrigation of 1,600 square feet of lawn and gardens and the watering of up to four large domestic animals. These allowed uses are consistent with the proposed uses specified in the Water Supply Report for the two lots of the minor subdivision.”

The State Engineer further stated that the “allowed average annual amount of withdrawal of 2.76 acre-feet/year of Determination of Water Right no. 573-BD would be reduced to one third of that amount, or 0.92 acre-feet/year.” Finally, the State Engineer provided their opinion that “pursuant to Sections 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to water rights.”

#### Recommended Findings

6. Quantity and Dependability. Applicant’s water demand for the Mose Minor Subdivision is 0.92 acre-feet per year for a total demand of 276 acre-feet for the subdivision for 300 years. Determination and Replacement Plan No. 573-BD permits withdrawal of 0.92 acre-feet/year (276 acre-feet total) of Dawson aquifer water for a period of 300 years. Based on the demand of 0.92 acre-feet/year for the 2-lot subdivision and the Replacement Plan permitting withdrawals in that amount for a period of 300 years, there appears to be a sufficient water supply to meet the water demands of the Mose Minor Subdivision.

**Based on the water demand of 0.92 acre-feet/year for the Mose Minor Subdivision and the Determination and Replacement Plan permitting withdrawals in that amount, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the Mose Minor Subdivision.**

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

8. Basis. The County Attorney's Office reviewed the following documents in preparing this review: the Colorado Ground Water Commission Determination 573-BD dated August 25, 2004, Replacement Plan 573-BD dated June 27, 2007, the Water Supply Information Summary provided March 22, 2021, the *Water Supply Report* dated September 28, 2021, and the State Engineer Office's Opinion dated December 17, 2020. 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 Determination and Replacement Plan 573-BD; specifically, that water use shall not exceed 0.92 acre-feet annually for the 2-lot subdivision and that all stream depletions will be replaced with non-evaporative septic system return flows for a period of 300 years pursuant to the Commission's replacement plan.

B. Determination and Replacement Plan 573-BD require that Applicant create a homeowners' association ("HOA") to administer the replacement plan and to establish restrictive covenants upon and running with the property. The Covenants shall advise and obligate future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of Determination and Replacement Plan 573-BD, including, but not limited to, ensuring that return flows by the use of non-evaporative septic systems are made to the stream systems and that such return flows shall only be used to replace depletions and shall not be separately sold, traded, or assigned in whole or in part for any other purpose. The Covenants more specifically shall require that each lot served by the Dawson aquifer well will have an occupied single-family dwelling that is generating return flows from a non-evaporative septic system. In addition, the Covenants shall advise future lot owners of this subdivision and their successors and assigns of their obligations regarding costs of operating the plan for replacement, including all monitoring and accounting. Such Covenants shall also address responsibility for any metering and data collecting that may be required regarding water withdrawals from wells pursuant to the plan for replacement, and shall protect the viability of the water supply by placing limitations in the Covenants as to amendments and termination as applied to said water supply.

The Covenants shall address the following:

- 1) Identify the water rights associated with the property. The Covenants shall reserve 138 acre-feet per lot of not nontributary Dawson aquifer water pursuant to Replacement Plan No. 573-BD to satisfy El Paso County's 300-year water supply requirement for each lot of the Mose Minor Subdivision.
- 2) Require non-evaporative septic systems and reserve return flows from the same. The Covenants shall require each lot owner to use non-evaporative septic systems to ensure that return flows from such systems are made to the stream system to replace actual depletions during pumping, shall reserve said return flows to replace 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 each lot served by a Dawson well have an occupied single-family dwelling that is generating return flows from a non-evaporative septic system. 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."
- 3) 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 the plan for replacement in Determination and Replacement Plan 573-BD 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."
- 4) The Covenants shall advise future lot owners of this subdivision or their successors and assigns of their responsibility for any metering and data collecting that may be required regarding water withdrawals from wells in the Dawson aquifer.
- 5) The Covenants shall advise future lot owners and their successors and assigns of their responsibility to construct septic systems in compliance with the State of Colorado and El Paso County Public Health standards and which shall not cause unreasonable impairment of water quality of the receiving aquifer.

6) The Covenants shall require that well permits be obtained pursuant to the requirements of Determination 573-BD and approval by the Colorado Ground Water Commission.

7) 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 Mose Minor Subdivision pursuant to Determination and Replacement Plan 573-BD. 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 a Determination from 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 adjudication.”

8) The Covenants shall address termination using the following or similar language:

“These Covenants shall not terminate unless the requirements of Determination and Replacement Plan 573-BD 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.”

C. Applicant and its successors and assigns shall reserve in the Covenants and in any deeds of the Property the determined amount of 0.92 acre-feet annually for the subdivision from the Dawson aquifer for a period of 300 years for a total of 276 acre-feet for the 2-lot subdivision. 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. Applicant shall convey by recorded warranty deed the reserved Dawson aquifer water rights to the individual lot owners. Applicant shall provide copies of said Covenants or other such reservation and conveyance instruments that shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney’s Office prior to recording the minor subdivision plat.

Any and all conveyance instruments shall recite as follows:

For the water rights and return flows conveyed for the Dawson aquifer: “These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year supply, and replacement during pumping, for each of the 2 lots of the Mose Minor 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.”

D. Pursuant to Determination and Replacement Plan 573-BD, Applicant shall recite that this water shall not be separated from transfer of title to the Property. Applicant shall provide copies of such reservation and conveyance instruments that shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney’s Office prior to recording the minor subdivision plat.

E. Applicant and its successors and assigns shall at the time of lot sales, convey by warranty deed to individual lot owners sufficient water rights in the Dawson aquifer, pursuant to Determination and Replacement Plan 573-BD, underlying the respective lots to satisfy El Paso County’s 300-year water supply requirement. Dawson aquifer requirements are 0.46 acre-feet per lot x 300 years (138 acre-feet total). Said conveyance instruments shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for the primary supply and replacement during pumping for the respective lots. Applicant shall provide form deeds for such conveyances that shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney’s Office prior to recording the minor subdivision plat.

F. Applicant and its successors and assigns shall submit proposed Declaration of Covenants 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 and Replacement Plan 573-BD 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 Determination and Replacement Plan 573-BD and 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. Applicants 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: Kari Parsons, Senior Planner



Prevent • Promote • Protect

Department Program

1675 W. Garden of the Gods Rd., Suite 2044  
Colorado Springs, CO 80907  
(719) 578-3199 *phone*  
(719) 575-8664 *fax*  
[www.elpasocountyhealth.org](http://www.elpasocountyhealth.org)

### **Mose Minor Subdivision, MS - 205**

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

- The proposed 6.11-acre, 2-lot residential development site will be served water by individual private wells and wastewater through onsite wastewater treatment systems (OWTS). Both lots are undeveloped and require compliance with Chapter 8 (OWTS Regulations) of the El Paso County Board of Health Regulations.
- The 24July2020, RMG Soils and Geology Study and a 2020 Soil Test Pit Excavation by Geoquest, LLC., for Lot-1 were used to determine site suitability and the use of onsite wastewater treatment systems for wastewater service. Based on the report findings the use of an OWTS for each lot is acceptable. There were restrictive soil layers found in each profile hole and an engineer designed OWTS will likely be required for each lot, although there may be more suitable locations for conventional OWTS's elsewhere on each lot.
- Radium-226 was found at a level of 5.9PCI/L (pico curies per liter) exceeding the MCL of 5PCI/L. Based on Colorado geology radium commonly occurs in drinking water sources and may pose a risk to human health when ingested. It is understood that the health effects are typically seen at levels well above the 5 PCI/L which is assumed to be protective of human health. Therefore, EPCPH recommends the use of ion exchange or reverse osmosis to reduce the levels of Radium-226 in drinking water.
- The September 28, 2021, Ground Water Investigations LLC, water quality analysis was submitted and reviewed for compliance with the Colorado Primary Drinking Water Regulations established maximum contaminant levels (MCL). While private drinking water wells are not subject to regulation under the Colorado Primary Drinking Water Regulations all required contaminants, except Radium-226, were found to be in compliance with the required regulations. Therefore, EPCPH finds, with respect to the water source for Providence Point Estates, sufficiency in terms of water quality.

Kat McGarvy M.S., R.E.H.S.  
Water Quality Program Manager  
El Paso County Public Health  
1675 W. Garden of the Gods Rd.  
Colorado Springs, CO 80907  
719.578.3112  
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**09June2022**

**Kevin Mastin, Interim Executive Director**  
**El Paso County Planning & Community Development**  
O: 719-520-6300  
KevinMastin@elpasoco.com  
2880 International Circle, Suite 110  
Colorado Springs, CO 80910

**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

Planning Commission Meeting  
Thursday, July 7, 2022  
El Paso County Planning and Community Development Department  
2880 International Circle – Second Floor Hearing Room  
Colorado Springs, Colorado

**REGULAR HEARING**  
**9:00 a.m.**

**PRESENT AND VOTING: BRIAN RISLEY, TOM BAILEY, ERIC MORAES, JAY CARLSON, TIM TROWBRIDGE, CHRISTOPHER WHITNEY, SARA BRITTAIN JACK, JOAN LUCIA-TREESE**

**PRESENT AND NOT VOTING: JOSHUA PATTERSON**

**ABSENT: BRANDY MERRIAM, BRYCE SCHUETTPELZ, BECKY FULLER**

**STAFF PRESENT: KARI PARSONS, RYAN HOWSER, JEFF RICE, KYLIE BAGLEY, CHARLENE DURHAM, DANIEL TORRES, PETRA RANGEL, MARCELLA MAES, AND EL PASO COUNTY ATTORNEY LORI SEAGO**

**OTHERS SPEAKING AT THE HEARING:**

- 1. Report Items**
  - a. Planning and Community Development Department – Ms. Parsons**

**Ms. Parsons** – Gave a summary of the PC items.

**Ms. Parsons** – Commissioner Merriam and Schuettpelz' associate terms have expired as of yesterday. If they the two members would like to remain on the planning commission they must reapply and go through a reappointment. Additionally it has come to PCD's attention that that the BoCC adopted a new resolution regarding the volunteer commissions and boards within El Paso County. The board has divided the boards based on a statutory group such as the planning commission and board of



adjustment which are both tier 1 groups and the resolution that was recently adopted by the board there are some significant changes . Re-look at bylaws. Please let us know if you would like to review the resolution today.

**Mr. Risley** – Ms. Seago, can you give us guidance. Do we have time to mull over it?

**Ms. Seago** – I recommend that you have time. It is not on your agenda. I recommend adding it to the next PC agenda. I can make a presentation to help recommend.

**Mr. Risley** – I agree. Can we schedule an informal discussion that may help inform us.

Ms. Seago – Yes. We can then have staff add the item to the next agenda.

I believe they would both like to be reappointed. I know there were some issues with.

Ms. Parsons –

Both would like to be reappointed. Please have staff follow the proper procedures.

They will need to reach out to Commissioner Geitner to do so.

Mr. Moraes – 426 sub paragraph A. I have some concerns. Can we have that discussion with the staff. I want to talk about certain sub points.

Ms. Parsons – I am not clear what you want to go over. Are you wanting to go over the PUD code or approval criteria.

Mr. Moraes – I want to have a discussion. I want to talk about the purpose.

Ms. Parsons – Is this more of a work session or in an agenda item.

Ms. Seago – Either way.

Ms. Parsons – Do we need a vote on it.

Mr. Risley – I do not see any harm in discussing this item

Ms. Parsons - Staff will add to the agenda 426 sub paragraph A for the next hearing.

b. **Public Comment** – None.

c. The next scheduled Planning Commission meeting is for **Thursday, July 21, 2022, at 9:00 a.m.**

2. **CONSENT ITEMS**

A. **Approval of the Minutes – June 16, 2022**

Bailey - Minor error on Minutes. Staff will repair  
Trowbridge – Reflect who nay vote was in two items.  
Parsons – I have a correction. Schuettpelz was approved by Geitner.

Merriam

Should we wait and adopt the minutes or do

You can continue the item or you ca

My opinion is to continue the item to the next hearing.  
Does it cause an issue with the votes.

Brittain Jack – Can you let us know what is missing?

Bailey – It is hard to tell. Toward the end of the discussion on the Dist 49 discussion. The sentence ends in the middle of Merriam and then it goes into my discussion. I want to make sure they review it. I just don't know for sure what Ms. Merriam was trying to discuss. I think it is an administrative change. It is easy enough to cut out items. I suggest we approve it. Have staff send it back to us.

Risley – I would feel better ifwe get the revisions. We need a vote?

Seago – That is correct.

Motion to Lucia-Treese moved and Bailey seconded to move the minutes to the next meeting. All voted (8-0). For final review

**B. V-22-003**

**BAGLEY**

**VARIANCE OF USE  
11925 Milam Rd Additional Dwelling unit**

A request by Chuck Runge, with Runge Architecture, for approval of a variance of use for a second dwelling in the RR-5 (Residential Rural) district. The 60.01-acre property is zoned RR-5 (Residential Rural) and is located east of the intersection of Shady Lane and Milam Road and 0.3 miles north of Burgess Road and is within Section 13, Township 12 South, Range 66 West of the 6<sup>th</sup> P.M. (Parcel No. 6213000060) (Commissioner District No. 1)

**PC ACTION: LUCIA-TREESE MOVED/BAILEY SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, VA-22-003 FOR A VARIANCE OF USE FOR A SECOND DWELLING AT 11925 MILAM RD, UTILIZING RESOLUTION PAGE NO. 51, CITING 22-023, WITH TWO (2) CONDITIONS AND THREE (3) NOTATION AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-0).**

**Carlson – I have a few questions for staff.**

**Chuck Runge – I am the principal architect for the second dwelling. The owners have come down with Covid.**

**Carlson – The staff report says it is for extended family dwelling.**

**Mr. Runge – We thought it was going to be an extended family. We needed a variance for it to be over the 1500 sq ft. Their intention is to have it for family.**

**Carlson –**

**By definition it is not an extended family. It is a second dwelling.**

**The applicant didn't change their goal to have family stay in this dwelling?**

**Carlson – Can we add additional conditions to this property. I am worried how large the second house is. I am concerned that they will want to subdivide. Can we set it up to not be subdivided later?**

**Lucia Treese – I wonder if we are micromanaging this project as it is 60 acres. I don't feel comfortable telling these folks not to subdivide later.**

**I respectfully disagree. I want to protect the people around that area. They want to have this property in the future.**

**Trowbridge - I understand that the variance down the road. As long as the family is there, the condition applies**

**Seago – To offer a couple of options. I do not think that we can add a condition to not allow for subdivision– We can restrict the use to family by condition. Your other option is to deny the application. You can approve as presented, or you can add more specificity.**

Whitney – If I heard correctly from staff. The reason this has come to the PC. We are punishing them for building a bigger house. I don't get that.

Seago – Due to the nature of this debate should be add this to the regular items?

Carlson – I am not going to propose any changes.

Brittain Jack – Do we vote to even have this discussion.

Carlson – I do not propose this be

Patterson – I live on this road. I think there is no reason to impose the additional skepticism. They applicant is proposing to have a larger home.

Risley –

Moraes – Their intent is for extended family.

Risley – A subdivision would cause a lot of other items. I appreciate Mr. Carlson's point.

C. P-20-006

PARSONS

**MAP AMENDMENT (REZONING)  
MOSE**

A request by Perry and Jeanette Mose, for approval of a map amendment (rezoning) of 5.3 acres from A-5 (Agricultural) to RR-2.5 (Residential Rural). The parcel is located south of the intersection of Pawnee Trail Court and Halleluiah Trail and is within Section 8, Township 12 South, Range 64 West of the 6th P.M. (Parcel No.42080-00-013) (Commissioner District No. 2).

**PC ACTION: TROWBRIDGE MOVED/MORAES SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2C, P-20-006 FOR AN APPROVAL OF A REZONE FROM A-5 (AGRICULTURAL) TO RR-2.5 (RURAL RESIDENTIAL, UTILIZING RESOLUTION PAGE NO. 31, CITING 22-022, WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-0).**

D. MS-20-005

PARSONS

**MINOR SUBDIVISION  
MOSE**

A request by Perry and Jeanette Mose for approval of a minor subdivision to create two single-family residential lots. The 6.11-acre property is zoned A-5 (Agricultural) and RR-2.5 (Residential Rural), and is located south of the intersection of Pawnee Trail Court and Halleluiah Trail and is within Section 8, Township 12 South, Range 64 West of the 6th P.M. (Parcel No.42080-00-013) (Commissioner District No. 2)

**PC ACTION: LUCIA-TREESE MOVED/MORAES SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2D, MS-20-005 FOR AN APPROVAL OF A MINOR SUBDIVISION TO CREATE TWO RESIDENTIAL LOTS, UTILIZING RESOLUTION PAGE NO. 19, WITH TEN (10) CONDITIONS AND ONE (1) NOTATION, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-0).**

Mr. Risley – There may be an opportunity.

Mr. Trowbridge – I would be happy to take up. There might be a couple of changes. I would be happy to work with staff on the bylaw changes.

Mr. Risley – I think that makes sense. Can our bylaws supercede?

Mr. Moraes – Unless otherwise provided by law. The shalls or the musts.

Ms Seago – Can I have the overhead? I understand that you did not review the resolution that was adopted in March. I would like to point you to the top of the third page in the last sentence unless otherwise reported by law... To answer your question, no we cannot supercede what the BoCC has directed. We will work with Mr. Trowbridge. I will recommend to delete the two term limit. I would delete If there are no term limits, you can We can look at the rest of the bylaws. I think that is the only change.

Ms. Jack – When our term is up, would we have to apply. If there are no terms.

There are still terms. There are 3 year terms, but the amount of times is unlimited.

Whitney – If your term expires at the 3 year. You would reapply.

Seago – It is up to the BoCC to extend the terms

Whitney – My concern is to have the same committee for 50 years

Trowbridge – You will need to reapply after your term. It is up to the BoCC to approve you.

Seago – We will add to the agenda next time.

Risley – Staff will work with Mr. Trowbridge and bring up the item in the next PC hearing for approval.

**No Regular Items**

NOTE: For information regarding the agenda item the Planning Commission is considering, call the Planning and Community Development Department for information (719-520-6300). Visit our Web site at [www.elpasoco.com](http://www.elpasoco.com) to view the agenda and other information about El Paso County. Results of the action taken by the Planning Commission will be published following the meeting. (The name to the right of the title indicates the Project Manager/ Planner processing the request.) If the meeting goes beyond noon, the Planning Commission may take a lunch break.

The name to the right of the title indicates the Planner processing the request.

MAP AMENDMENT (REZONING) (RECOMMEND APPROVAL)

Commissioner Trowbridge moved that the following Resolution be adopted:

**BEFORE THE PLANNING COMMISSION**

**OF THE COUNTY OF EL PASO**

**STATE OF COLORADO**

**RESOLUTION NO. P-20-006**

**MOSE**

WHEREAS, Perry and Jeanette Mose, did file an application with the El Paso County Planning and Community Development Department for approval of a map amendment (rezoning) of 5.3 acres from A-5 (Agricultural) to RR-2.5 (Residential Rural). The parcel is located south of the intersection of Pawnee Trail Court and Halleluiah Trail and is within Section 8, Township 12 South, Range 64 West of the 6th P.M. (Parcel No.42080-00-013) (Commissioner District No. 2).

WHEREAS, a public hearing was held by this Commission on July 7, 2022; 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 was 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 were heard at that hearing.
4. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned.
5. The proposed land use or zone district is compatible with existing and permitted land uses and zone districts in all directions.

6. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district
7. The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor.
8. 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.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the request by Perry and Jeanette Mose, for approval of a map amendment (rezoning) of 5.3 acres from A-5 (Agricultural) to RR-2.5 (Residential Rural). The parcel is located south of the intersection of Pawnee Trail Court and Halleluiah Trail and is within Section 8, Township 12 South, Range 64 West of the 6th P.M. (Parcel No.42080-00-013) (Commissioner District No. 2).

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

#### **CONDITIONS**

1. The developer shall comply with federal and state laws, regulations, ordinances, review requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and 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 threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 (Residential Rural) zoning district and with the applicable sections of the El Paso County Land Development Code and Engineering Criteria Manual.



**NOTATIONS**

- 1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
  
- 2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

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

Commissioner Moraes seconded the adoption of the foregoing Resolution.

The roll having been called, the vote was as follows:

Commissioner Risley	aye
Commissioner Bailey	aye
Commissioner Trowbridge	aye
Commissioner Lucia-Treese	aye
Commissioner Brittain Jack	aye
Commissioner Carlson	aye
Commissioner Moraes	aye
Commissioner Whitney	aye

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

Dated: July 7, 2022

\_\_\_\_\_  
Brian Risley, Chair

EXHIBIT A

*A fract of land located in Section 8, Township 12 South, Range 64 West of the 6th P.M., El Paso County, State of Colorado, more particularly described as follows:*

*Commencing at the Northwest corner of Lot 1, The Trails Filing No. 3, as recorded in the Office of the El Paso County Clerk and Recorder under Reception No. 201014176, dated February 5, 2001, thence S.89°30'00"W. coincident with the Southerly right of way line of Halleluiah Trail, a distance of 60.00 leek to the POINT OF BEGINNINO of a parcel of land described herein, thence continue Westerly along said line, a distance of 469.96 feet; thence S.00°00'51"E., a distance of 410.99 feet, thence S.70 52'03"E., a distance of 497.49 leer; thence N.00 00'53"W., a distance of 574.17 feet to the POINT OF BEGINNING.*

*Containing 231,495 square feet or 5.31 acres, more or less.*

**RESOLUTION NO. 22-**

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO**

**APPROVAL OF THE MOSE MAP AMENDMENT (REZONING) (P-20-006)**

**WHEREAS** Perry and Jeanette Mose, did file an application with the El Paso County Planning and Community Development Department for approval of a map amendment (rezoning) of 5.3 acres for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from A-5 (Agricultural) to RR-2.5 (Residential Rural); and

**WHEREAS**, a public hearing was held by the El Paso County Planning Commission on July 7, 2022, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application; and

**WHEREAS**, a public hearing was held by this Board on July 19, 2022; and

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

1. The application was properly submitted for consideration by the Board of County Commissioners.
2. Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners of El Paso County.
3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. The proposed zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.
5. The proposed land use will be compatible with existing and permitted land uses in the area.

6. The proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.
7. For the above-stated and other reasons, the proposed Amendment to 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.
8. Changing conditions clearly require amendment to the Zoning Resolutions.

**NOW, THEREFORE, BE IT RESOLVED** the El Paso County Board of County Commissioners hereby approves the map amendment (rezoning) of 5.3 acres from A-5 (Agricultural) to RR-2.5 (Residential Rural) property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from A-5 (Agricultural) to RR-2.5 (Residential Rural);

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

#### **CONDITIONS**

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and 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 threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RM-30 (Residential Multi-Dwelling) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

#### **NOTATION**

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning

Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 19<sup>th</sup> day of July, 2022 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

ATTEST:

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

By: \_\_\_\_\_  
County Clerk & Recorder

**EXHIBIT A**

**LEGAL DESCRIPTION**

A tract of land located in Section 8, Township 12 South, Range 64 West of the 6th P.M., El Paso County, State of Colorado, more particularly described as follows:

Commencing at the Northwest corner of Lot 1, The Trails Filing No. 3, as recorded in the Office of the El Paso County Clerk and Recorder under Reception No. 201014176, dated February 5, 2001, thence S.89°30'00"W. coincident with the Southerly right of way line of Halleluiaah Trail, a distance of 60.00 leek to the POINT OF BEGINNINO of a parcel of land described herein, thence continue Westerly along said line, a distance of 469.96 feet; thence S.00°00'51"E., a distance of 410.99 feet, thence S.70 52'03"E., a distance of 497.49 leer; thence N.00 00'53"W., a distance of 574.17 feet to the POINT OF BEGINNING.

Containing 231,495 square feet or 5.31 acres, more or less.