



August 6, 2021

PCD File No.: MS-21-006

**LETTER OF INTENT  
SKYFALL SUBDIVISION FILING NO. 1  
MINOR SUBDIVISION**

**Owner:**

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**Applicant:**

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**Site Location Size and Zoning:**

The proposed subdivision to be known as “Skyfall Subdivision Filing No. 1” is located within the northwest one-quarter of the northwest one-quarter of Section 21, Township 12 South, Range 65 west of the 6<sup>th</sup> Principal Meridian in El Paso County, Colorado. The property has El Paso County Tax Schedule No. 52212-00-027. The current address of the site is 7985 Burgess Road. The northern portion of the site currently contains a residence, gravel drive, outbuilding, well and septic system. There is a utility easement that runs north-south through the central portion of the site. The site is 19.485± acres in area and is zoned RR-5 (Residential Rural – 5 Acre).

The site is situated south of Burgess Road, north of Toltec Lane, west of Pine Meadows Road and east of Wakely Road in the Black Forest area of El Paso County. Burgess Road, a public paved road, is adjacent to the northern edge of the site. Two (2) unplatted parcels (zoned RR5) each with an existing single-family residential development lie west of the site on the same side of Burgess Road. To the east of the site there are two (2) unplatted parcels (zoned RR-5) with existing single family residential developments. Lots 2 and 3 Coronado Estates (zoned RR5) with existing single-family residential developments lie south of the site. Black Forest Section 16 (Zoned RR-5), owned by the State of Colorado and containing a looped tail, lies to the north of the site across Burgess Road.

**Request and Justification:**

The request is for approval of the Minor Subdivision plat of Skyfall Subdivision Filing No. 1, containing 19.485± acres. This proposed Minor Subdivision will create three (3) rural residential single-family lots

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in the RR-5 zone (Residential Rural – 5 Acre). Proposed Lot 1 is to contain the existing single family residence and will be 5.000± acres in area. Proposed Lot 2 is adjacent to Burgess Road, an existing section line road. This lot will contain a future residence and will be 4.750± acres pursuant to El Paso Land Development Code Section 5.4.2, Table 5-4, Note 2, which provides “*In the event that the land to be partitioned, platted, sold or zoned abuts a section line County road, the minimum lot area for lots abutting the road shall be 4.75 acres and minimum lot width shall be 165 ft.*”. The plat will dedicate additional right-of-way for adjacent Burgess Road. Proposed Lot 3 will be 9.433± acres and contain a future single-family residence. A waiver from LDC section 8.4.3 (B) that “Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC” is also requested. Instead of road frontage, access to lots 1, 2, & 3 shall be through the proposed common access easement connecting the site to Burgess Road. The justification for the requested waiver is included in a separate section below.

This Minor Subdivision plat is consistent with the requirements of the existing RR-5 zoning with respect to the layout, land use (single-family residential), lot size, minimum building setbacks, water supply and wastewater disposal. The existing residence and auxiliary structures and facilities are to be contained within proposed Lot 2.

The proposed Minor Subdivision is compatible with the surrounding land uses and neighborhood listed above and coincides with the adjacent zoning and platted lot sizes on the north, south, east, and west, all being approximately 5 acres or larger. The proposed Minor Subdivision application is in conformance with the goals, objectives, and policies of the Master Plan and the applicable Topical Master Plan elements as discussed below.

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

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

The site is located in the “Forested Area” of the county located east of Highway 83, north of Woodmen Road, west of highway 24 and south of Walker Road. The site is designated to be a Large-Lot Residential Placetype. The Primary Land Use of this placetype is Single Family Detached housing with Agriculture, Commercial Retail, Commercial Service and Parks and Open Space as Supporting Land Uses. The location of this site and existing infrastructure is suited to single family residential use. The existing roadway layout in the immediate area is not suitable for Commercial Service and Commercial Retail uses. In the Land Use category, Goal 1.1 is “*Ensure compatibility with established character and infrastructure capacity*”. This area of the County is conducive to rural residential development that allows residential use of property but preserves the natural character of the landscape. The proposed subdivision is compatible and identical to the existing neighborhood and surrounding development. The existing community character is preserved with this proposed plat. The proposed density is less than allowed by zoning. The proposed density will not overburden the existing roadway infrastructure or capacity of the land to support the water and wastewater needs of the development. The proposed Minor

Plat will not create the need for additional roadways or public facilities. The site will remain rural residential and is surrounded by existing rural residential developments on the south, east, and west sides. Goal 2.2 is “*Preserve the character of rural and environmentally sensitive areas*”. The proposed subdivision will keep the forested nature of the area intact. The five-acre lot density has reduced impact on environmental conditions. Density and land use are compatible with the surrounding area and the natural features of the site will remain preserved, even with the addition of two more residences on the site. The private driveways to be used for access will have minimal impact on the existing terrain. No new roads are proposed with this subdivision since all access is proposed to be provided by a single low-impact driveway connecting to Burgess Road. In this way, lot access is provided while eliminating the need for additional access points and additional public roadway. The driveway will present a reduced impact on the natural terrain, land forms and vegetation. The project maintains the rural character of site and neighborhood.

The proposed Minor Plat is in compliance with the **Parks Master Plan**, which does not appear to call for trails or parks in the site. The site is located just south of the Black Forest Section 16 Loop Trail. Any required Park Fees will be paid at the time of plating.

The proposed subdivision is in compliance with the **2040 Major Transportation Corridors Plan (MTCP)**. An additional 20 feet of right-of-way is being dedicated for Burgess Road located on the north edge of the site. This dedication will allow for 50 feet of right-of-way from the existing road center line and allow for a total right-of-way width of 100 feet for the designated Rural Minor Arterial roadway.

The proposed subdivision is also in compliance with the **Master Plan for Mineral Extraction** as no separate mineral estate owners were found for the property and the existing development on surrounding properties is not compatible with any potential mineral extraction operations.

The proposed subdivision is in compliance with the **El Paso County Water Master Plan (2018)**. The District Court, Water Division 2 Colorado, has decreed certain water rights and approved a plan for augmentation as necessary to allow use of the existing well and the drilling of two additional wells for the subdivision in Case No. 20CW3070 recorded under reception number 221090454 of the records of El Paso County. The owner seeks a finding of sufficiency from the Colorado Division of Water Resources and the eventual granting of the additional well permits based on the decreed water rights.

Skyfall Subdivision Filing No. 1 is located at the northwest corner of Region 3 in the Water Master Plan. This region is comprised of the north central portion of the county including the Falcon area. The site is not located in a designated Growth Area as determined in the Water Master Plan. The Water Master Plan contains estimates of the demands and available supply by region at the years 2018, 2040 and 2060 Build-Out. The 2018/2040/2060 demands in Region 3 are estimated to be 4,494 acre-feet per year, 6,403 acre-feet per year, and 8,307 acre-feet per year, respectively. The 2018/2040/2060 supplies in Region 3 are estimated to be 7,164 acre-feet per year, 7,164 acre-feet per year, and 7,164 acre-feet per year, respectively, indicating adequate supplies until the year 2040 and a need of 1143 acre-feet by the 2060. Also, a portion of the supply is derived from non-renewable Denver Basin groundwater. Considering only the Skyfall Filing No. 1 subdivision, demands are estimated to be 1.86 acre-feet of water per year for the current, 2040 and 2060 time frames, respectively. Water supply available by decree to the subdivision is 1.86 acre-feet per year for each of the current, 2040 and 2060 time frames. The decree allows up to 1.11 acre-feet of water per year for irrigation and livestock. In practice,

landscape irrigation in the Black Forest is sparingly practiced due to the natural characteristics of the land and tendency for homes to take advantage of the natural vegetation.

A listing of some of the policies of the Water Master Plan that are supported by the proposed development follow: *Policy 4.1.3 – Support enhanced monitoring of sources of surface and tributary groundwater in the County.* The referenced decree requires use of metering for the wells to insure compliance with the terms of the permit; *Policy 6.2.1.2 – Encourage re-use of treated wastewater for irrigation and other acceptable uses when feasible.* Both the existing residence and the new single-family residences on the proposed 5 acre lots will utilize onsite wastewater treatment systems which will provide “Return Flows” the environment as a condition of the groundwater findings and order and the well permit.

2. *The subdivision is in substantial conformance with the approved preliminary plan.*  
This is a proposed Minor Subdivision and requires no Preliminary Plan for Plat approval. The subdivision will be developed in accordance with the currently proposed land use applications.
3. *The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.*  
The proposed Minor Subdivision Plat is prepared in accordance with applicable subdivision design standards. No public improvements are required for this subdivision.
4. *A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code.*  
Water service is to be provided by individual on site wells operated under a State approved Water Augmentation Plan.
5. *A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of this Code.*  
Waste water is intended to be treated via individual on site septic systems designed, constructed and operated under State and County Health Department rules and regulations and in accordance with the Water Decree.
6. *All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)].*  
A soils report has been prepared for the site and the owner will comply with the recommendations of the report. Areas were encountered where the geologic conditions will impose some constraints on development and land use. These include areas of potentially seasonal shallow groundwater, potential expansive soils and shallow bedrock which can be satisfactorily mitigated through avoidance or proper engineering design and construction practices. Based on the proposed plat, it appears that these areas will have minor impacts on the development. These conditions are discussed in further detail in the Soil, Geology, and Geologic Hazard Study produced by Entech Engineering, Inc.

7. *Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM.*

The proposed Minor Subdivision is consistent with the submitted Final Drainage Report. There are not Drainage facilities needed or proposed with this development. The the owner will comply with the requirements of the drainage report.

8. *Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM.*

All three proposed lots will be accessed via existing Burgess Road. The existing residence and two new lots will utilize the existing driveway access onto Burgess Road. New driveways will be extended form the existing connection giving access from Burgess Road. Access easements are provided on the Final Plat and a private access and maintenance agreement will be established to facilitate the common access.

9. *Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision.*

The site is located within the jurisdiction of the El Paso County Sheriff's Office. The Sheriff's office currently provides police protection for the site and surrounding area. Skyfall Subdivision Filing No. 1 is located within the Black Forest Fire Protection District which is providing fire protection for the site and has agreed to serve this subdivision. Water and sanitary sewer provisions are discussed in items 4 & 5 above. The property is located within the service areas of Mountain View Electric Association, Blackhills Energy Corporation, Centurylink Telephone, and Academy School District 20, which will serve the subdivision. Transportation is being facilitated by the existing adjacent roadway system.

10. *The Minor Subdivision plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code.*

Skyfall Subdivision Filing No. 1 is located within the Black Forest Fire Protection District which is providing fire protection for the site and the surrounding area. The District has agreed to serve this subdivision. Building permits for each structure shall be in accordance with the requirements of the Fire District as administered by the Pikes Peak Regional Building Department. The owner is in the process of performing fire hazard mitigation measures in the site. The vegetation on approximately 40% of the site has been trimmed and thinned to reduce potential fire fuels.

11. *Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8.*

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

12. *Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.*

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

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

Upon approval of a waiver to the LDC section 8.4.3 (B) stating “*Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to waiver granted under Section 8.4.4 (E)*” the subdivision will meet the requirements of the Land Development Code. The subdivision is in accordance with the Land Development Code with respect to zoning, lot size, building setbacks, provision of utilities and storm drainage. The waiver is requested with this application to allow access by one common private driveway for the three lots without the required 30 feet of frontage for each lot. The code allows up to three lots to access one driveway, however the waiver is needed to address the lack of road frontage onto a public roadway for proposed lot 3. The waiver is more fully discussed below.

*14. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et seq.].* Mineral estate owners have been notified of this application. It is unlikely that mineral extraction operations would be feasible in this area.

**Requested Waiver:**

As previously mentioned, a waiver from LDC section 8.4.3 (B) is requested. The provision requires that “*Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC*”. It is proposed that lots 1, 2, & 3 gain access by way of a common access easement connecting the site to Burgess Road on the north edge at the common lot line of proposed lots 1 and 2. An additional access easement for Lot 3 is provided along the north and east sides of Lot 1. The responsibility and maintenance of the access drives shall be carried out by the owners of Lots 1, 2 and 3 in accordance with a private access maintenance agreement.

The property is rectangular in shape with the shorter side oriented on the north adjacent to Burgess Road. The existing improvements and natural terrain on the site lends to two lots having frontage on Burgess Road and the third located to the south with no connection to Burgess Road. Due to the roadway classification of Burgess Road as a Minor Arterial in the 2040 MTCP, only one access point will be allowed for the property. The Land Development Code allows access for up to three lots from one private driveway, it is most practical for all lots to access by a single drive, rather than extending a public roadway into the site. The arrangement eliminates the need for additional public right-of-way and additional public maintenance to serve the three large lot rural residential single family lots. Private access drives, coupled with private maintenance agreements have been shown to be effective and efficient modes of access for up to three lots within the county. The driveway will also have a much diminished impact on the natural terrain and landscape of the site compared to a public roadway which would be much larger and require far more disturbance.

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

1. *The waiver does not have the effect of nullifying the intent and purpose of this code;* The request for a waiver of the LDC section 8.4.3 (B) does not go against the intent and purpose of this code.

This request is in line with the requirements set forth in the LDC, and the shared driveway will comply with all applicable design standards.

2. The waiver will not result in the need for additional subsequent waivers; With the approval of this waiver the lots will each be provided the required access necessary for their development. There will be no need for additional waivers as all applicable requirements of the El Paso County Land Development Code will be met.
3. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property; The proposed shared driveway will be constructed to provide safe and reliable access to each lot on the site. The responsibility and maintenance of said driveway shall be carried out as described in a private access maintenance agreement. The driveway will not pose a threat to the public safety, health, or welfare, nor will it be injurious to any other property.
4. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property; The Skyfall Subdivision Filing No. 1 contains 19.485± acres and three (3) lots. Because the site does not contain more than three lots, a single driveway may be used to provide access to the entire site in lieu of a public road.
5. A particular non-economical hardship to the owner would result from a strict application of this code; With strict application of this code, the subdivision would be required to access by a public roadway in a 60' right-of-way constructed to El Paso County standards. The public road would significantly increase disturbance of the natural terrain and forest as well as the impervious area of the site while increasing the maintenance responsibility of the county.
6. The waiver will not in any manner vary the zoning provisions of this code; The proposed shared driveway will comply with all zoning provisions of this code.
7. The proposed waiver is not contrary to any provision of the master plan; The proposed shared driveway is in harmony with the goals of the master plan with regard to preserving place type characteristics and preserving natural features.

#### **Existing and Proposed Facilities:**

Existing improvements within this parcel are related to the existing residential use of the site, located in the northeastern portion of the property. The new vacant lots will be located in the northwestern and southern portions. Existing facilities also include the adjacent public roadway of Burgess Road. There are no required public subdivision improvements required for this site.

#### **Total Number Of Residential Units And Densities:**

The gross area of Skyfall Subdivision Filing No. 1 is 19.485+/- acres and is proposed to contain 3 rural residential Single Family Units. An area of 19.183+/- acres will be single-family residential lots. The average lot size for the 3 proposed lots is 6.39 acres. The gross density of the site is 0.15 units per acre.

#### **Fire Protection:**

The Skyfall Subdivision Filing No. 1 property is located within the Black Forest Fire Rescue Protection District. The lots and homes are subject to the codes and policies adopted by the said District regarding fire protection.

**Proposed Access Locations:**

The access location for Skyfall Subdivision Filing No. 1 is the existing driveway access for the existing residence at 7985 Burgess Road located near the center of the northern border of the site. Access for the proposed lot will be from Burgess Road in a location to be determined in accordance with the County's access policies.

**Traffic Impact and Traffic Impact Fees:**

The one (1) existing and two (2) proposed single family residential units will access public Burgess Road. The development is expected to generate a total of 28 trips per day (Average weekday trips ends) and 3 trips in the peak hour based on 9.44 trips per unit for Single Family Detached Housing (according to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers). This number of trips is below the County threshold of 100 trips per day or 10 trip during the peak hour. Therefore, a Transportation Impact Study (TIS) is not required for the project. This development is subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 19-471. The owners have elected to not be included in any Public Improvements District. Traffic Impact Fees will be paid at time of building permit.

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