EL PASO COUNTY

COMMISSIONERS:
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STAN VANDERWERF
LONGINOS GONZALEZ
PEGGY LITTLETON

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
CRAIG DOSSEY, EXECUTIVE DIRECTOR

Date: December 20, 2018

To: Board of County Commissioners
Darryl Glenn, President

Re: APP-18-005 Sunshine Behavioral Health Appeal
Parcel No.: 71142-00-020

From: Nina Ruiz, Planner II
Len Kendall, Planner I
Craig Dossey, Executive Director

Subject: Appeal of an Administrative Determination regarding classification of a use as a "Rehabilitation Facility" as defined by the El Paso County Land Development Code (2018)

Summary:

The subject parcel is zoned C-2 (Commercial), which allows for a Rehabilitation Facility as a permitted use with site development plan approval. The Planning and Community Development (PCD) Executive Director approved a Site Development Plan to allow an existing structure to be converted from a Hotel to a Rehabilitation Facility on November 7, 2018. The site development plan was approved with the following note:

> Approval of the site development plan allows for the existing hotel to be converted to a Rehabilitation Facility as the use is defined in the El Paso County Land Development Code (2018). Based upon the application documents submitted, it is determined that the proposed use meets the definition of a Rehabilitation Facility.

Sharon Schafer, Chairperson, filed an appeal on behalf of Take Action El Paso County, LLC, of the determination that the property "be used as a drug and alcohol addiction inpatient treatment facility" on December 7, 2018. The burden of proof is on the appellant to establish that the interpretation made by the PCD Executive Director was erroneous or inapplicable.

Background:

Parcel History

The 5.11 acre parcel was legally created on June 5, 1972, by a lease with an option to purchase (Book 2493 Page 669). The parcel thus meets the definition of a legal lot as contained in the El Paso County Land Development Code (Code), as amended, which defines a legal lot as "A lot, parcel, or tract of land created by a legal conveyance; shown on an approved subdivision plan or legally prepared survey; created by the approval of the County Commissioners in conformance with any subdivision regulations in effect at the time of approval; by contract for deed or by deed, each being dated prior to July 17, 1972."

At the time of its creation, the parcel was zoned C-2 (Commercial Obsolete).

Related Land Development Code Amendments

In 2007, the El Paso County Development Services Department (which is now known as the Planning and Community Development Department) made an interpretation that Peak Addiction Recovery Center, which was an in-patient treatment facility for alcoholics and addicts, was classified as a Convalescent Hospital due to Rehabilitation Facility not being a defined term or use within the Code (ADM-07-026). The applicant appealed this determination to the Board of County Commissioners (BoCC) (APP-07-003). The BoCC overturned the administrative determination and determined the use to be a "Hospital." The BoCC provided staff with direction to amend the Code to add "Rehabilitation Facility." On December 18, 2008, the Code was amended to include Rehabilitation Facility and provide that such a facility was a special use in many zoning districts. After the amendment, a Rehabilitation Facility was listed as a Special Use in the C-2 (Commercial Obsolete) zoning district.

The Board of County Commissioners again amended the Code (LDC-14-001) in 2014 to provide for group living facilities for handicapped or disabled persons to ensure compliance with the requirements of the Fair Housing Act Amendments of 1988 ("FHAA"), 42 U.S.C. § 3601, *et seq.*, the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101 *et seq.*, and the Rehabilitation Act of 1973 ("Rehabilitation Act"), 29 U.S.C. § 701 *et seq*. These amendments included revising the zoning districts where a Rehabilitation Facility was allowed, including amending the Code so that a Rehabilitation Facility was an allowed use in the C-2 zoning district. Based on that amendment, a Rehabilitation Facility is an allowed use in the C-2 zoning district with an approved site development plan.

Recent Actions and Approvals

Sunshine Behavioral Health submitted a request for Zoning Verification on May 10, 2018 (ADM-18-013). The Zoning Verification included one request: "We believe that we meet the zoning conditions required by El Paso County to operate a rehabilitation facility at the property listed above [1865 Woodmoor Dr.] and seek written zoning determination approving this use from the county." PCDprovided a Zoning Verification Letter on May 22, 2018, which included the following statement: "A rehabilitation facility is a permitted principle use within the C-2 zoning district. A site development plan is required to initiate the rehabilitation facility use as identified within the principle use table of the Code (table 5-1)."

The zoning verification was not a determination of the use as a Rehabilitation Facility, as the applicant had not provided information to support a specific use categorization or made a request for this type of determination.

The applicant submitted a request for approval of a site development plan on July 18, 2018. The site development plan application included a detailed letter of intent that specifically requests approval of a site development plan to allow the existing development to be converted to a rehabilitation facility. The letter of intent details the proposed use and how it meets the definition of a Rehabilitation Facility.

A Rehabilitation Facility is defined in Chapter 1 of the Code as

> An institutional use-type facility, and not a group home, whether public, quasi-public, not-for-profit, providing accommodation, treatment and medical care for patients suffering from alcohol or drug-related illness.

The letter of intent includes the following language under the "Description of Proposed Use" header:

> "The property will be used as a rehabilitation facility, which is defined in Chapter 1 of the El Paso County Land Development Code as an institutional use type facility, and not a group home, whether public, quasi-public, not-for-profit, providing accommodation, treatment and medical care for patients suffering from alcohol or drugrelated illness. The facility will offer inpatient drug and alcohol rehabilitation services that specifically serve the medical and social needs of individuals diagnosed with substance use disorders."

The PCD Executive Director agreed with the applicant's use categorization of a "Rehabilitation Facility." The site development plan was approved on November 7, 2018 with the following note:

Approval of the site development plan allows for the existing hotel to be converted to a Rehabilitation Facility as the use is defined in the El Paso County Land Development Code (2018). Based upon the application documents submitted, it is determined that the proposed use meets the definition of a Rehabilitation Facility.

Appeal:
The Board of County Commissioners adopted the procedures for the appeal of Executive Director application or interpretation of the use provisions of the Code on October 11, 2018 (BoCC Resolution Number 18-389 attached). The appeal was submitted by Sharon Schafer on behalf of, and as Chairperson of, Take Action El Paso County, LLC, on December 7, 2018, which was within 30 days of the date of the interpretation. The Appellant challenges the determination that the former Ramada Inn be used as a drug and alcohol addiction inpatient treatment facility called Mountain Springs Recovery. The PCD construes this to be an appeal of the determination that the proposed use is a Rehabilitation Facility as defined in the Code. The appellant letter has been attached to this memo. The burden of proof is on the appellant to establish that the interpretation made by the Executive Director was erroneous or inapplicable.

On December 10, 2018, notice was sent of the December 20, 2018 Board of County Commissioners hearing date to 105 parties comprised of persons and entities and other County Departments expressing an interest in this matter.

Pursuant to the appeal procedures, the appellant may appeal the use determination that the proposed facility is a "Rehabilitation Facility" as defined in Chapter 1 of the Code. The appellant may not, however, appeal the use as being an allowed use within the zoning district or the zoning and development standards applicable to the use.

The appellant has included evidence and statements within the appeal letter that may not be considered when the Board of County Commissioners takes action on this item. Pursuant to the appeal procedures, the Board shall consider the relevant evidence submitted in support or opposition to the appeal and any additional evidence which it deems relevant and appropriate. As such, the Board may not consider any irrelevant evidence, such as the merit of the rules and regulations that have already been adopted by the Board of County Commissioners or any discriminatory statements prohibited by the applicable federal regulations cited above and relevant case law.

Actions:
If the Board of County Commissioners decides to deny the appeal and uphold or affirm the administrative determination, then the property may be used for the Rehabilitation Facility as approved.

If the Board of County Commissioners approves the appeal, thereby negating or overruling the use determination made in conjunction with the prior site development plan approval, then the Board of County Commissioners would need to identify the use as either another use listed within the Code or as a use that is not included within the Code. In the instance that the identified use is not included within the Code, the applicant would need to receive approval of a variance of use to allow for the use and submit a new site development plan. Applications for a variance of use and site development plan action will require payment of the associated application review fees and payment of the following fees:

- Early Assistance application - $427
- Variance of Use application - $4,237
- Site Development Plan application - $2,837

Attachments:
Vicinity map
Appeal Letter
Homeowner's Statement
Additional Exhibits
Land Development Code Principle Uses Table 5-1
Land Development Code Chapter 1 Definition of a "Rehabilitation Facility"
Approved Site Development Plan (PPR-18-030)
Letter of Intent for Site Development Plan (PPR-18-030)
BoCC Resolution No 18-389

El Paso County Parcel Information

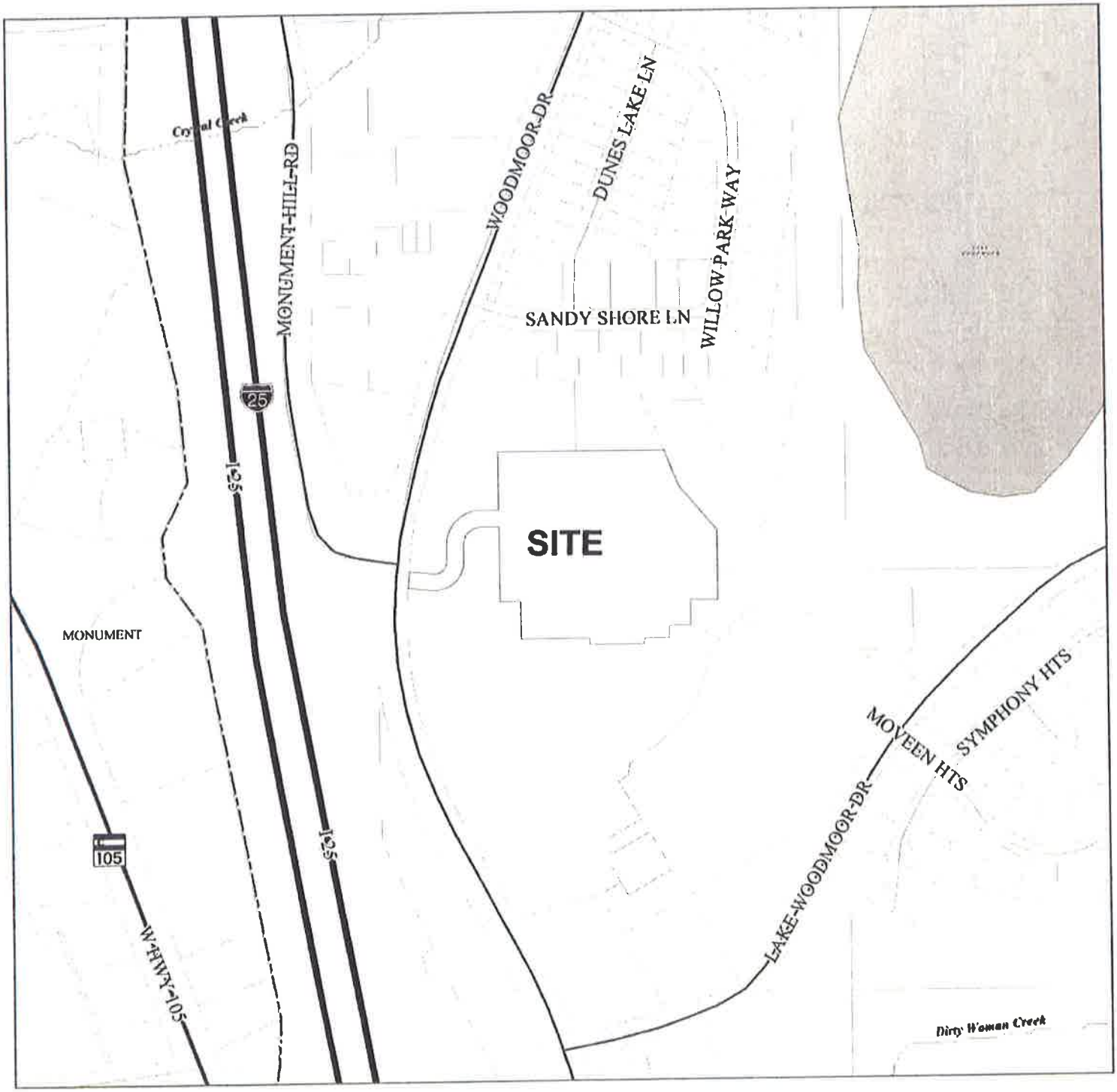
PARCEL	NAME
7114200020	FHAM LLC

ADDRESS	CITY	STATE	ZIP	ZIPLUS
30950 RANCHO VIEJO RD #225	SAN JUAN CAPISTRANO	CA	92675	1772

File Name: APP-18-005

Zone Map No.: --

Date: December 12, 2018



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

N W E S

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Take Action El Paso County, LLC
P.O. Box 3581 • Monument, Colorado • 80132

December 7, 2018

El Paso County, Colorado Board of Commisioners
200 South Cascade Avenue Suite 150
Colorado Springs, Colorado 80903

Dear Commissioners Glenn, Waller, VanderWerf, Gonzalez Jr., and Littleton:

On behalf of the Affected Party: "Take Action El Paso County LLC" (registered with Colorado Secretary of State), submits an administrative appeal of the El Paso County Commissioners' determination that the former Ramada Inn, located at 1865 Woodmoor Drive (legal description included), be used as a drug and alcohol addiction inpatient treatment facility called Mountain Springs Recovery.

1. Public Health & Safety:

a. Proximity to middle, elementary, and preschools, daycare, school bus stops, and a Safe Path for student walkers & bicyclists on the periphery of the facility presents an imminent danger to the Community's children. The facility's 7-foot cedar fence will neither deter the curious middle schooler nor the mal-intended recovering addict.
Attachment 1: Affected Area Map

b. Proximity to I-25. I-25's intersection with Monument, in particular, the truck exit between County Line & Highway 105, is a magnet for drug trafficking.
Attachment 2: Nov 17, 2018 KOAA News 5 "Heroin and Drug Crimes on the Rise in Monument"

c. Patient Egress. Patients are not restricted to the facility grounds – day or night. Ease of egress to surrounding Community is problematic.

d. Sober Living Homes. Sober living homes are natural occurrences surrounding addiction treatment facilities. They house 10-20 recovering addicts at any time and propagate in residential neighborhoods. Sober living homes are currently unregulated – HOA and/or City & County ordinances are unable to control their existence. These homes present a clear and present danger to the Community.
Attachment 3: March 11, 2018 Denver Post: "Police found fraud, sex crimes in a Colorado sober-living empire. The state doesn't regulate the industry."
Attachment 4: 2018 The New York Times: "The City of Addict Entrepreneurs"

e. Waste/Contaminated Water: Currently, there is no way to remove prescription and illegal drugs from waste water and primary sources of water. The EPA has designated this issue Contaminants of Emerging Concerns (CEC). The Affected Community remains concerned.

Public Health & Safety Summary: Government authorities prioritize the safety of its citizens, especially the most vulnerable – our children. The Trilakes Community currently has an inpatient treatment facility, The Recovery Village at Palmer Lake (443 S. Highway 105), also a converted inn. In stark contrast to Mountain Springs Recovery, The Village is miles & miles away from children and the I-25 exit.

The El Paso County Board of Commissioners (BOCC) has already deemed marijuana and fracking setbacks important to protect our children. We request the BOCC apply a 5-mile setback to protect children in schools, daycares, and Safe Paths from drug addiction inpatient treatment facilities.

2. Regulatory Compliance:

a. Americans Disabilities Act. Medical care facilities must comply with the 2010 standards of 42 U.S.C. 3601 at seq. Sections 223 & 805 require mobility features that apply to fixed or built-in elements of buildings, structures, site improvements, and routes or vehicular ways located on site. The current design – based on approved renovation plans – does not meet

standards, specifically, it does not include roll-in showers in ADA compliant rooms.

b. Fair Housing Act. Mountain Springs Recovery does not require patients to have background checks prior to entering the inpatient treatment program. The facility will house 150 patients, mostly out-of-state transients, for a 30-day period in a co-ed group living environment. Under the Fair Housing Act, determining whether or not someone poses a direct threat to persons or property of others is a requirement. Persons convicted for illegal manufacture or distribution of a controlled substance and sex offenders are not considered disabled and therefore would not be covered under the Fair Housing Act. Without a background check, there is an increased threat to the safety and security of the Community.

c. Business Violations.
Attachment 5: Lawsuit – City of Dana Point Plaintiff, Sunshine Behavioral Health LLC Defendants
Attachment 6: California Secretary of State FTB Suspended FTB Suspended or FTB Forfeited: The business entity was suspended or forfeited by the Franchise Tax Board for failure to meet tax requirements (e.g., failure to file a return, pay taxes, penalties, interest).
Attachment 7: OSHA Violations

d. Business Practices. The US Congress continues to examine concerns with patient brokering and addiction treatment fraud. Per testimony of US Congresswoman DeGette of Colorado, high quality evidence-based treatment is the key to successful addiction recovery. We could not find any evidence-based statistics for Sunshine Behavioral LLC – the parent company of Mountain Springs Recovery.
https://www.youtube.com/watch?v=lTD1BZnRAsY&feature=youtu.be
Examining Concerns of Patient Brokering and Addiction Treatment Fraud
The House Energy and Commerce Committee

Regulatory Compliance Summary: Parent company, Sunshine Behavioral LLC, has a documented record of not following rules, regs, laws, or ordinances.

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3. Economic Impact:
Attachment 8: Homeowner Diaz Statement
Attachment 9: Homeowner Track Statement

Economic Impact Summary: Mountain Springs Recovery has not yet opened. With a few examples, we begin to understand the economic toll the facility's presence will have on homeowners.

4. Citizen Petition: The Affected Party/Take Action El Paso County LLC submits both paper and on-line petition signatures for affected residents in El Paso County.

Immediate action at the County & State levels is crucial and imperative. **We are asking for acknowledgement and imminence with regard to our stated concerns, but not limited to those listed.**

We are seeking to:

1. Require a 5-mile setback to be enacted. Amend State & County Legislation to allow for more local zoning control and oversight of these commercial facilities that are nested inside of residential areas and schools. They are currently attempting to reside within feet of pre-schools, elementary schools, middle schools, high schools, day cares, libraries, parks, safe paths & school bus stops where children are guaranteed to be protected based on National Drug Free School Zones.

2. Require a special use permit in C2 zoning. We want legislation to return to special use permit requirement for all rehabilitation facilities when in El Paso County C2 zoning and or any zoning areas which would potentially endanger children.

Sincerely,

Sharon Schafer
Chairperson, Take Action El Paso County, LLC

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December 7, 2018

TO WHOM IT MAY CONCERN

In the Spring of 2018, my Wife and I purchased a new home in the Dunes, a Woodmoor subdivision just north of the proposed Mountain Springs Rehabilitation Center.

While we had intended to eventually retire in this home, we decided to initially rent the property out. We immediately had many people competing to rent this property and had scheduled to sign a lease with our selected tenant the week before the Rehab Center became public knowledge. Unfortunately, my prospective tenant called me two days before the public meeting on the Rehab Center and cancelled the lease signing since they were afraid to live anywhere near this facility.

After that cancellation occurred, I went from people competing to rent the property to almost zero interest. I eventually did rent the property for over $300 less than the initial advertised rate. My Wife and I spent a large portion of our retirement savings to purchase this property due to its location and rapidly increasing real estate values in Monument. We are devastated that our investment could now end up being a loss and this could even jeopardize our ability to retire.

Sincerely,

Craig Track

KOAA NEWS 5

Southern Colorado | *Always Watching Out For You*

Heroin and drug crimes on the rise in Monument

- Patrick Nelson
- 6:19 pm
- November 29, 2018

MONUMENT, COLORADO- Here in Southern Colorado law enforcement agencies continue to face new challenges in stopping illegal drug abuse and trafficking in our communities. Investigative Reporter Patrick Nelson spoke to police leaders in monument about a recent spike in gun and drug crimes in their area.

This spike in crime is on the radar of Monument leaders. In the town manager's report for this month it states officers are seeing increased amounts of heroin and illegal guns. As law enforcement works on pooling resources to stop these crimes, drug addiction counselors say the fight starts at home.

Thousands of drivers pass over Monument hill every day, but in the Town of Monument some people who decide to stop are up to no good, bringing with them drugs and illegal guns.

"Right now we are seeing an increase in heroin and meth possession," said Monument Police Commander Steve Burk.

Officers say these crimes are driven by drug addiction.

"Nationally we're seeing an opioid epidemic. That's been very well publicized and monument is no different," said Burk

And fueled by career criminals passing through monument looking to quickly cash in.

"They jump off the interstate come into our town commit a crime and then try to leave and officers are contacting them and they have a tendency to have drugs and weapons," said Burk.

Laura Swain is a recovering drug addict who has been sober for more than 30 years. She now helps others in recovery and says parents can protect their kids from drugs by keeping them involved.

"Have places to go. Have fun things to do. Have extracurricular activities. Sports, chess, drama, all of that is very important," said Swain.

During the national opioid crisis she says it is worth it for parents to drug test their kids.

"Don't be afraid to," said Swain. "Especially if they are driving for goodness sake because then they could die and the consequences are so serious if they get a DUI."

In Monument, officers know they aren't alone in this fight and hope their tight knit community will pull together to report crimes and avoid the dangers of drug use.

The Monument Police Department is adjusting patrol shifts and training officers to crackdown on drug crimes. Also, they're hoping to add more officers to the force in 2019.

If you or someone you know is struggling with drug addiction here are some resources provided by Recovery Systems PC in Colorado Springs: recovery-systems.org

Patrick Nelson

Patrick Nelson is an investigative reporter for News 5 in Colorado Springs.

NEWS > COLORADO NEWS

Police found fraud, sex crimes in a Colorado sober-living home empire. The state doesn't regulate the industry.

Self-described "rehab mogul" Christopher Bathum faces up to 65 years in prison following his conviction for sexually assaulting or exploiting seven patients and offering them controlled substances

Joe Amon, The Denver Post

Lisa O'Donnell thought the Community Recovery program at a home in Denver was a godsend for her 21-year-old son, but the program was run by Christopher Bathum, a felon now accused of a $176 million insurance fraud scheme and he was left on his own. O'Donnell was photographed Feb. 8, 2018 in Colorado Springs.

By **CHRISTOPHER N. OSHER** | cosher@denverpost.com | The Denver Post
PUBLISHED: March 11, 2018 at 6:00 am | UPDATED: March 12, 2018 at 10:12 am

When Lisa O'Donnell was desperate for a place to treat her 21-year-old son's heroin addiction, she thought Community Recovery's "sober-living home" on Arapahoe Street in Denver was a godsend.

The telemarketers she reached when she called the number on the website said her son would find the support he needed living with other struggling addicts in a beautiful Denver mansion. They promised state-of-the-art rehab services that would help him emerge sober and ready to take on life's challenges.

But about three months after she checked her son into the program, he called her in a panic. He told her the owner was shuttering the center and five others in Colorado because insurers had started questioning billing practices. Within weeks, former clients dumped out onto the streets started relapsing and dying of overdoses.

Chris Bathum

Photo courtesy of Los Angeles County Sheriff's Department

Chris Bathum

Now, Community Recovery founder Christopher Bathum, the self-described "rehab mogul," faces a sentence of up to 65 years in prison following his conviction last month for sexually assaulting or exploiting seven patients and offering them controlled substances. Additional criminal charges are pending against him in Los Angeles for an alleged $176 million insurance scam.

Bathum's business, which operated at least 19 sober-living facilities in Colorado and California, and others like it represent yet another troubling development in the nation's deadly opioid epidemic. All the addiction is fueling a surge in treatment facilities, with as many as 14,000 currently operating in the nation, generating $35 billion in profits annually, according to federal estimates. Critics contend the money is drawing in the unscrupulous like Bathum, who had been convicted in federal court in 2002 of felony wire fraud allegations.

Estelle "Scout" Watson

Photo courtesy of Tracy Spears

Estelle "Scout" Watson, 33, died Sept. 14, 2016, within weeks of Community Recovery suddenly shuttering the drug rehab facility in Denver where she had been a client and staff member. Her mother, Tracy Spears, and aunt, Susan Rule, say that when the rehab center closed without notice, Scout's life was turned upside down, and she began using drugs again.

The first funeral after Bathum shut down his Colorado operations was for Estelle "Scout" Watson, 33, who had come to Community Recovery from Florida. She received treatment and then became a staffer at Bathum's sober-living home on Race Street in Denver.

But Watson's world turned upside down when Community Recovery shut down with little warning, her family said. Watson, nicknamed for the character in "To Kill a Mockingbird," overdosed on heroin and methamphetamines a few weeks later.

"The safety net was just cut below them, and they fell back into the cesspool," recalled her aunt, Susan Rule. "She got the shaft all right. She died."

Watson is one of five overdose deaths The Denver Post confirmed for former Colorado patients of Community Recovery. Two of those occurred before the closure.

Members of Congress are among those concerned lax state regulations aren't doing enough to protect the public from corrupt profiteers in the industry.

"In Colorado, my home state, more people died from overdoses than from car wrecks last year, just to put this in some kind of context," said U.S. Rep. Diana DeGette, a Democrat from Denver, during a hearing of a Congressional subcommittee investigating abuses in the drug rehabilitation industry. "And as people are seeking addiction treatment services for themselves and their loved ones, it really, really puts a punctuation point on the fact we need to make sure that they're getting services that are useful and that are actually treating them and that we don't have fly-by-night operations that are just taking advantage of families' desperation."

Multiple levels of care in the rehab industry create opportunities for profit. At the more intensive end, detoxification and in-patient treatment often form the first stage of recovery. Patients then can progress to outpatient treatment, which often is coupled with therapeutic residential recovery in what are called sober-living homes. Recovering addicts live in such homes and are supposed to hold one another accountable for sobriety.

In Colorado, much of the industry is unregulated. Colorado does not require a license for sober-living homes or for substance-abuse treatment facilities that don't bill Medicaid or partner with the criminal justice system or administer replacement drugs like methadone. Those standards leave a big loophole since rehab operators can choose to bill only private insurers or have people dig into their own pockets to pay for care. Colorado officials say they have no idea how many unlicensed rehab facilities exist in Colorado. A lucrative industry is sprouting up in exclusive, wealthy suburban neighborhoods, often without the benefit of any state oversight or inspections.

"There is so much fraud in this industry and very little regulation," O'Donnell said. "It's frightening. I would not be comfortable trying to find another rehab facility for my son. I don't trust anyone now."

Other states have started cracking down. Florida last year outlawed the practice of patient brokering, in which drug rehab operators pay middlemen to entice patients to cross state lines by offering to fly them to live in sober-living facilities. The brokers promise a vacation-like recovery atmosphere, but law-enforcement authorities have found substandard or no actual care in fraudulent facilities with rampant drug use and abuse among patients and staff.

Colorado officials say they have heard of complaints about drug rehab patient brokering in the state, but the practice remains legal in Colorado. The state is powerless to regulate brokering since sober-living homes aren't required to be licensed here.

"We can only regulate through the laws that are set by the legislature of Colorado," said Cristen Bates, a director in the Office of Behavioral Health at the Colorado Department of Human Services. "We are in regular conversations at an increasing rate on what a behavioral health license means in Colorado."

Community Recovery isn't the only Colorado provider to generate controversy. Since early 2015, the state has received dozens of complaints against sober-living homes and outpatient therapy clinics run by Nathan Hardage of Colorado Springs. Colorado officials recently decided against renewing the state license for his CoreVision rehab operation that allows him to bill the state's Medicaid program. Hardage, who is appealing his license renewal rejection, disputes allegations of misconduct.

A recent lawsuit Huerfano County filed against drug manufacturers and distributors also claims unscrupulous opioid rehab businesses in that county recruited addicts nationally with false and misleading promises. "Investigations revealed that many have provided substandard care including use of physicians who had their license revoked, operating staffs which do not actually supervise patients and facilities that do not operate programs for the addicts," that lawsuit states.

The Affordable Care Act, which bars insurers from discriminating against the mentally ill and those struggling with drug addiction, has created a huge incentive for the recovery industry. Homeless addicts now are worth hundreds of thousands of dollars in insurance payments, generating reports of patient brokering, kickbacks, identity theft and human trafficking.

At the same time, anti-discrimination and fair-housing laws provide protections to sober-living homes and stymie efforts by cities to restrict them through zoning laws. Newport Beach, Calif., paid sober-living home operators $5.2 million to resolve a lawsuit, having spent $4 million in legal fees in a failed bid to shut them down.

Clashes between cities and sober-living homes are becoming more prevalent, said Brian Connolly, a Colorado land-use lawyer who has written a book on the topic. Municipal officials must ensure any restrictions on sober-living facilities also apply to single-family homes to avoid violating anti-discrimination and housing laws, Connolly said. For instance, if a city restricts the number of patients who can live in a facility, those density requirements must also apply to families living in the neighborhood. Most sober-living homes and addiction treatment centers in the state aren't crooked, Connolly said.

"Unfortunately, highlighting these abuses can lead people to saying we should ban all these things," Connolly said. "That's not the right reaction. There are doctors that are abusive, but that doesn't mean all doctors are bad."

In Colorado, Community Recovery charged insurers $246,000 to treat O'Donnell's son, according to billing information she compiled. Little in actual treatment occurred, she said. The bills included nonexistent family therapy and $2,400 for each urinalysis drug test, with as many as four drug tests a week. When she tracked down the address of the supposed lab, she found it was a small shack along a rural road in Florida.

O'Donnell's son, Alex, was one of the lucky ones. O'Donnell lived in Colorado Springs, an hour drive away from the home Bathum closed. Many patients in Colorado were left with no nearby family as Community Recovery closed facilities in Parker and Denver.

The clients had been recruited and flown or bused in from areas across the nation, said Cynthia McKay, Community Recovery's former Colorado director. The company paid brokers to go into Alcoholics Anonymous meetings to find patients, she said. They were further enticed with scholarships that paid for their initial treatment. Once these clients were brought in, Community Recovery signed them up for health insurance without their knowledge and had them sign over power of attorney and their financial rights, according to court documents.

Cliff Brodsky, a Los Angeles investor in Bathum's enterprises who successfully sued him for fraud, said brokers told him Bathum paid them up to $2,000 per patient.

"They go to the AA meetings and act like they love you. They suck up to you," said Brodsky, who saw Community Recovery brokers in action. "They give you a cigarette and take you out to lunch. But they are just hustling you."

Insurance and law-enforcement investigators allege in court documents that Community Recovery patients remained in a never-ending cycle of treatment, addiction and fraud, which allowed Bathum to pocket fraudulent insurance claims. An investigator with Blue Cross Blue Shield said the operation relied on "sober slaves" whom Bathum promoted from treatment to become his interns and staffers, an investigative document claimed.

McKay quit Community Recovery when she saw insurance bills for clients who already had been discharged from treatment, along with other red flags.

When Bathum traveled to Colorado from California to check on his facilities and patients, he had female clients pick him up at Denver International Airport, she said. One of those clients told McKay she needed a credit card to pay for a room at a hotel in Cherry Creek for Bathum and her.

"I said, 'Absolutely not. What would make you think that is appropriate?' " McKay said she told the client. "She told me Bathum had booked it and wanted it taken care of."

Another employee who had been a client confided to her that Bathum had paid her to have sex with him, she said.

"They called themselves Bathum's girls, and they would chauffeur him around," McKay said.

Dr. Robert Doolan, hired to be Community Recovery's medical director in Colorado, started showing up on insurance claims as the physician of the company's patients in California even though he wasn't licensed to provide care there.

"It came to my attention that there was an unbelievable amount of billing under my name in California," Doolan said. "That was not anything that I had submitted. He took advantage of the situation."

As the facilities in Colorado closed, said McKay, former patients "were dropping off left and right. They were on the streets, and they were using heroin. People died."

Some of the mayhem played out in rolling, tree-lined exclusive neighborhoods in the suburbs of Denver.

A former Community Recovery location on Silver Fir Street in Parker on March 06, 2018.

Andy Cross, The Denver Post

A former Community Recovery location on Silver Fir Street in Parker on March 06, 2018.

In 2014, John Allen rented his luxury home in Parker to Bathum's business. The lease called for Community Recovery to move in five recovering addicts. Instead Bathum jammed in 28 patients, who over the course of a year caused hundreds of thousands of dollars in damages, court records show.

Allen spent significant legal fees to evict Community Recovery. When he took possession, it had been stripped of furniture, and the doors to the home had been left wide open, he said.

"I can tell you some things were left behind that would make you physically ill," Allen said. "The house was trashed."

He sold the house at a discount.

"I'm kind of one of these guys who feels there are a lot of things private enterprise can do better than government," Allen said. "But here is a particular situation where government has to be regulating these sober-living home situations. The government has to be involved or it's absolutely going to be a disaster."

Popular In the Community

MUELLER RECOMMENDS NO PRISON FOR FLYNN,...

darwinreal
16h

Loooool. Individual 1 has got to be sweat!...

EMMANUEL SANDERS INJURY: BRONCOS FEAR...

300Paul
1h

Fu@#$. Come on NFL God's, enough is...

AN IMMIGRANT IN DENVER TOOK HIS OW

Goth Brooks
23h

Illegal alien, not immigrant. Also, the

TAGS: ADDICTION, AFFORDABLE CARE ACT, BLUE CROSS BLUE SHIELD, COLORADO DEPARTMENT OF HUMAN SERVICES, DRUG ADDICTION, DRUGS, FINANCIAL FRAUD, HEALTH INSURANCE, HEROIN, INSURANCE, OPIOIDS

Christopher N. Osher
Christopher N. Osher is a reporter on the investigation team at The Denver Post who has covered law enforcement, judicial and regulatory issues for the news organization. He also has reported from war zones in Africa.
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Close

https://nyti.ms/2pLdlIN The New York Times The New York Times

Business

City of Addict Entrepreneurs

The drug crisis has turned countless recovered addicts into businesspeople: Theyget clean, open their own clinics, and sometimes take over the neighborhood.

By DAVID SEGAL Photographs by JOHNNY TERGO for the New York Times

PRESCOTT, Ariz. — It first dawned on Erin Burk that her town had become a haven for drug treatment soon after she noticed the fleet of white vans zooming through her neighborhood. The vans, she learned after tailing one, were ferrying addicts all over town to what amounted to halfway houses for those in recovery: sober living homes.

Nobody she asked seemed to know how many sober living homes were located in Prescott, so she decided to conduct an improvised census.

"I followed those vans around for three months," said Ms. Burk, a young mother of five whose sleuthing identified dozens of sober living homes in her city — including 15 within a block of her house. "Then I cried for a long time."

That was in 2010, the beginning of a boom here in the addiction treatment business that turned this city of just 42,500 people into one of the rehab capitals of the country. Today there are some 33 sober living homes in operation, down from a peak last year of 170. At the time, by some estimates, one in 30 people living in Prescott was in recovery.

IN THIS SERIES

- Addiction Inc.
- The Giant, Under Attack
- In Pursuit of Liquid Gold
- A Doctor With a

America's opioid and heroin epidemic is sending more than 2 million people a year in search of help, making treatment a tragic necessity. Many clinics do excellent work, and countless former patients swear by the treatment they received, including

- Phone and a Mission

plenty whose victory over addiction enabled them to go into business themselves — running their own rehab centers.

But what bothered Ms. Burk and others was the sense that "Everybody's Hometown," as Prescott has long billed itself, was changing for the worse and losing control of its future. There was more traffic, more noise. And one day, she said, her kids picked up a brown bag filled with Oxycodone from a lawn across the street.

Prodded by citizens like her, Prescott officials this year enacted a law — believed to be the first of its kind in the country — that regulates sober living homes by requiring licenses and setting standards for the training of their managers. It was difficult to do; zoning restrictions that were part of an earlier effort had run afoul of the Americans With Disabilities Act.

Prescott didn't want to drive every addict away, a goal that might be impossible given the scope of the drug crisis. Rather, the town wanted to manage the growth of an industry that seemed to mushroom up out of nowhere, with few legal constraints.

Spending on addiction treatment in America has soared past $35 billion annually. But not all patients can afford, or have insurance that covers, the kind of inpatient rehab associated with celebrities, campuses in Malibu and 28-day stays.

To meet the demand, an armada of former addicts have become entrepreneurs, offering a new and cheaper version of rehab. That is what has swarmed Prescott — small, outpatient clinics that use an approach known as the Florida Model.

A New Method for Treatment

Named for state where it was pioneered, the Florida Model provides patients with counseling during the day — usually chair-circles of group therapy — in what is typically a residential building. At night, clients live in sober living homes, where they are responsible for covering their rent.

Often, the treatment facilities are owned by the same people who run the sober living homes. But by separating the two lines of businesses — treatment and housing — the Florida Model keeps costs lower for insurers.

To understand why, you need to know why classic, inpatient rehab centers are so expensive. They are essentially a cross between a hotel and a hospital. The price for a month of treatment — $30,000 and sometimes much more — covers a spacious room, excellent food, medical facilities and on-staff physicians and nurses.

That sort of rehab is designed for people who might need medical attention, often because they are suicidal. Comfort is another selling point, as is customized, one-on-one therapy.

The Florida Model is rehab without frills. Doctors, medical equipment and great meals aren't included. Treatment costs about $9,000 a month, and the price goes down over time, as a client needs less therapy. Rent at a sober living home is usually around $400 a month — and not covered by insurance.

On paper, this approach has upsides, for both clients and insurers. Because the tab is much smaller, clients can stay longer, giving them more time to wean themselves off drugs. And when clients aren't in treatment, or at 12-step meetings, they are encouraged to work, usually at hourly wage jobs, where they learn life and coping skills.

But as Prescott discovered when clinics and sober living homes started proliferating in 2010, the barriers to entry in this business are low. And for some clinic owners here, money became an end in itself.

"There was a time last year when a lot of the guys who owned clinics and sober living homes were driving a Cadillac Escalade, or a Mercedes-Benz," said Daniel Sullivan, who managed a sober living home in Prescott called Square One Recovery. "I heard a few of them talking about how they were just $50,000 away from joining the high-roller program at the MGM in Vegas."

Billing for 'Equine Therapy'

Last year, at least one insurance company took action in Prescott. Health Net, which is based in Woodland Hills, Calif., and at the time served roughly six million members across the country, felt it was paying exorbitant reimbursement rates for people who had signed up for its Platinum plan.

A clampdown began after Health Net's owner, Centene, sent a team of eight investigators to Prescott to examine billing practices.

What they found appalled them. At a public forum last year, a company representative, Daniel Kreitman, told a committee looking into sober living homes that some were charging $2,000 for daily urine tests and upward of $5,000 an hour for "equine therapy" — basically, recovering addicts spending time with horses. Some clients were in treatment for 15 months "with no end in sight," as he put it.

While there are clinics and sober living homes in Prescott that clearly care about their clients, some have provided substandard treatment. And while Prescott has found a way to regulate the business, word of the profits made here has spread.

The Florida Model is the future of rehab, says Simon Karmarkar, who consults with entrepreneurs opening new centers. "That's all I'm seeing right now, all over the country," he said. "It's lucrative, it doesn't require the staffing or the licensure. It's growing exponentially."

A Cup of Coffee and a Sober Dance

Walking around Prescott, you would never guess that it is one of "The 10 Best Sober Living Cities," according to The Fix, a website dedicated to recovery-related news. The city has cowboy roots, a quaint town square and a landscape sufficiently cinematic to serve as the setting for "Junior Bonner," the 1972 rodeo movie starring Steve McQueen.

To find the recovery crowd, seek out a "sober dance." They are often held on Saturday night at a strip mall not far from downtown. They look like any other party filled with college-age kids, except the parking lot is packed with the same kind of white vans that Ms. Burk tailed, there is no alcohol and the festivities start with an Alcoholics Anonymous meeting.

Or walk two blocks from the main square, to one of the cafes. For a time, so many young people in recovery idled at the Wild Iris Coffee House that the owner imposed anti-loitering rules and hired a bouncer. "If they didn't order anything, he'd politely approach them and say, 'You need to be a customer to sit here,'" said Julie Gorman, the owner of Wild Iris.

With an abundance of sun and pleasant weather year-round, Prescott first became a healing destination in the early 1900s, welcoming tuberculosis patients. Addiction treatment took off here after the passage of the 2008 Mental Health Parity and Addiction Equity Act, the law that put substance abuse

treatment on the same footing as other medical benefits. In 2010, the Affordable Care Act mandated that plans on its exchanges offer substance abuse benefits.

Suddenly, millions of adults were insured and the population of people seeking treatment ballooned. Among the first to notice were the former addicts who had come to Prescott for treatment. Many of them stayed in town to start their own clinics, which produced more former patients with the same idea, repeating the cycle.

Among that cohort is Mo Michael, a former gambling addict. In 2015, she, her husband and his brother bought a clinic and renamed it Compass Recovery Center.

"I wanted a place where we could act completely within our own integrity," said Ms. Michael, the program director, sitting in her office. "I didn't like where things were going."

Ms. Michael said it was too easy to open a Florida Model clinic. Under Arizona law, each treatment center needs just one licensed professional counselor, which requires a master's degree in mental health services and is not to be confused with a physician. Therapists who work under that counselor are called behavioral health technicians but are not required to have specific training or certification.

"That's super scary to me," Ms. Michael said. "If you came to me and said, 'I'd like to be a behavioral health tech,' I could say, 'Sure,' and you could start work tomorrow."

Arizona's standards are not unusual, and are in fact higher than in other states. Sherry Daley of the California Consortium of Addiction Programs and Professionals said addiction clinics in her state are not required to have any state certification.

"If you want to hang a shingle here and start treating people the same day, you can," she said.

From Client to Caregiver

The standards for managing a sober living home are even lower. Daniel Sullivan was just getting over his prescription pill addiction — he'd graduated from a

Florida Model clinic two weeks earlier — when he landed a job as a manager at the Square One sober living home.

The work was exhausting and stressful. His day started at 7 a.m., when he would wake the more than dozen residents and hand out their medications. Then he became a chauffeur, driving residents in a van first to the clinic (for 8 a.m. group therapy), then to their jobs (typically at restaurants or retailers) and later in the evening to various A.A. meetings.

Curfew was midnight. He would take a final head count and go to bed at 1 a.m.

The real toll was mental, he said, not physical. In cases where residents violated house rules — say, using drugs or stealing — they could be kicked out for 72 hours. But for recovering heroin addicts, Mr. Sullivan said, that could be tantamount to a death sentence.

"There were a bunch of occasions when I had to '72' someone and I'd get a call soon after, saying the person had died," Mr. Sullivan said. Typically, they had overdosed. "That happened six times during the 11 months I was managing."

Seeking Sobriety, and Answers

There are many similar tales. Then again, there are also plenty of recovering addicts who say their journey to Prescott saved their lives.

John Lehman, the chairman of the Florida Association of Recovery Residences, a nonprofit promoting standards in the addiction industry, has been a critic of profiteering in the addiction field, vocal enough to end up the target of an ongoing lawsuit alleging defamation filed by a clinic owner. But he faulted the management of individual properties, rather than the Florida Model itself.

The Florida Model can work, he said, because it doesn't use the classic rehab approach, which tries to educate and cure addicts in 28 days, then returns them to the setting where they had been abusing drugs, often with disastrous consequences. With the Florida Model, people learn from peer leaders — usually former addicts who are now sober — and then become peer leaders themselves.

"What happens is, recovery starts to seem exciting," Mr. Lehman said. "You become committed to a positive norm."

But there are few studies on the Florida Model's effectiveness. Many clinics claim that 80 to 90 percent of their graduates stay sober, although those statistics are commonly based on surveys of graduates and considered unreliable by academics. The main concern is that people who have relapsed are either hard to find — in which case they are not counted — or may be motivated to lie out of embarrassment.

Even less is known about sober living homes. Clusters of them now operate in California, New England and the Midwest, but despite their prevalence, even basic information about these businesses is not publicly available.

In a letter last year to the federal Government Accountability Office, Senators Elizabeth Warren, Marco Rubio and Orrin Hatch worried that the homes had fallen into a "regulatory gap."

A spokesman for the office said it is still working to answer the senators' questions. Among them: "How many sober living homes are there in the United States?"

'Like a License to Steal'

After Ms. Burk finished her census of sober living homes, she started attending town council meetings to complain about them.

But what she regarded as a disastrous change in the community, some of her former high-school classmates considered a lucky break. The real estate market was still recovering from the economic crisis of a few years earlier and many residents who'd purchased second homes during the bubble years started renting them out to rehab providers. A property with a $1,000-a-month mortgage payment could suddenly net $10,000 a month, or more.

"People were getting rich," she said.

Josh German, who worked as a therapist at a treatment center in Prescott, said he knew people who had become millionaires.

"The Health Net payments were like a license to steal, and who was going to stop them?" he said, referring to the insurance company that became suspicious. "There was no regulation, no oversight."

One of the people who prospered was Jimmy Rizzo, a former sanitation worker in New York City who arrived in Prescott in 2001 to kick his cocaine addiction.

He wound up working at a clinic, became an expert in insurance billing and opened Billing Solutions, a company that now has dozens of employees. In March of last year, Mr. Rizzo sold an 80 percent stake in the company to Syncordia, a publicly traded Canadian company, for $8 million.

In an interview, Mr. Rizzo described how he suspected that clinics had figured out that the Platinum plan from Health Net was paying out like a slot machine stuck at triple 7s. He thought it happened sometime in 2015, by accident, and that word spread quickly.

"This is a very small community," he said. "You saw the same thing in Florida. Somebody probably took a Cigna policy there and it came back 'hot,'" he said, meaning it paid out generously. "That person told somebody, and that person told somebody. That's the way it works."

Cigna pulled out of Florida's Obamacare exchanges in 2015, citing an "exponential increase" in fraud, particularly in substance abuse clinics and labs.

The Health Net plan was reimbursing between 75 percent and 85 percent of claims, Mr. Rizzo said — well above the norm. Eventually, about a quarter of all clients in Prescott were on Health Net's Platinum plan, by Mr. Rizzo's estimate.

Centene, which now owns Health Net, declined to comment.

A Struggle for Control

Between 2013 and 2015, Health Net's annual spending on out-of-network claims from substance abuse providers skyrocketed by nearly 1,000 percent, to $190 million, according to a company filing in a lawsuit involving a treatment center in California. "The magnitude of this fraud is staggering," the company's lawyers wrote, referring to putative overbilling.

The outlays have affected the health care exchanges at the heart of the Affordable Care Act. Last summer, Centene announced that it would pull out of a "considerable amount" of the exchange business in Arizona, without giving specifics. Cigna has yet to return to Florida's exchanges.

Prescott's attempts at regulation of sober living homes initially stumbled. Zoning changes in 2012 aimed at taming the industry ran afoul of the Americans with Disabilities Act because addicts are classified as disabled. Officials from Housing and Urban Development said, for instance, that instead

of requiring that new sober homes be built two blocks from existing ones, a single block should suffice.

The slow progress initially annoyed many locals, said George Worley, Prescott's planning manager. Nobody understood the limits of the city's power. People assumed, "we should be able to go close them down," he said. "In fact we can't, under federal law and under Supreme Court decisions."

Tighter Rules That Turn Some Loose

In January, a city ordinance finally succeeded in regulating sober homes. Minimum staffing and maximum occupancy rules were imposed and safety inspections mandated. The one-two punch of the new rules, combined with Centene's payment crackdown — for months, reimbursements to dozens of clinics simply ceased — financially devastated some clinics, which sued over what they called improperly withheld payments. Other companies simply folded.

One of those was Freedom Recovery, the clinic where Daniel Sullivan was treated for his pill addiction. In February, the management gathered their 30 or so clients and announced that the clinic and its affiliated sober living homes were closing.

For young people struggling with addiction, the news was traumatic. Tim Terry, a recovering heroin addict then living at a sober home owned by Freedom Recovery, said that about a week before the company closed, managers called the parents of residents asking for money to cover insurance deductibles. (More than a few clinics in Prescott paid insurance deductibles on behalf of their clients, several former clients said, to help encourage them to sign up.) He called it "a big cash-out opportunity."

"This one girl, they called and hit up her parents for $15,000," he said. But because he knew the place was about to close, he said, "I called my dad and I told him, 'Do not give them any money.'"

Reached by phone, the former owner of the facility, Alex Halenka, said that any requests for money were to cover insurance costs that Freedom would have had to pay. He also said that, as a former addict himself, he cared too much about his clients to push anyone off the premises.

"We at Freedom followed through with our word to the families and clients," he said, adding that the company had "always done everything by the book."

Today, there are fewer white vans zooming through Prescott. What impact, if any, the business will see from the tax overhaul bill's repeal of the Affordable Care Act individual mandate is not yet known, according to rehab clinic owners. At Compass Recovery, Ms. Michael said this week that revenue has actually been up recently because the company is now relying more on customers who pay cash, instead of those with insurance.

But the cat-and-mouse game continues throughout the industry. Mr. Karmarkar, the consultant to Florida Model clinics, said insurance billing experts are constantly probing for vulnerabilities in reimbursement programs — sending in insurance claims and waiting to see which ones come back "hot."

"A lot of the people who run these clinics start off with great intentions," Mr. Karmarkar said. "But at some point they begin making so much money that the money becomes the primary motive. Which is a shame. We're supposed to be part of the solution."

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CITY OF DANA POINT

EXEMPT FROM FEE PER GOV'T CODE SEC 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

CITY OF DANA POINT, a California municipal corporation, in its own name and in the name of the People of the State of California, Plaintiff, v. SUNSHINE BEHAVIORAL HEALTH, LLC, a California limited liability company; MONARCH SHORES; and DOES 1 through 25, inclusive, Defendants.	Case No. 30-2017-00904184-CU-MC-CJC Assigned for all purposes to: Judge Linda Marks **COMPLAINT FOR ABATEMENT, INJUNCTION, EQUITABLE RELIEF AND CIVIL PENALTIES** Date Action Filed: Trial Date:

Plaintiff City of Dana Point ("City" or "Plaintiff") alleges:

INTRODUCTION

1. This action is brought for the purpose of enjoining, abating, and preventing a public nuisance occurring at 34575 Camino Capistrano, Dana Point, California ("Property") pursuant to the Dana Point Municipal Code ("DPMC"), Code of Civil Procedure section 731, and Civil Code sections 3479 *et seq.*

2. Plaintiff is informed and believes and thereon alleges that the defendants named below are and at all times mentioned herein were using or knowingly permitting the use of the Property for operating an alcohol and drug abuse treatment facility in violation of relevant State and local laws.

3. In particular, Plaintiff is informed and believes and based thereon alleges that defendants are operating a Drug Abuse Recovery or Treatment Facility that provides treatment services to seven or more clients in violation of State Law, because it failed to obtain the necessary State-issued license, and in violation of the City's Zoning Code, because such uses are prohibited in the Zoning District in which the Treatment Facility is located.

4. Through this action, Plaintiff is seeking to remedy these injuries to the public interest by enjoining Defendants' violations of law by abatement of the public nuisance.

PARTIES

5. The City is, and at all times mentioned herein was, a municipal corporation organized and existing under the laws of the State of California.

6. The City is informed and believes and thereon alleges that defendant Sunshine Behavioral Health, LLC ("Sunshine'') is a limited liability company organized and existing under the laws of the State of California, with its principal place of business in Orange County, California. The City is informed and believes and thereon alleges that defendant Sunshine is or has been operating a Treatment Facility at the Property.

7. The City is informed and believes and thereon alleges that defendant Monarch Shores ("Monarch") is a California company organized and existing under the laws of the State of California. The City is informed and believes and thereon alleges that defendant Monarch is or

has been operating a Treatment Facility at the Property.

8. Sunshine and Monarch are collectively referred to as "Defendants."

9. The true names and capacities, whether individual, corporate, associate, or otherwise, of the Defendants named herein as Does 1 through 25, inclusive, are unknown to the City, who therefore sues said Defendants by fictitious names. The City will amend this Complaint to allege the true names or capacities when they have been ascertained. The City is informed and believes and thereon alleges that each of the Doe Defendants is responsible in some manner for the conduct, acts, omissions, and nuisances herein alleged, through ownership and/or operation of the Property.

10. The City is informed and believes, and thereon alleges that, at all times herein mentioned, each defendant was the agent and employee of each of the remaining defendants, and in doing the things hereinafter alleged, was acting within the course and scope of such agency and employment.

The Property

11. The Property that is the subject of this Complaint is located at 34575 Camino Capistrano, Dana Point, California 92624.

12. The Property is located within the City's RSF 3 Zoning District. The RSF 3 Zoning District only permits those land uses specifically listed as permitted in the City's Zoning Code. (DPMC § 9.09.020(b).). Any use not specifically permitted in the Zoning District is expressly prohibited. (*Ibid.*)

13. Drug Abuse Recovery or Treatment Facilities are not listed as a permitted use in the RSF 3 Zoning District and therefore are prohibited. (*Ibid.*; DPMC § 9.75.270.)

JURISDICTION AND VENUE

14. Jurisdiction for this matter properly lies with this Court because the amount in controversy is within the jurisdictional limits of the Superior Court of the State of California for an unlimited civil case.

15. Venue is proper in this Court because pursuant to Code of Civil Procedure Section 395, subdivision (a), the Defendants currently reside or are doing business in Orange County,

California and the incidents which give rise to Defendants' liability took place in Orange County, California.

OVERVIEW OF APPLICABLE LAW

Public Nuisance Law

16. Under Civil Code section 3479: "Anything which is injurious to the health, including but not limited to, the illegal sale of controlled substances . . . is a nuisance." Civil Code section 3480 defines a public nuisance as one which affects an entire community, neighborhood, or a considerable number of persons.

17. Cities also have the police power authority to declare by ordinance what activities or uses constitute a nuisance. (Cal. Const. art. XI, § 7; Gov. Code § 38771.) The Dana Point Municipal Code ("DPMC") declares that, amongst other things, any violation or threatened violation of any provision of the Municipal Code (including the City's Zoning Code) ***shall*** be deemed a public nuisance. (DPMC §§ 1.01.240 (a); 6.14.002(a),(aa).) A violation of a local ordinance declaring an activity or use a public nuisance is a nuisance *per se*. (*IT Corp v. County of Imperial* (1983) 35 Cal.3d 63.)

18. A civil action may be brought the city attorney of any town or city in which such nuisance exists to abate a public nuisance. (Code Civ. Proc. § 731; Gov. Code § 38773; Civ. Code § 3491; DPMC § 1.01.240(a).)

California State Law Regulating Sober Living Homes and Alcoholism or Drug Abuse Recovery or Treatment Facilities

19. Any facility that provides non-medical alcoholism or drug abuse recovery, treatment, or detoxification services to adults must obtain a license from the California Department of Alcohol and Drug Programs ("Department"). Facilities licensed by the Department must comply with the requirements prescribed by state law.

20. Certain facilities, which have come to be commonly known as "sober living homes" do not need to be licensed provided they meet the definition set forth in Health & Safety Code § 1505 (i):

> Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction ***where the facility provides no care or supervision.*** (Emphasis added)

21. Any facility which holds itself out to be a "sober living home" which serves 7 or more clients and provides certain treatment services, must nevertheless obtain a license from the state. Health & Safety Code § 11834.30 provides:

> No person, firm, partnership, association, corporation, or local government mental entity shall operate, establish, manage, conduct, or maintain an alcoholism or drug abuse recovery or treatment facility to provide recovery, treatment, or detoxification services within this state without first obtaining a current valid license . . .

22. 9 Cal. Code Regs § 10505 further provides:

> Except for facilities operated by a State agency, no person, firm, partnership, association, corporation, county, city, public agency or other governmental entity shall operate, establish, manage, conduct, or maintain a facility which provides 24-hour nonmedical, residential, alcoholism or drug abuse recovery or treatment services to adults without first obtaining a current, valid license from the Department [of Alcohol and Drug Programs].

23. 9 Cal. Code Regs § 10501 defines "alcoholism or drug abuse recovery or treatment service" as "a service which is designed to promote treatment and maintain recovery from alcohol or drug programs which includes one or more of the following: detoxification, group sessions, individual sessions, educational sessions, and/or alcoholism or drug abuse recovery or treatment planning."

Relevant Provisions of the Dana Point Municipal Code

24. DPMC section 1.01.240 (a) declares that, amongst other things, any violation or threatened violation of any provision of the Municipal Code (including the City's Zoning Code) ***shall*** be deemed a public nuisance. (See also DPMC § 6.14.002(a) [any violation of any section of the Municipal Code deemed a nuisance], (aa) [any violation of Title 9, the Dana Point Zoning Code, deemed a nuisance].)

25. The DPMC explicitly states that any proposed land use that is not expressly allowed in a given district is prohibited. Alcoholism or drug abuse recovery or treatment facilities are prohibited in certain zones and are allowed in other zones within the City with the issuance of

a conditional use permit. (DPMC §§ 9.07.020(b) [residential districts]; DPMC 9.11.020(b) [commercial districts], 9.13.020(c) [mixed use districts], 9.15.020(b) [professional/administrative districts], and 9.17.020(b) [industrial/business districts].) Drug Abuse Recovery or Treatment Facilities are not listed as a permitted use in the RSF 3 Zoning District, and are therefore prohibited.

26. The DPMC also expressly states that "[n]othing in this Code shall be interpreted to authorize the use of a lot or parcel in any way that is in violation of any other applicable statute, Code, or regulation." (DPMC § 9.01.070(b).)

FIRST CAUSE OF ACTION

Public Nuisance -- Against All Defendants and Does 1-25

(Civil Code § 3479 *et seq.*)

27. Plaintiff hereby incorporates by reference paragraphs 1 through 26 of this Complaint, and makes them part of this First Cause of Action, as is more fully set forth herein.

28. The City is informed and believes and based thereon alleges that the Property is being used as a facility which provides alcoholism or drug abuse or recovery or treatment services, as defined by 9 Cal. Code Regs § 10501 ("Services"). The City is also informed and believes and based thereon alleges that the Property provides the Services to seven or more paying clients, either onsite or using the Property as a residential component of a treatment facility. As such, Defendants are required to obtain a State-issued license for the Property pursuant to Health & Safety Code § 11834.30 and 9 CCR § 10508. The City is informed and believes and based thereon alleges that at all times mentioned, the Property is operating without the required State-issued license.

29. At all times herein mentioned, Defendants have used, occupied and maintained the Property in violation of the above-cited provisions of California law. This renders the Property a public nuisance pursuant to Civil Code sections 3479 and 3480.

30. The continued operation of the Property is a public nuisance subject to abatement by civil action brought by the city attorney pursuant to Civil Code section 3479 *et seq.* and DPMC section 1.01.240(b).

31. The City has no plain, speedy, or adequate remedy at law and injunctive relief is expressly authorized pursuant to Code of Civil Procedure sections 526 and 731.

32. A preliminary and permanent injunction to prevent any further activity by Defendants and to close the Property is necessary in this case to abate and prevent the continuance of the nuisance.

SECOND CAUSE OF ACTION

Public Nuisance -- Against All Defendants and Does 1-25

(Civil Code § 3479 *et seq*; DPMC § 1.01.240 and 9.01.070(b))

33. Plaintiff hereby incorporates by reference paragraphs 1 through 32 of this Complaint, and makes them part of this First Cause of Action, as is more fully set forth herein.

34. The City of Dana Point Zoning Code has been codified as Title 9 of the Dana Point Municipal Code. The Zoning Code was adopted in order to, amongst other things, "promote health, safety, welfare, and general prosperity with the aim of preserving a wholesome, serviceable, and attractive community in accordance with the General Plan and Local Coastal Program for the City." (DPMC § 9.01.030(j).)

35. DPMC section 1.01.240 (a) declares that, amongst other things, any violation or threatened violation of any provision of the Municipal Code (including the City's Zoning Code) ***shall*** be deemed a public nuisance. (*See also* DPMC § 6.14.002(a) [any violation of any section of the Municipal Code deemed a nuisance], (aa) [any violation of Title 9, the Dana Point Zoning Code, deemed a nuisance].)

36. The Property is located at 34575 Camino Capistrano, Dana Point, California, within the City's RSF 3 Zoning District.

37. The City is informed and believes and based thereon alleges that the Property provides Services to seven or more paying clients, either onsite or using the Property as a residential component of a treatment facility.

38. The RSF 3 Zoning District permits only those land uses listed in the City's RSF 3 Zoning District. (DPMC § 9.09.020(b).) Any use not specifically permitted in the RSF 3 Zoning District is expressly prohibited. (*Ibid.*)

39. Drug Abuse Recovery or Treatment Facilities are ***not*** listed as a permitted or conditionally permitted use in the RSF 3 Zoning District. (*Ibid.*)

40. At all times herein mentioned, Defendants have used, occupied and maintained the Property as a Drug Abuse Recovery or Treatment Facility in violation of the City's Zoning Code as embodied in the City's Municipal Code. This renders the Property a public nuisance pursuant to DPMC sections 1.01.240(a), 6.14.002(a), 6.14.002(aa) and Civil Code sections 3479 and 3480.

41. In addition, the DPMC also expressly states that "[n]othing in this Code shall be interpreted to authorize the use of a lot or parcel in any way that is in violation of any other applicable statute, Code, or regulation." (DPMC § 9.01.070(b).)

42. As set forth in detail above, the use of the Property to provide drug and alcohol treatment services is illegal under State Law because Defendants have not obtained the State License required by Health & Safety Code § 11834.30 and 9 CCR § 10508.

43. The continued operation of the Drug Abuse Recovery or Treatment Facility is a public nuisance subject to abatement by civil action brought by the city attorney pursuant to Civil Code section 3479 *et seq*. and DPMC section 1.01.240(b).

44. Additionally, continued operation of the business on the Property violates DPMC section 9.07.030 for reasons including, but not limited to, employment of outside employees, use of multiple rooms for business purposes, and number of vehicle trips generated per day. This constitutes an additional public nuisance subject to abatement by civil action.

45. The City has no plain, speedy, or adequate remedy at law and injunctive relief is expressly authorized pursuant to Code of Civil Procedure sections 526 and 731.

46. A preliminary and permanent injunction to prevent any further activity by Defendants and to close the Property is necessary in this case to abate and prevent the continuance of the nuisance.

PRAYER

Wherefore the City prays for judgment against Defendants as follows:

AS TO THE FIRST CAUSE OF ACTION:

1. That all Defendants, including DOES 1 through 25 and the Property, including all

buildings and structures thereon, be declared a public nuisance in violation of Civil Code sections 3479 and 3480.

2. That the Court find that the Property, together with all of the fixtures and moveable property therein and thereon constitute a public nuisance and be permanently abated as a public nuisance.

3. That the Court grant a preliminary injunction, permanent injunction, and order of abatement in accordance with section 3491 of the Civil Code, enjoining and restraining Defendants and their agents, heirs, successors, officers, employees, and anyone acting on their behalf from unlawfully operating any business on the Property.

AS TO THE SECOND CAUSE OF ACTION:

1. That all Defendants, including DOES 1 through 25 and the Property, including all buildings and structures thereon, be declared a public nuisance in violation of Civil Code sections 3479 and 3480.

2. That the Court find that the Property, together with all of the fixtures and moveable property therein and thereon constitute a public nuisance and be permanently abated as a public nuisance.

3. That the Court grant a preliminary injunction, permanent injunction, and order of abatement in accordance with section 3491 of the Civil Code, enjoining and restraining Defendants and their agents, heirs, successors, officers, employees, and anyone acting on their behalf from unlawfully operating any business on the Property.

AS TO ALL CAUSES OF ACTION:

1. That Plaintiff recover the amount of filing fees and the amount of fees for the service of process or notices which would have been paid but for Government Code section 6103.5;

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2. The Plaintiff recover its attorney fees and costs of prosecuting this action; and

3. That Plaintiff be granted such other and further relief as the Court deems just and proper.

Dated: February 21, 2017

RUTAN & TUCKER, LLP
A. PATRICK MUÑOZ
ROBERT O. OWEN
JENNIFER J. FARRELL

By:

Robert O. Owen
Attorneys for Plaintiff
CITY OF DANA POINT

Alex Padilla
California Secretary of State

Business Search - Results

The California Business Search is updated daily and reflects work processed through Wednesday, December 5, 2018. Please refer to document **Processing Times** for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

- Select an entity name below to view additional information. Results are listed alphabetically in ascending order by entity name, or you can select a column title to change the sort order.
- To refine the search results, enter a word or a string of words in the "Narrow search results" box. The "Narrow search results" will search on all fields of the initial search results.
- For information on checking or reserving a name, refer to **Name Availability**.
- For information on requesting a more extensive search, refer to **Information Requests**.
- For help with searching an entity name, refer to **Search Tips**.
- For descriptions of the various fields and status types, refer to **Frequently Asked Questions**.

Results of search for LP/LLC Name keyword "Sunshine behavioral" returned 3 entity records (out of 3 records found).

Show 10 ▼ entities per page

Narrow search results:

Show 10 ▼ entities per page

Narrow search results:

Show 10 ▼ entities per page

Narrow search results:

Entity Number	Registration Date	Status	Entity Name	Jurisdiction	Agent for Service of Process
201802910148	01/11/2018	ACTIVE	SUNSHINE BEHAVIORAL HEALTH GROUP LLC	CALIFORNIA	CHAD I DAUGHERTY
201428910408	10/14/2014	FTB SUSPENDED	SUNSHINE BEHAVIORAL HEALTH LLC	CALIFORNIA	CHAD DAUGHERTY
201802710010	01/11/2018	ACTIVE	SUNSHINE BEHAVIORAL HEALTH PARTNERS LLC	CALIFORNIA	CHAD DAUGHERTY

UNITED STATES
DEPARTMENT OF LABOR

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A TO Z INDEX

ABOUT OSHA ▾ WORKERS ▾ EMPLOYERS ▾ REGULATIONS ▾ ENFORCEMENT ▾ TOPICS ▾ NEWS & PUBLICATIONS ▾ DATA ▾ TRAINING ▾

Inspection Detail

Case Status: CLOSED

Inspection: 1319472.015 - Sunshine Behavioral Health Llc

Inspection Information - Office: Ca Santa Ana District Office

Nr: 1319472.015 Report ID: 0950631 Open Date: 05/31/2018

Sunshine Behavioral Health Llc
35072 Camino Capistrano
Dana Point, CA 92624

Union Status: NonUnion

SIC:
NAICS: 623220/Residential Mental Health and Substance Abuse Facilities
Mailing: 30950 Rancho Viejo Rdsuite 225, San Juan Capistrano, CA 92675

Inspection Type:	Accident			
Scope:	Partial	Advanced Notice:	N	
Ownership:	Private			
Safety/Health:	Safety	Close Conference:	09/28/2018	
		Close Case:	11/19/2018	
Related Activity:	Type	ID	Safety	Health
	Accident	1337501		

Case Status: CLOSED

Violation Summary

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations				3		3
Current Violations				3		3
Initial Penalty	$0	$0	$0	$6,310	$0	$6,310
Current Penalty	$0	$0	$0	$6,310	$0	$6,310
FTA Amount	$0	$0	$0	$0	$0	$0

Violation Items

#	ID	Type	Standard	Issuance	Abate	Curr$	Init$	Fta$	Contest	LastEvent
1.	01001	Other	342(A)	09/28/2018		$5,000	$5,000	$0		Z - Issued
2.	01002	Other	3342(C)	09/28/2018	11/02/2018	$560	$560	$0		Z - Issued
3.	01003	Other	3342(F)	09/28/2018	11/02/2018	$750	$750	$0		Z - Issued

UNITED STATES
DEPARTMENT OF LABOR

UNITED STATES
DEPARTMENT OF LABOR

Violation Detail

Standard Cited:342(A) *(18B-CA) Work-Connected Fatality/Injury Reporting*

Violation Items

Nr: 1319472.015	Citation: 01001	Issuance: 09/28/2018		ReportingID: 0950631	
Viol Type:	Other	NrInstances:	1	Contest Date:	
Abatement Date:	3	Nr Exposed:	1	Final Order:	10/19/2018
Initial Penalty:	$5,000.00	REC:		Emphasis:	
Current Penalty:	$5,000.00	Gravity:		Haz Category:	

Penalty and Failure to Abate Event History

Type	Event	Date	Penalty	Abatement	Type	FTA Insp
	Z: Issued	09/28/2018	$5,000.00		Other	

UNITED STATES
DEPARTMENT OF LABOR

Occupational Safety and Health Administration
200 Constitution Ave NW
Washington, DC 20210
800-321-6742 (OSHA)
TTY
www.OSHA.gov

December 7, 2018

To Whom It May Concern:

My Husband and myself, Richard and Carol Diaz, currently reside in the beautiful Woodmoor Community called the Dunes.

We moved here in March of 2018 from Virginia and found a new home being built in the Dunes. The neighborhood is beautiful, quiet and within walking distance to everything we wanted.
Never would we have purchased this home if we had any idea a drug rehab facility would be our next-door neighbor. I feel very blindsided as nothing was mentioned about this center at the time of our purchase. Apparently, it was kept from the whole community and I feel that is bad business on every one's part involved with this project.

Since my husband works for the Federal Government and that can cause us to move frequently, we will be moving again in July 2019.

We have spoken with our realtor about putting our house on the market in early 2019. Our realtor has told us to expect a hit of $20,000 to $30,000 drop in price due to the rehab center going in just down the street from us. Now for a new home to drop in price that much because of a rehab center that was never talked about to the community is not right. There are open spaces in the area that this could have been put in.

We are very disappointed that the people who approved this project did not look at all sides before they said yes to this.

Respectfully,

Signed
Carol Diaz

Lewis-Palmer Middle School
I-25 Truck Exit
Frontage Rd
Woodmoor Dr
Moorwood Point
Willow Park Way
Woodmoor Lake
Meadowlake Way
Regatta Lin
Lower Lake Rd
Marshead Way
Sandy Shore Lane
The UPS Store
Rehab
Children's Safe Path
Pikes Peak Library District
Library
Phillips 66
Pikes Peak Brewing Company
Google
Lake Woodmoor Dr
Symphony Heights
Meyeni Heights
S Park Dr
Lewis-Palmer Elementary School
White Fawn Dr
Sign in
3D
Imagery ©2018 Google, Map data ©2018 Google United States Terms Send feedback 200 ft

Table 5-1. - Principal Uses.

Notes:

"A" = Allowed Use, "S" = Special Use, "T" = Temporary Use

[1] Minimum lot area of 5 acres irrespective of nonconforming lot or parcel status.

[2] Minimum lot area of 10 acres irrespective of nonconforming lot or parcel sttus.

[3] Minimum lot area of 35 acres irrespective of nonconforming lot or parcel status.

[4] Use may be an allowed use or special use depending on size and other criteria. See specific use criteria.

[5] A minimum of 1 acre is required for a private stable.

[6] Marijuana Club is prohibited in all zoning districts.

[7] Minimum area of 35 acres. When less than 35 acres a special use is required.

[8] Use requires central water and wastewater services.

Use Type	Agricultural Zoning Districts			Residential Zoning Districts													Commercial Zoning Districts			Industrial Zoning Districts		Obsolete Zoning Districts				Subject to Specific Use Standards?	Site Development Plan Required to Initiate Use?	Site Plan Required to Initiate Use?
	F-5	A-35	A-5	RR-5	RR-2.5	RR-0.5	RS-20000	RS-6000	RS-5000	RM-12	RM-30	RT	MHP	MHS	MHPR	RVP	CC	CR	CS	I-2	I-3	C-1	C-2	M	R-4			
Acid Manufacturing																					S			S			YES	
Adult Care Home	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]											YES		YES
Agricultural Business		S																									YES	

Agricultural Structure	A	A	A	A																						YES		YES
Agricultural Stand	A	A	A	A																						YES		YES
Agritainment	A [7]	A [7]	A [7]	A [7]																						YES	YES	
Airstrip, Personal		S																										YES
Amusement Center, Indoor																S	A	A			A	A	A				YES	
Amusement Center, Outdoor	S	S	S [1]													S	S	S			S	S	A				YES	
Animal Day Care Facility		S	S													S	A	A	A				A			YES	YES	
Animal Refuge	S	S	S	S																							YES	
Auction Facility		S	S													S	A	A				A	A			YES	YES	
Automobile and Boat Storage Yards																S		A	A	A			A			YES	YES	
Automobile and Trailer Sales																S	S	A	S	S			A				YES	

Bakery, Retail																	A	A	A					A		YES	
Bakery, Wholesale																			A	A	A			A		YES	
Bar																	A	A	A			A	A	A		YES	
Barber/Beauty Shop																	A	A	A			A	A	A		YES	
Batch Plant																					S			S		YES	
Batch Plant, Temporary	T	T	T	T	T	T	T	T	T	T	T	T					T	T	T	T	T	T	T	T	T	YES	YES
Bed and Breakfast Inn	S	S	S	S	S	S	S	S	S	S	S	S														YES	YES
Billiard Parlor																	A	A	A			A	A	A		YES	
Boarding House										A	A						S	S	A			S	S	A		YES	
Bottling Works																			A	A	A		A	A		YES	
Business Event Center	S [1]	S	S														A	A	A			S	S	A		YES	
Car Wash																	A	A	A			A	A	A		YES	
Carnival or Circus																	T	T	T							YES	YES
Cement																					S			S		YES	

Manufacturing																											
Cemetery	S	S	S	S	S	S																				YES	
Child Care Center	S[4]	S[4]	S[4]	S[4]	S[4]	S[4]	S[4]	S[4]	S[4]	A	A	S[4]	S[4]	S[4]	S[4]		A	S	A			A	A	S		YES	YES	
Christmas Tree Sales																	T	T	T			T	T	T				YES
Club	S		S														A	A	A			A	A	A			YES	
CMRS Facility, Freestanding		S															S	S	S	S	S	S	S	S		YES	YES	
CMRS Facility, Stealth	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	A	A	A	A	A	A	A	A	A	YES	YES	
Commercial or Retail as Part of Overall Shopping Center																	A	A	A			A	A	A			YES	
Community Building	S	S	S	S	S	S	S	S	S	S	S	S	A	A	A	A	A	A	A			S	S	A			YES	
Composting Facility																					S			S			YES	
Construction Equipment Storage and Field Offices, Temporary	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		T	T	T	T	T	T	T	T	T	YES	YES	

Contractor's Equipment Yard																			S	S	A		S	A			YES	
Convenience Store																	A	A	A			A	A	A			YES	
Copy Shop																	A	A	A			A	A	A			YES	
Dairy		A[3]	A[3]	A[3]																				S			YES	
Dry Cleaning Plant																				A	A			A			YES	
Dwelling, Attached Single-Family								A[8]	A[8]	A[8]	A[8]															YES		YES
Dwelling, Detached Single-Family	A	A	A	A	A	A	A	A	A	A	A	A												S				YES
Dwelling, Multifamily										A[8]	A[8]																YES	
Dwelling, Two-Family	S[8]	A[8]	S[8]	S[8]		S[8]			A[8]	A[8]		S[8]																YES
Educational Institution, Private	S	S	S	S	S	S	S	S	S	S	S	S					S	S	S			S	S	A			YES	
Educational Institution, Public	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A		YES	
Electronic, Electrical, Communication																				A	A			A			YES	

Equipment Manufacturing																											
Emergency Facility, Private	S	S	S	S	S	S	S	S	S	S	S	S	S	S			A	A	A	A	A	S	S	S		YES	
Emergency Facility, Public	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	
Energy Generation Facilities less than 50 MW																					S			S		YES	
Explosives Manufacturing																					S			S		YES	
Family Care Home	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]												YES	YES
Farm	A[3]	A[3]	A[3]	A[3]																							
Fertilizer Manufacturing																					S			S		YES	
Financial Institution																	A	A	A			A	A	A		YES	
Firewood Sales		S[2]	S[2]																A		A			A			YES

Fireworks Sales																T	T	T			T	T	T		YES		YES
Flea Market																S	A	S	S	S			A			YES	
Food Processing																		A	A	A		A	A			YES	
Freight Terminal																		S	A	A			A			YES	
Fuel Sales and Storage																			S	S		S	S			YES	
Funeral Home																S	A	A			A	A	A			YES	
Garbage Service Facility																		A	A	A			A			YES	
Gas Station																A	A	A				A	A			YES	
Glue Manufacturing																				S			S			YES	
Golf Course	S	S	S	S																	S	S	A			YES	
Greenhouse	S	A[1]	A	S																			A				YES
Greenhouse (>1 acre)	S	S	S	S																						YES	
Group Home	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]	A[4]										YES		YES

Half-Way House	S	S	S	S																							YES
Hazardous Material Storage																			S	S			A			YES	
Hazardous Waste Disposal Facility																				S			S		YES	YES	
Health Club																	A	A	A	S			A			YES	
Heavy Equipment Rental, Sales or Storage																			S	S	A		A	A		YES	
Home Improvement Center																	S	A	A	A	A		A	A		YES	
Hospital											S						A	A	S			S	S	A		YES	
Hospital, Convalescent	S	S	S							S	S						S	S	S			S	S	A		YES	
Hospital, Veterinary	S	S	S	S													S	S	S			S	S	A		YES	
Hotel																	S	S	A			A	A	A		YES	
Human Service Shelter																	S	S	A			S	S	S		YES	
Inert Material	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S		YES	YES

Disposal Site																												
Inert Material Disposal Site-Minor	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		YES
Infectious Waste Transfer Station																				S	S			S		YES	YES	
Institution, Philanthropic	S		S	S	S	S											A	A	A			S	S	A			YES	
Kennel		A [2]	S	S													S		S			A	A	A			YES	
Laboratory																	S		S	A	A	A	A	A			YES	
Laundromat																	A	A	A					A			YES	
Library	S		S	S						S	S						A	A	A			S	S	A			YES	
Light Industry																			S	A	A		S	A			YES	
Light Manufacturing																			S	A	A		S	A			YES	
Liquor Store																	A	A	A			A	A	A			YES	
Livestock Feed Yard		S [3]	S [3]																		S			S			YES	
Livestock Sales Yard		A [3]	S [2]																		S		S	S			YES	

Lumber Yard		S	S														S	S	S	A	A		A	A			YES	
Manufactured Home	A	A	A	A	A	A	A	A	A			A		A										S				YES
Marijuana Club [6]																												
Marijuana Land Use, Medical																			A			A	A	A			YES	
Meat Processing, Custom		S	S																A	A	A						YES	
Medical Clinic																	A	A	A					A			YES	
Metal Processing Plant																					S			S			YES	
Mineral and Natural Resource Extraction Operations, Commercial	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	YES	YES	
Mineral Processing Plant																					S			S			YES	
Mining, Construction-Related	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	YES		YES

Mini-Warehouse																	S		A	A	A			A		YES	
Mixed-Use Residential Units																	S	S	S						YES	YES	
Mobile Home, Post-1976		A	A	A									A	A	A												YES
Model Home/Subdivision Sales Office	T	T	T	T	T	T	T	T	T	T	T	T		T											YES		YES
Museum	S	S	S														A	A	A			S	S	A		YES	
Night Club																	S	A	S					A		YES	
Nursery, Retail																	A	A	A			A	A	A		YES	
Nursery, Wholesale	A	A [1]	A	A													S		A	A	A			A		YES	
Office, General																	A	A	A	S		A	A	A		YES	
Off-Premise Sign																	S		S		S	S	S	S	YES	YES	
Outdoor Concert			S [2]																					A		YES	
Outside Storage																				S	A			A	YES	YES	

Parking Garage																	A	A	A					A			YES	
Parking Lot																	A	A	A			A	A	A			YES	
Peddler Sales																	T	T	T			T	T	T		YES		YES
Petroleum Refining																					S			S			YES	
Plaster Manufacturing																					S			S			YES	
Prison, Private		S															S		S	S	S			S			YES	
Proprietary School																	A	A	A	S				A			YES	
Public Building, Way or Space	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES	YES	
Public Park and Open Space	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	YES		
Publishing Companies																			S	A	A			A			YES	
Race Track		S[2]	S[2]																		S			A			YES	
Ranch	A[3]	A[3]	A[3]	A[3]																								
Recreation Camp	S	S	S	S								S															YES	

Recreational Vehicle and Boat Storage																	S		A	A	A			A		YES	
Recycling Facility																					A			A	YES	YES	
Rehabilitation Facility										S	S						A	A	A			A	A	A		YES	
Religious Housing		S								A	A															YES	
Religious Institution	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A		YES	
Rendering Plant		S	S[2]																		S			S		YES	
Rental Services																	A	A	A	S	S	A	A	A		YES	
Repair Shop																	A	A	A			A	A	A		YES	
Restaurant																	A	A	A			A	A	A		YES	
Retail Sales, General																	A	A	A	S	S	A	A	A		YES	
Retirement Center										A	A															YES	
Riding Academy		A[2]	S[2]	S[2]																				A		YES	
Rodeo		S[2]	S[2]																					A		YES	
Salvage Yard																					S			S	YES	YES	

Sawmill	S[2]	S[2]	S[2]																	A			A			YES	
Seasonal Produce Sales																T	T	T			T	T	T		YES		YES
Sexually-Oriented Business																A		A			A	A	A		YES	YES	
Shooting Range, Outdoor	S[2]	S[2]	S[2]																							YES	
Shopping Center																	A	A					A			YES	
Slaughterhouse																				S			S			YES	
Smelter																				S			S			YES	
Solar Farm		S																		S						YES	
Solid Waste Disposal Site and Facility		S	S																	S			S		YES	YES	
Stables, Commercial		A[2]	S[2]	S[2]																			A			YES	
Stables, Private	A	A	A	A	A	A[5]						A[1]													YES		YES
Store																A	A	A	S	S	A	A	A			YES	

Studio																	A	A	A			A	A	A			YES	
Tannery																					S			S			YES	
Temporary Housing	T	T	T	T								T														YES		YES
Theater																	S	A	A			A	A	A			YES	
Theater, Outdoor	S		S														S	S	S			S	S	A			YES	
Tiny House, Recreational Vehicle Park																A										YES		
Tiny House, Single Lot	A	A	A	A								A	A	A	A											YES		YES
Tower, Commercial (non CMRS)		S															S	S	S	S	S	S	S	S		YES	YES	
Trash Transfer Facility																					S			S		YES	YES	
Tree Farm	A	A	A	A																								
Truck and Recreational Vehicle Repair Garage																			A	S	A			A		YES	YES	
Truck Farm		A[2]	A																									

Truck Stop		S [2]																	S [2]		S [2]						YES	
Vehicle Repair Garage, Commercial																	S	S	A	S	S		A	A		YES	YES	
Warehouse																	S		A	A	A		A	A			YES	
Warehouse, Flammable Material																					S			S			YES	
Waste Tire Recycling			S																		S			S		YES	YES	
Wholesale Business																	S		A	A	A		A	A			YES	
Wind/Meteorological Measuring Facilities	S	S	S	S								S									S			S		YES		YES
Wood Sales (Firewood)	S	S	S																S								YES	
Yard Sales	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T		T	T	T	T	T	T	T	T	T	YES		

(Res. No. 16-164, 5-17-2016)

signals including new and upgraded signalization; construction of curbs, gutters, sidewalks, medians and shoulders; relocating utilities to accommodate new road construction; construction and reconstruction of intersections; widening of existing regional roads; bus turnouts; acceleration and deceleration lanes; interchanges; and traffic control devices.

Regional Trail — A bike, equestrian, or pedestrian facility designated by the County as a regional trail.

Rehabilitation Facility — An institutional use-type facility, and not a group home, whether public, quasi-public, not-for-profit, providing accommodation, treatment and medical care for patients suffering from alcohol or drug-related illness.

Relevant Improvement — A road or facility related to a road, water distribution system, sewage collection system, storm drainage facilities, or any other type of structure the County requires as a condition or requirement of final plat approval of a subdivision, and which is determined by the County to have excess capacity which will benefit one or more applicant subdivider. The improvement may be internal as well as adjacent to or outside of the legal description of the requester subdivider's subdivision.

Religious Housing — A residential dwelling for permanent or overnight occupation associated with a religious institution, including religious retreats, convents, monasteries, seminaries operating in conjunction with a religious institution on site, religious-sponsored orphanages, and similar religious dormitories and housing facilities. This term does not include major religious facilities that have significant recreation and outdoor activity components associated with them, such as religious camps.

Religious Institution — An establishment primarily for the conduct of religious activities, limited to sanctuary, educational classrooms, daycare, committee and office work, a single parsonage/rectory, or religious camp.

Remainder Parcel — A part of a larger parcel that is not platted during the subdivision of that larger parcel and which is described by metes and bounds

Renewable Water — Surface water and alluvial groundwater. Renewable groundwater is found in, but not limited to, the alluvium found in the drainage systems of Big Sandy Creek, Black Squirrel Creek, Cherry Creek, Fountain Creek, Jimmy Camp Creek, Kiowa Creek, Monument Creek, Sand Creek and Williams Creek.

Rental Services — An establishment where home owners equipment, lawn and garden equipment, party and wedding supplies, tent and events rental, and automotive tools are rented, which are generally utilized by homeowners, rather than contractors. Incidental sales of tools, materials, and services may occur in conjunction with the rental services. This may include outside storage of equipment utilized in the business.

Repair Shop — A business, the primary purpose of which is to engage in repair of household appliances, television, furniture, clocks and watches, stereos, or various types of small electronic equipment and computers.

Replacement Plan — A program defined in C.R.S. § 37-90-103(12.7) to increase the supply of water available for beneficial use in a designated groundwater basin or portion thereof for the purpose of preventing material injury to other water rights by the development of new points of diversion, by pooling of water resources, by water exchange projects, by providing substitute supplies of water, by the development of new sources of water, or by any other appropriate means, consistent with the rules adopted by the Colorado Groundwater Commission. "Replacement Plan" does not include the salvage of designated groundwater by the eradication of phreatophytes, nor does it include the use of precipitation water collect from land surfaces that have been impermeable, thereby increasing the runoff, but not abiding to the existing supply of water.

Replat — The changing of any existing lot or lots, rights-of-way, or easements of a subdivision plat previously recorded with the Clerk and Recorder.

1865 WOODMOOR DRIVE

EL PASO COUNTY, COLORADO

SITE DEVELOPMENT PLAN

OWNER/ APPLICANT

FHAM LLC
30950 RANCHO VIEJO ROAD, SUITE 225
SAN JUAN CAPISTRANO, CA 92675

CONSULTANT

NES INC.
619 N. CASCADE AVENUE, SUITE 200
COLORADO SPRINGS, CO 80903

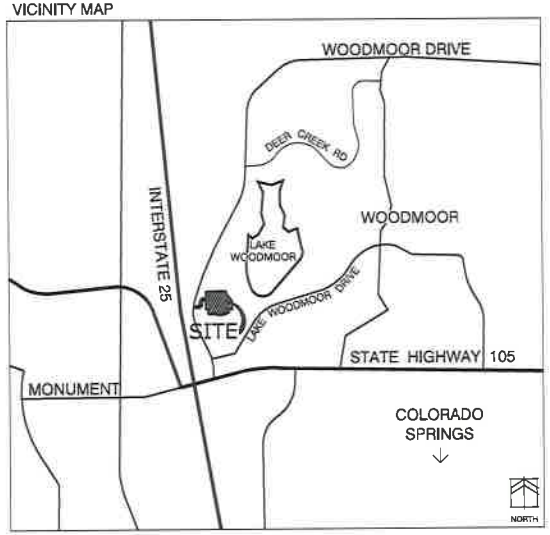
LEGAL DESCRIPTION

THAT PORTION OF THE NORTHWEST ONE-QUARTER IN SECTION 14, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT FROM WHICH THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 14 BEARS NORTH 21 DEGREES 17 MINUTES 56 SECONDS EAST, A DISTANCE OF 1,161.54 FEET; (ALL BEARINGS IN THIS DESCRIPTION ARE RELATIVE TO THE EAST LINE OF THE NORTHWEST ON-QUARTER OF SECTION 14, WHICH LINE WAS ASSUMED NORTH 00 DEGREES 14 MINUTES 49 SECONDS WEST); THENCE SOUTH 22 DEGREES 29 MINUTES 22 SECONDS EAST 75.00 FEET; THENCE SOUTH 40 DEGREES 29 MINUTES 22 SECONDS EAST 137.61 FEET; THENCE SOUTH 00 DEGREES 11 MINUTES 03 SECONDS EAST 167.25 FEET; THENCE SOUTH 89 DEGREES 48 MINUTES 57 SECONDS WEST 65.00 FEET; THENCE SOUTH 00 DEGREES 11 MINUTES 03 SECONDS EAST 60.00 FEET; THENCE SOUTH 89 DEGREES 48 MINUTES 57 SECONDS WEST 50.00 FEET; THENCE SOUTH 00 DEGREES 11 MINUTES 03 SECONDS EAST 30.00 FEET; THENCE SOUTH 89 DEGREES 48 MINUTES 57 SECONDS WEST 60.00 FEET; THENCE SOUTH 00 DEGREES 11 MINUTES 03 SECONDS EAST 15.00 FEET; THENCE SOUTH 89 DEGREES 48 MINUTES 57 SECONDS WEST 130.00 FEET; THENCE NORTH 00 DEGREES 11 MINUTES 03 SECONDS WEST 15.00 FEET; THENCE SOUTH 89 DEGREES 48 MINUTES 57 SECONDS WEST 165.00 FEET; THENCE NORTH 00 DEGREES 11 MINUTES 03 SECONDS WEST, 80.00 FEET; THENCE SOUTH 89 DEGREES 48 MINUTES 57 SECONDS WEST 50.00 FEET; THENCE NORTH 00 DEGREES 11 MINUTES 03 SECONDS WEST 180.00 FEET; THENCE SOUTH 89 DEGREES 48 MINUTES 57 SECONDS WEST 45.00 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A CIRCULAR CURVE TO THE LEFT, HAVING A RADIUS OF 40.00 FEET, A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS AND AN ARC DISTANCE OF 62.83 FEET; THENCE SOUTH 00 DEGREES 11 MINUTES 03 SECONDS EAST 40.00 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A CIRCULAR CURVE TO THE RIGHT, HAVING A RADIUS OF 70.92 FEET, A CENTRAL ANGLE OF 95 DEGREES 27 MINUTES 16 SECONDS AND AN ARC DISTANCE OF 118.70 FEET TO A POINT OF TANGENCY; THENCE NORTH 84 DEGREES 43 MINUTES 47 SECONDS WEST 57.60 FEET TO INTERSECT THE EASTERLY RIGHT OF WAY LINE OF WOODMOOR DRIVE AS PLATTED IN PLAT BOOK M-2, AT PAGE 26 OF THE RECORDS OF THE EL PASO COUNTY, COLORADO; THENCE NORTHERLY ON THE EASTERLY RIGHT OF WAY LINE OF SAID WOODMOOR DRIVE ALONG THE ARC OF A CIRCULAR CURVE TO THE RIGHT HAVING A RADIUS OF 1000 FEET, A CENTRAL ANGLE OF 2 DEGREES 17 MINUTES 50 SECONDS AND AN ARC DISTANCE OF 40.00 FEET; THENCE SOUTH 84 DEGREES 43 MINUTES 47 SECONDS EAST 57.60 FEET, TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A CIRCULAR CURVE TO THE LEFT, HAVING A RADIUS OF 30.92 FEET, A CENTRAL ANGLE OF 95 DEGREES 27 MINUTES 16 SECONDS AND AN ARC DISTANCE OF 51.75 FEET, TO A POINT OF TANGENCY; THENCE NORTH 00 DEGREES 11 MINUTES 03 SECONDS WEST 40.00 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A CIRCULAR CURVE TO THE RIGHT, HAVING A RADIUS OF 80.00 FEET, A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 00 SECONDS AND AN ARC DISTANCE OF 125.66 FEET TO A POINT OF TANGENCY; THENCE NORTH 89 DEGREES 48 MINUTES 57 SECONDS EAST 45.00 FEET; THENCE NORTH 00 DEGREES 11 MINUTES 03 SECONDS WEST 140.00 FEET; THENCE NORTH 89 DEGREES 48 MINUTES 57 SECONDS EAST 394.97 FEET; THENCE SOUTH 22 DEGREES 29 MINUTES 22 SECONDS EAST 19.91 FEET TO THE POINT OF BEGINNING, IN EL PASO COUNTY, COLORADO.

(Per Title Commitment File No. 35100-18-10210, with an effective date of June 4, 2018 at 7:30 a.m. as provided by North American Title Insurance Company of Colorado.)

Address of Record: 1865 S. Woodmoor Drive, Monument, CO 80132

VICINITY MAP



GENERAL NOTES

1. The Federal Emergency Management Agency, Flood Insurance Rate Map No. 08041C0027G7F, effective date March 17, 1997, indicates this parcel of land to be located in Zone X (Areas determined outside the 500-year floodplain).
2. The parties responsible for this plan have familiarized themselves with all current accessibility criteria and specifications and the proposed plan reflects all site elements required by the applicable ADA design standards and guidelines as published by the United States Department of Justice. Approval of this plan by El Paso County does not assure compliance with the ADA or any regulations or guidelines enacted or promulgated under or with respect to such laws.
3. The existing ADA accessible parking spaces are to be restriped for compliance with the ADA design standards.
4. The existing hotel sign located near Woodmoor Drive is to be removed.
5. Site survey completed by Barron Land on June 20, 2018.
6. The parking lot is asphalt. All walkways are concrete, except where noted on plan.

SITE DATA

Tax ID Number:	7114200020
Total Site Area:	5.12 Acres (222,838 Square Feet)
Current Zoning:	C-2
Development Schedule:	Fall 2018
Existing Building Use:	Hotel
Proposed Building Use:	Rehabilitation Facility
Maximum Building Height:	50 FT
Existing Building Height:	33 FT
Building Setbacks:	
-Front (Woodmoor Drive):	15 FT
-Rear (East Boundary):	20 FT
-Side (North & South Boundary):	5 FT
Lot Coverage:	
-Building:	30,782 SF (14%)
-Impervious:	121,518 SF (54%)
-Landscape:	70,538 SF (32%)
Required Parking:	Nursing Home*: 1 Space/ 5 Beds 150 Total Beds 30 Required Parking Spaces *Per Section 6.2.5.D.ii
Existing Parking:	220 Parking Spaces 6 ADA Accessible Parking Spaces 226 Total
Proposed Parking:	193 Parking Spaces 7 ADA Accessible Parking Spaces 200 Total

SHEET INDEX

Sheet 1 of 6:	Cover Sheet
Sheet 2 of 6:	Site Development Plan
Sheet 3 of 6:	Landscape Plan
Sheet 4 of 6:	Landscape Notes & Details
Sheet 5 of 6:	Photometric Plan
Sheet 6 of 6:	Photometric Plan

Approval of the site development plan allows for the existing hotel to be converted to a Rehabilitation Facility as that use is defined in the El Paso County Land Development Code (2018).

Based upon the application documents submitted, it is determined that the proposed use meets the definition of a Rehabilitation Facility.

The applicant must obtain all applicable building permits prior to commencing construction.

Approved
By: Craig Dossey, Executive Director
Date: 11/07/2018
El Paso County Planning & Community Development

Land Planning
Landscape Architecture
Urban Design
NES
N.E.S. Inc.
619 N. Cascade Avenue, Suite 200
Colorado Springs, CO 80903
Tel. 719.471.0073
Fax 719.471.0267
www.nescolorado.com

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1865 WOODMOOR DRIVE
EL PASO COUNTY COLORADO

DATE: Sep-2018
PROJECT MGR: RW
DRAWN BY: RW

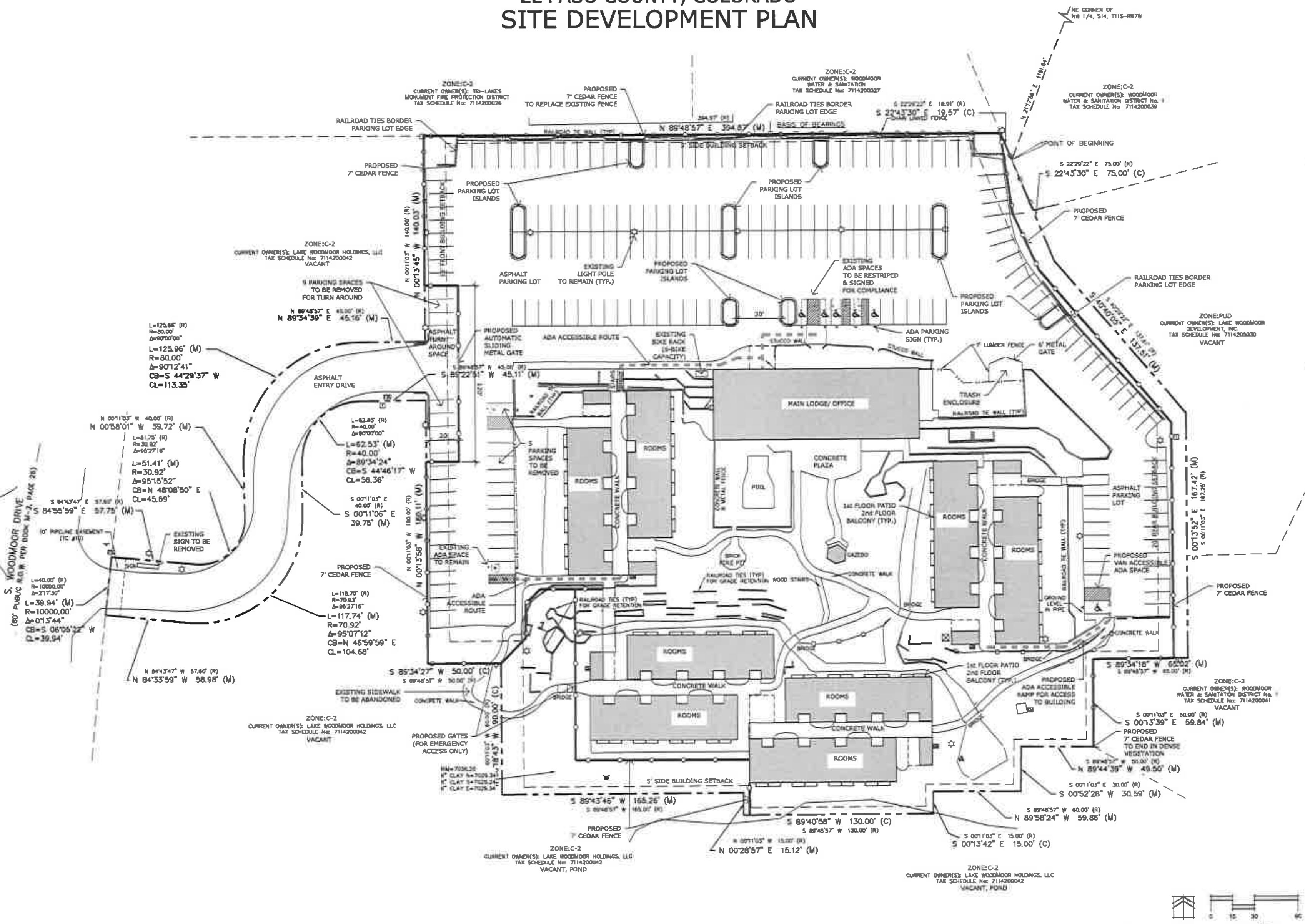
DATE	BY	DESCRIPTION
9-21-18	RW	Resubmit Per County Comments
10-31-18	RW	Resubmit Per County Comments

SITE DEVELOPMENT PLAN
COVER SHEET

1
1 OF 6

PPR1830

1865 WOODMOOR DRIVE
EL PASO COUNTY, COLORADO
SITE DEVELOPMENT PLAN



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1865 WOODMOOR DRIVE
EL PASO COUNTY COLORADO

SITE DEVELOPMENT PLAN

2

2 OF 6

PPR1830

1865 WOODMOOR DRIVE

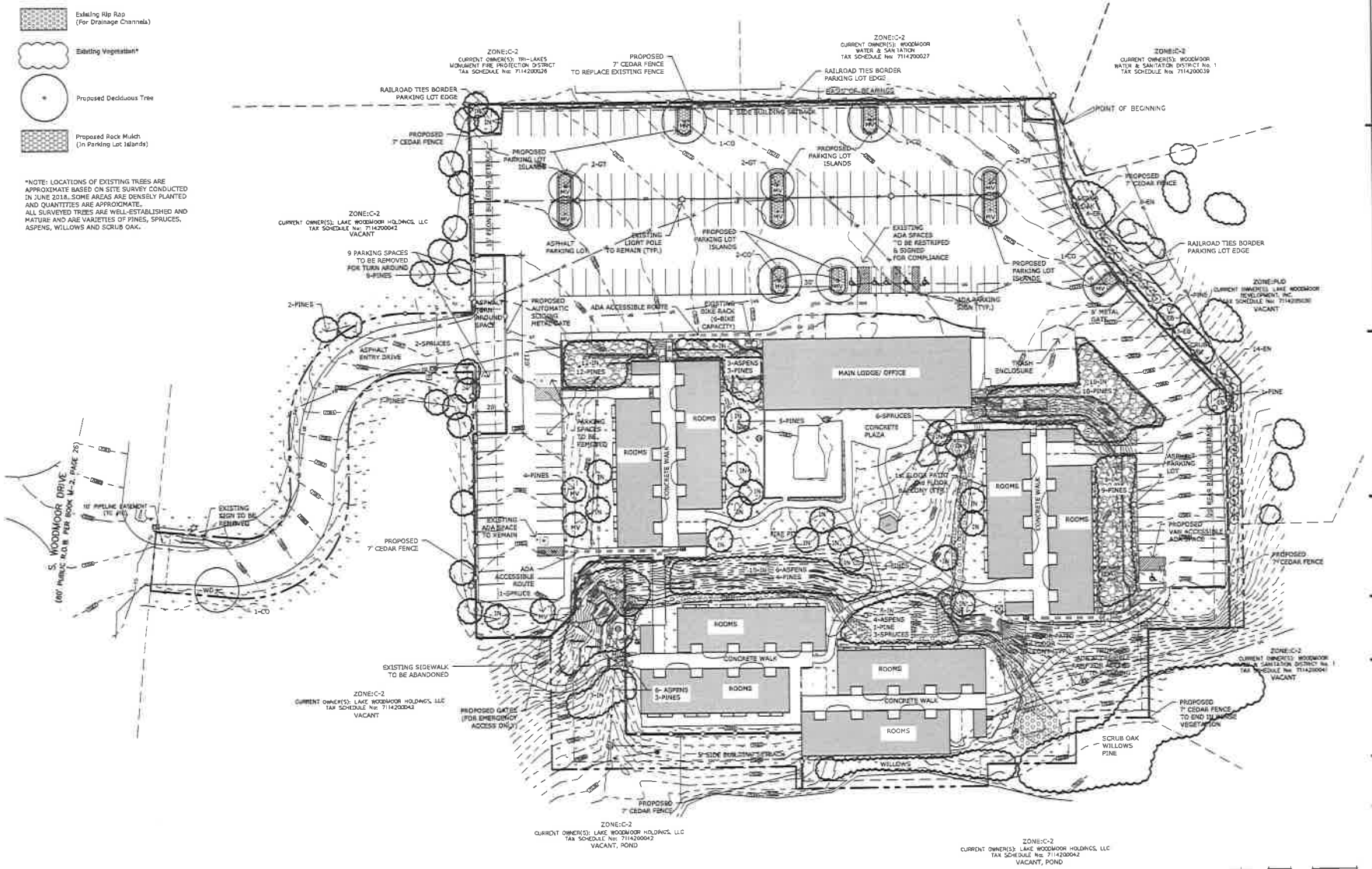
EL PASO COUNTY, COLORADO

LANDSCAPE PLAN

LEGEND

- Existing Native Grass
- Existing Rock Mulch
- Existing Rip Rap (For Drainage Channels)
- Existing Vegetation*
- Proposed Deciduous Tree
- Proposed Rock Mulch (In Parking Lot Islands)

*NOTE: LOCATIONS OF EXISTING TREES ARE APPROXIMATE BASED ON SITE SURVEY CONDUCTED IN JUNE 2018. SOME AREAS ARE DENSELY PLANTED AND QUANTITIES ARE APPROXIMATE. ALL SURVEYED TREES ARE WELL-ESTABLISHED AND MATURE AND ARE VARIETIES OF PINES, SPRUCES, ASPENS, WILLOWS AND SCRUB OAK.



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1865 WOODMOOR DRIVE

EL PASO COUNTY COLORADO

DATE: 7-6-2018
PROJECT MGR: PW
PREPARED BY: BW

DATE	BY	DESCRIPTION
8/13/18	PW	Revised Per County Comments
10/2/18	PW	Revised Per County Comments

LANDSCAPE PLAN

3

3 OF 6

PPR1830

1865 WOODMOOR DRIVE

EL PASO COUNTY, COLORADO

LANDSCAPE PLAN

LANDSCAPE NOTES

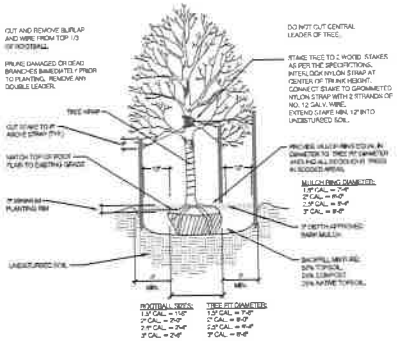
1. THIS SITE HAS EXISTING VEGETATION. THE PROPOSED LANDSCAPE INCLUDES THE TREES IN THE PARKING LOT ISLANDS.
2. FOR PLANTING PIT SOIL AMENDMENTS, SEE LANDSCAPE DETAILS.
3. NO TREES AND NO PLANTS OVER 2 FEET TALL SHALL BE INSTALLED WITHIN 5 FEET OF ANY FIRE HYDRANTS.
4. ALL PLANTS TO RECEIVE 3 INCH DEPTH OF GORILLA HAIR SHREDDED CEDAR WOOD MULCH UNLESS OTHERWISE SPECIFIED. FOLLOW PLANTING DETAILS FOR MULCH RING DIMENSIONS WITHIN ROCK, SOD, OR SEED AREAS.
5. ROCK MULCH: 3/4" CIMARRON GRANITE, AT 3-4" DEPTH. INSTALL GEOTEXTILE FABRIC UNDER ALL ROCK AREAS.
6. ANY FIELD CHANGES OR DEVIATIONS TO THESE PLANS WITHOUT PRIOR COUNTY APPROVAL OF AN AMENDED SITE DEVELOPMENT PLAN MAY RESULT IN A DELAY OF FINAL APPROVAL AND ISSUANCE OF A CERTIFICATE OF OCCUPANCY.
7. THESE PLANS ARE FOR COUNTY APPROVALS ONLY AND ARE NOT TO BE UTILIZED FOR CONSTRUCTION.

EXISTING VEGETATION

Scientific Name	Common Name	Approximate Percentage
Pinus nigra, ponderosa, edulis	Pine Austrian, Pinon, Ponderosa	40%
Picea pungens, abies	Spruce, Colorado Blue, Norway	25%
Populus tremuloides	Quaking Aspen	25%
Quercus gambelii	Gambel Oak	5%
Salix monticola	Willow	5%

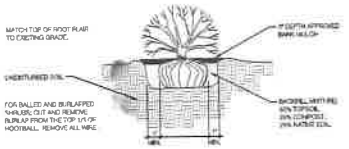
PLANT SCHEDULE (PROPOSED VEGETATION)

QTY.	SYM.	Scientific Name	Common Name	Size	Mature Width	Mature Height	Notes
DECIDUOUS TREES							
6	CO	Celtis occidentalis	Western Hackberry	2.5" cal.	40-50'	50-60'	B&B
6	GT	Gleditsia triacanthos inermis	Imperial Honeylocust	2.5" cal.	30-40'	30-40'	B&B
DECIDUOUS SHRUBS							
22	BN	Euonymus fourneiei var. glabrata	Tall Green Hybrid Burush	5 GAL.	3-4'	3-4'	CONT.



1 DECIDUOUS TREE PLANTING DETAIL

SCALE: NOT TO SCALE



2 SHRUB PLANTING DETAIL

SCALE: NOT TO SCALE

LANDSCAPE CALCULATIONS

Landscape Setbacks

Street Name or Zone Boundary	Street Classification	Width (in Ft.) Req. /Prov.	Linear Footage	Tree/Feet Required	No. of Trees Req. / Prov.
Woodmoor Drive (WD)	Non Arterial	10' / 10 +	40'	1 / 30'	1 / 1 Proposed
Base Zone District Boundary (EB)	–	–	272	1 / 30'	9 / 9 Existing

Shrub Substitutes Required / Provided	Ornamental Grass Sub. Required / Provided	Setback Plant Abbr. Denoted on Plan	Percent Ground Plane Veg. Req. / Provided
– / –	– / –	WD	75% / 75%
– / –	– / –	EB	75% / 75%

Internal Landscaping

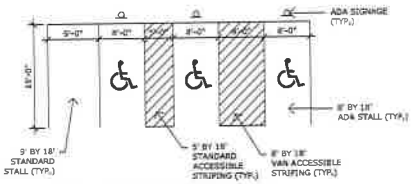
Net Site Area (SF)	Percent Minimum Internal Area (%)	Internal Area (SF) Required /Provided	Internal Trees (1/500 SF) Required /Provided
222,530 SF	5%	11,142 / 70,306	22 / Approx. 60 + Existing

Shrub Substitutes Required /Provided	Ornamental Grass Substitutes Required /Provided	Internal Plant Abbr. Denoted on Plan	Percent Ground Plane Veg. Req. / Prov.
– / –	– / –	(IN)	75% / 75%

Motor Vehicle Lots

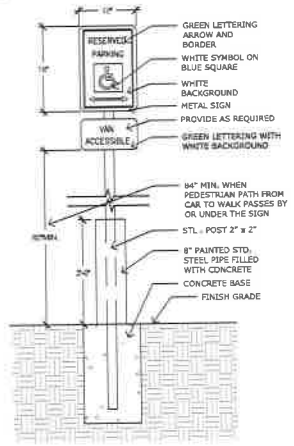
No. of Vehicles Spaces Provided	Shade Trees (1/15 spaces) Required /Provided	Vehicle Lot Frontages	Length of Frontage (excluding driveways)	2/3 Length of Frontage (ft.)
200	13 / 14 Total (WV) 11 Proposed, 3 Existing	PUD Zone	272'	182'

Min. 3' Screening Plants Req. /Prov.	Evergreen Plants Req. (30%) / Prov.	Length of Screening Wall or Berm Provided	Vehicle Lot Plant Abbr. on Plan	Percent Ground Plane Veg. Req. / Prov.
30 / 30 (20 shrubs + Existing scrub oak)	– / –	272 Fence	–	75% / 75%



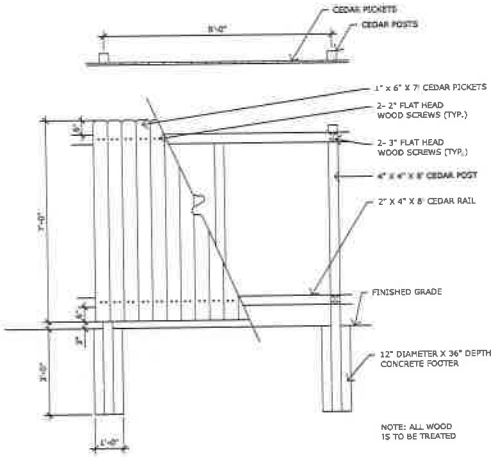
3 TYPICAL PARKING SPACE DETAIL

SCALE: NOT TO SCALE



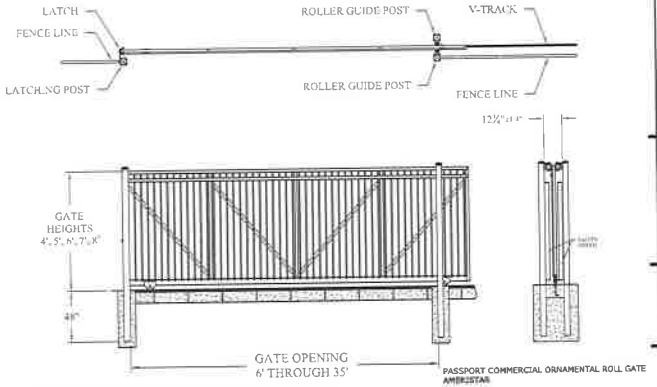
4 ADA PARKING SIGN DETAIL

SCALE: NOT TO SCALE



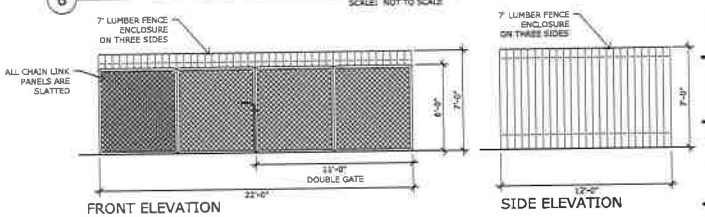
5 7' CEDAR FENCE DETAIL

SCALE: NOT TO SCALE



6 AUTOMATIC SLIDING GATE DETAIL

SCALE: NOT TO SCALE



7 EXISTING TRASH ENCLOSURE DETAIL

SCALE: NOT TO SCALE

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Colorado Springs, CO 80903

Tel. 719.471.0073
Fax 719.471.0267

www.nescolorado.com

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1865 WOODMOOR DRIVE

EL PASO COUNTY COLORADO

DATE:
PROJECT MGR:
PREPARED BY:

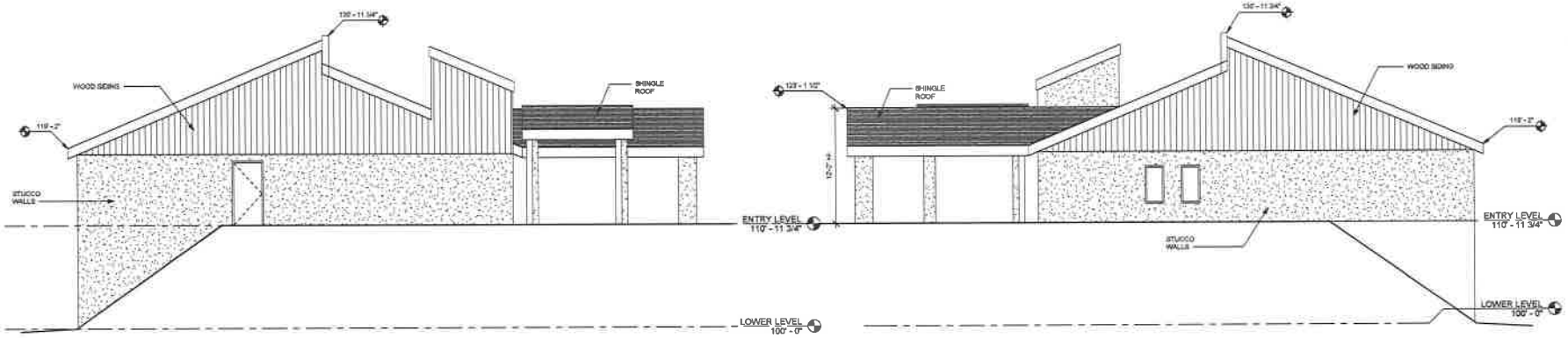
DATE	BY	DESCRIPTION
8-13-18	RW	Revised Per County Comments
10-31-18	RW	Revised Per County Comments

LANDSCAPE PLAN NOTES & DETAILS

4

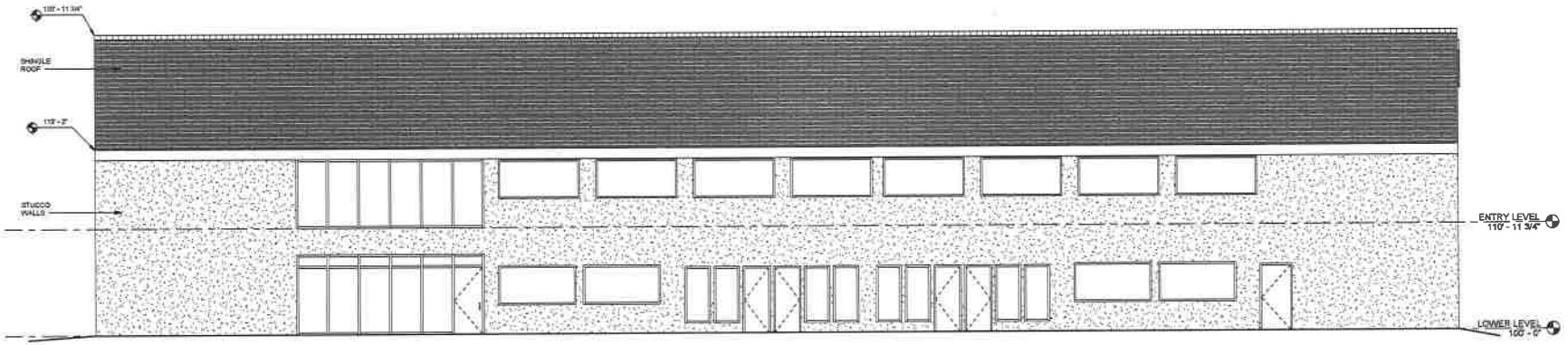
4 OF 6

PPR1830

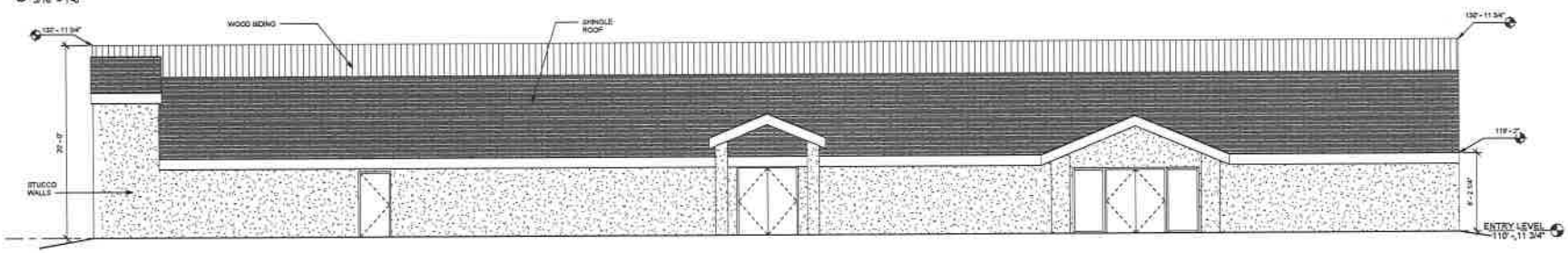


3 East 3/16" = 1'-0"

4 West 3/16" = 1'-0"



2 South 3/16" = 1'-0"



1 North 3/16" = 1'-0"

YOW Architects PC

Architecture & Planning

115 S. Weber Colorado Springs, Colorado 719-475-8133

NOT FOR CONSTRUCTION

1865 Woodmoor Dr - Clubhouse

1865 Woodmoor Dr
Monument, CO
AS BUILT

Project Number
18.195

Date
6.14.18

Revisions

Drawn By
ATT

Checked By
YOW

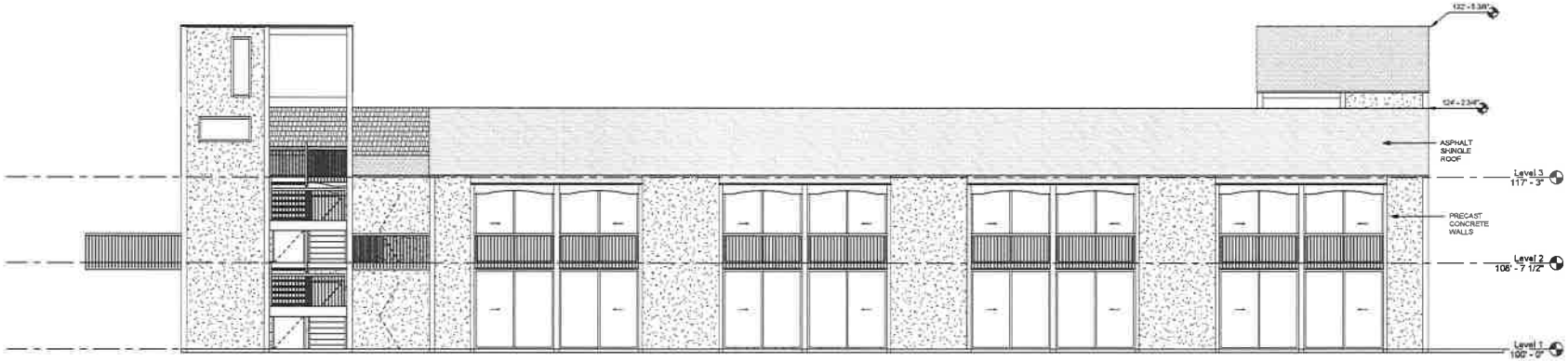
A1.2
Building Elevations

Scale
3/16" = 1'-0"

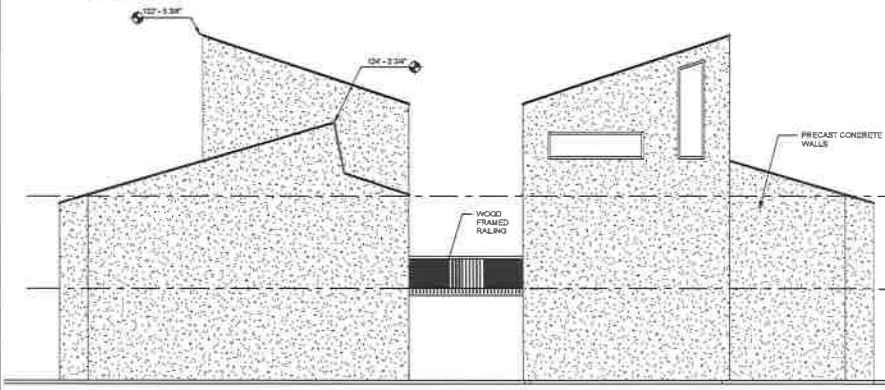
6/14/2018 8:53:42 PM

74

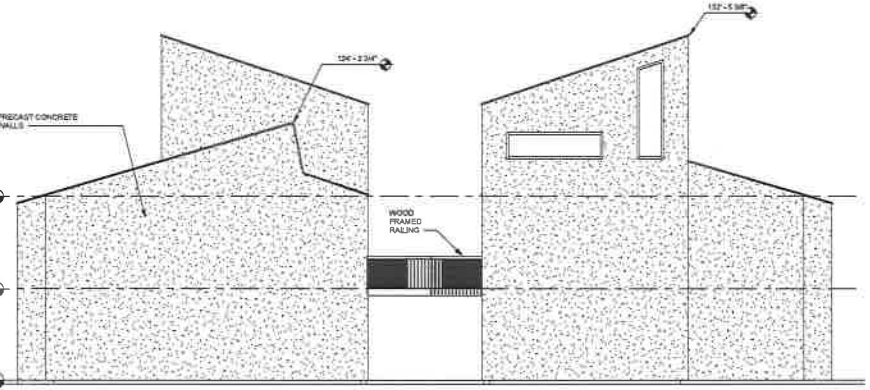
4 East
3/16" = 1'-0"



3 West
3/16" = 1'-0"



2 South
3/16" = 1'-0"



1 North
3/16" = 1'-0"

YOW Architects PC
Architecture & Planning
115 S. Weber Colorado Springs, Colorado 719-475-8133

NOT FOR CONSTRUCTION

1865 Woodmoor Drive - Building A - Aspen

1865 Woodmoor Dr
Monument, CO
AS BUILT

Project Number
18.195

Date
5.14.18

Revisions

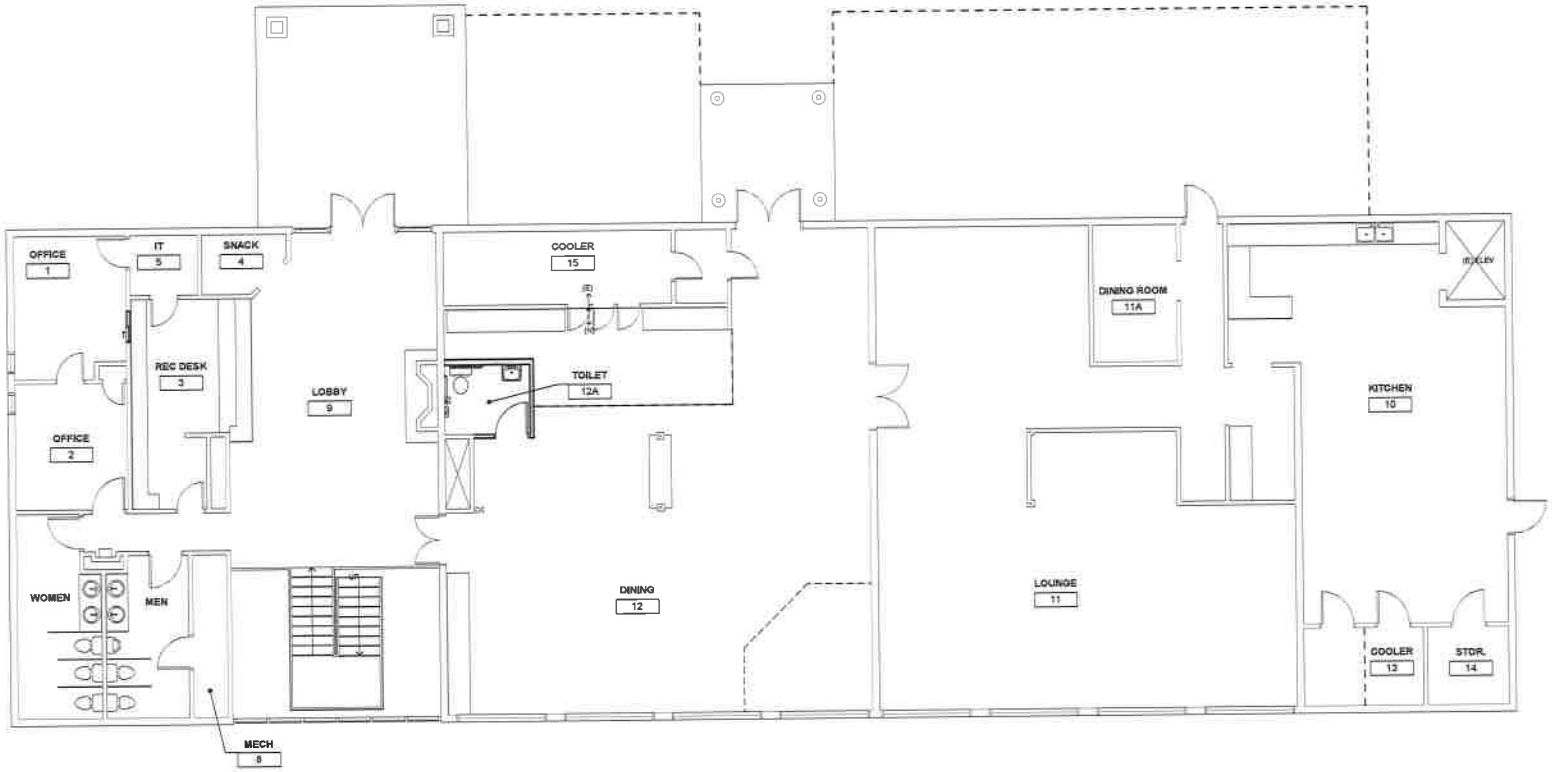
Drawn By
ATT

Checked By
YOW

A5.1
Building Elevations

Scale
3/16" = 1'-0"

6/14/2018 10:33:17 PM



1 Entry Level Floor Plan - Planning
3/16" = 1'-0"

YOW Architects PC
Architecture & Planning
115 S. Weber Colorado Springs, Colorado 719-475-8133

NOT FOR CONSTRUCTION

1865 Woodmoor Dr - Clubhouse - Interior Remodel
1865 Woodmoor Dr
Monument, CO 80132
CONSTRUCTION DOCUMENTS

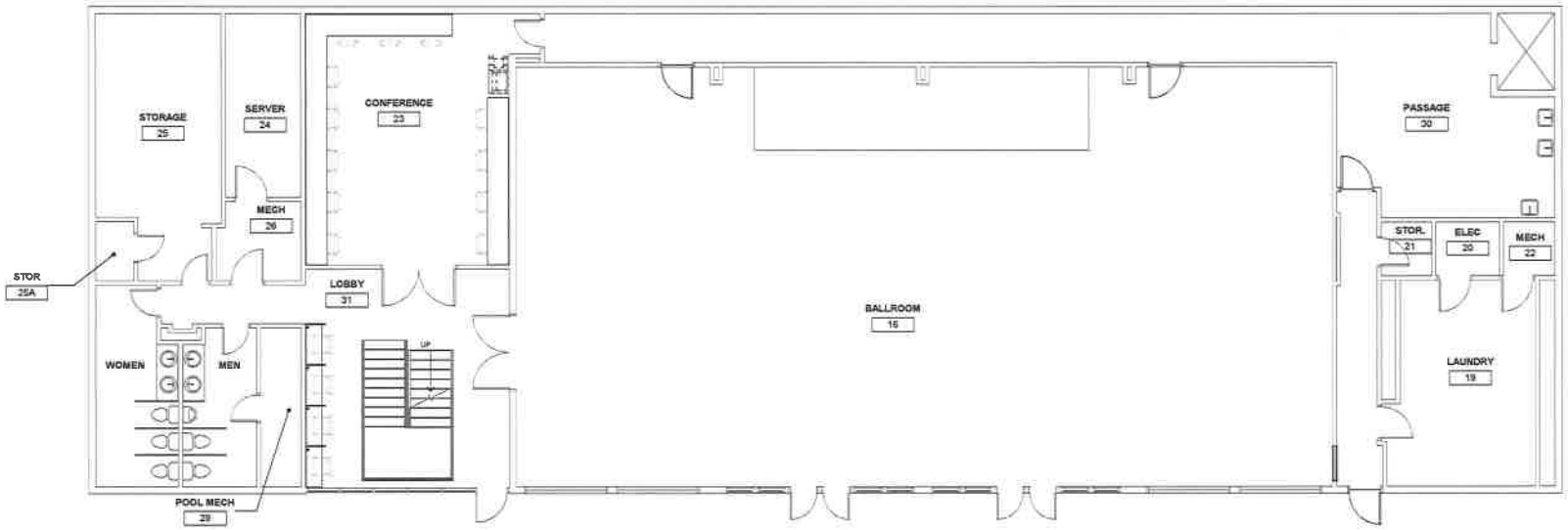
Project Number
18.195
Date
9.12.18
Revisions

Drawn By
ATT
Checked By
YOW

Planning 1
Entry Level Floor Plan
Scale
3/16" = 1'-0"

8/12/2018 8:45:03 AM

76



1 Lower Level Floor Plan - Planning
3/16" = 1'-0"

8/12/2018 8:45:04 AM

77

YOW Architects PC
Architecture & Planning
115 S. Weber Colorado Springs, Colorado 719-475-8133

NOT FOR CONSTRUCTION

1865 Woodmoor Dr - Clubhouse - Interior Remodel
1865 Woodmoor Dr
Monument, CO 80132
CONSTRUCTION DOCUMENTS

Project Number
18.195

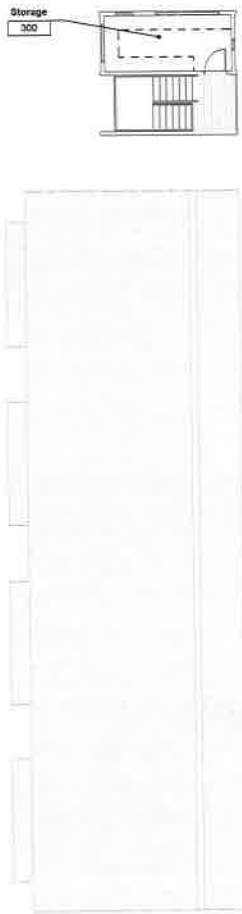
Date
9.12.18

Revisions

Drawn By
ATT
Checked By
YOW

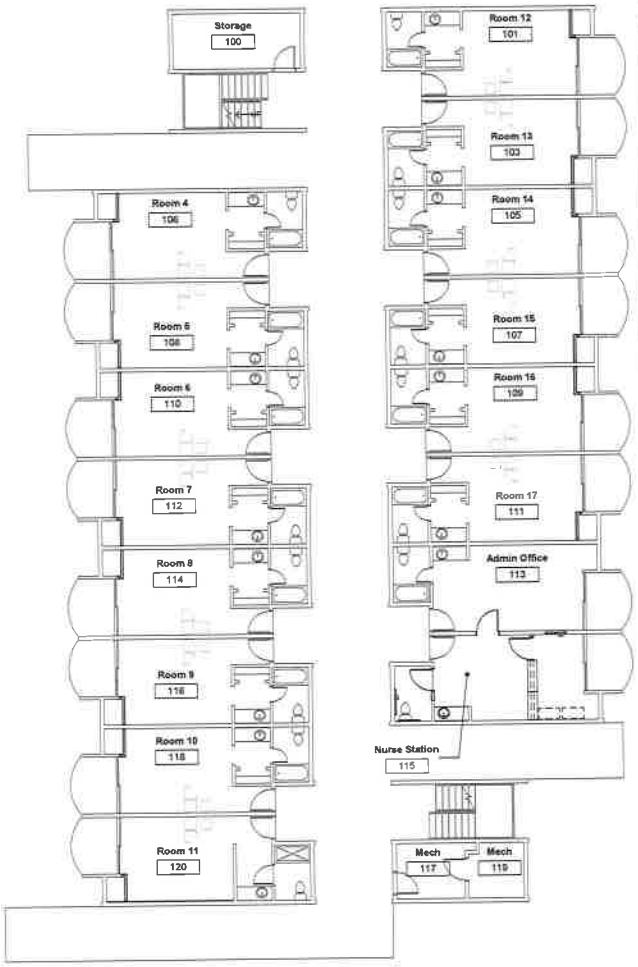
Planning 2
Lower Level Floor Plan

Scale
3/16" = 1'-0"



3 Level 3 Floor Plan - Planning
1/8" = 1'-0"

2 Level 2 Floor Plan - Planning
1/8" = 1'-0"



1 Level 1 Floor Plan - Planning
1/8" = 1'-0"

YOW Architects PC
Architecture & Planning
115 S. Weber Colorado Springs, Colorado 719-475-6133

NOT FOR CONSTRUCTION

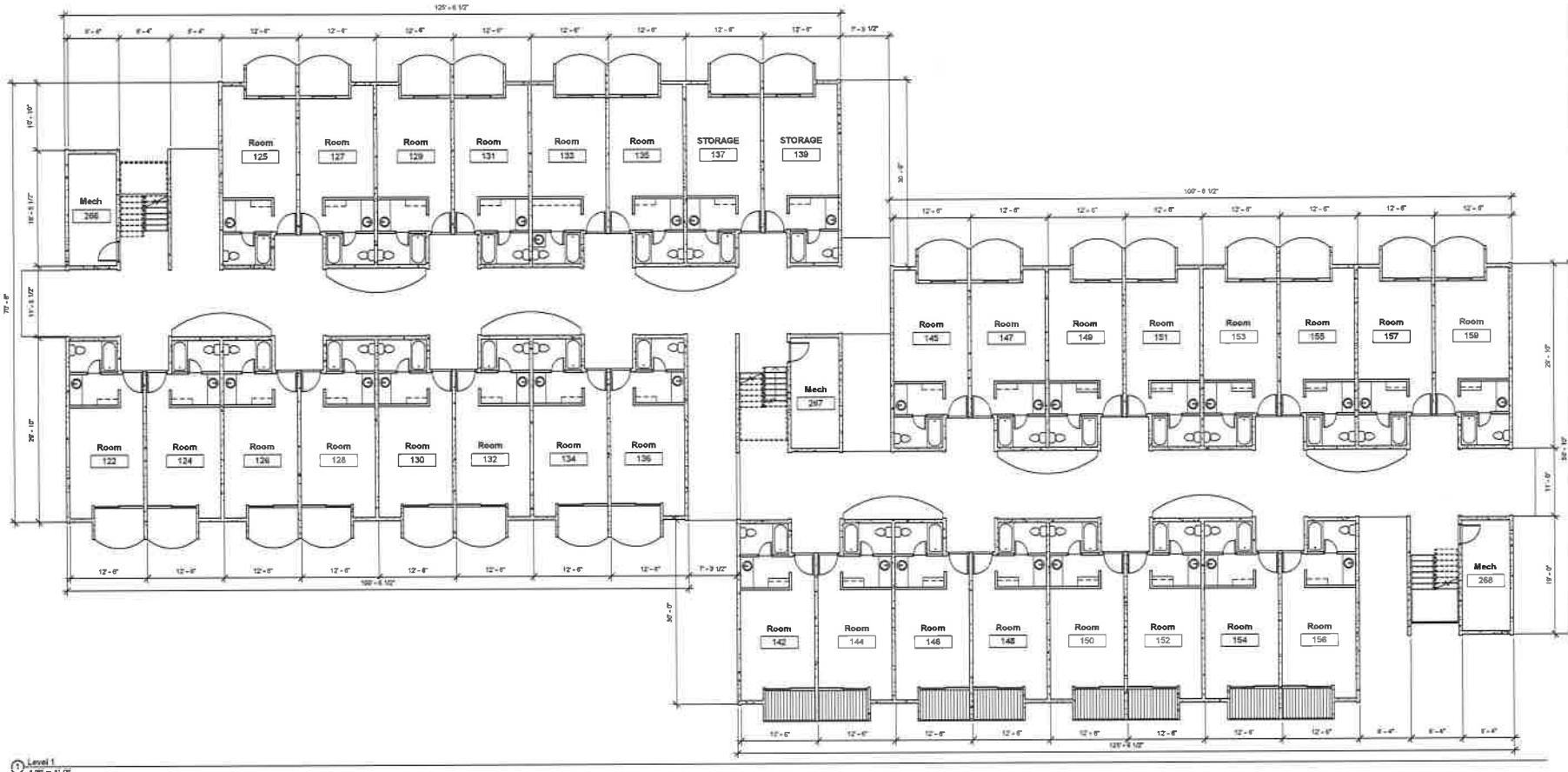
1865 Woodmoor Drive - Building 1 (A - Aspen)
1865 Woodmoor Dr
Monument, CO 80132
CONSTRUCTION DOCUMENTS

Project Number
18.195
Date
9.4.18
Revisions

Drawn By
ATT
Checked By
YOW

Planning 1
Floor Plans
Scale
1/8" = 1'-0"

9/12/2018 12:03:42 PM



1 Level 1
1/8" = 1'-0"

6/15/2018 4:39:26 PM

79

YOW Architects PC
Architecture & Planning
115 S. Weber Colorado Springs, Colorado 719-475-8133

NOT FOR CONSTRUCTION

1865 Woodmoor Dr - Buildings
B - Birch and C - Cottonwood
1865 Woodmoor Dr
Monument, CO
AS BUILT

Project Number
18.195

Date
6.14.18

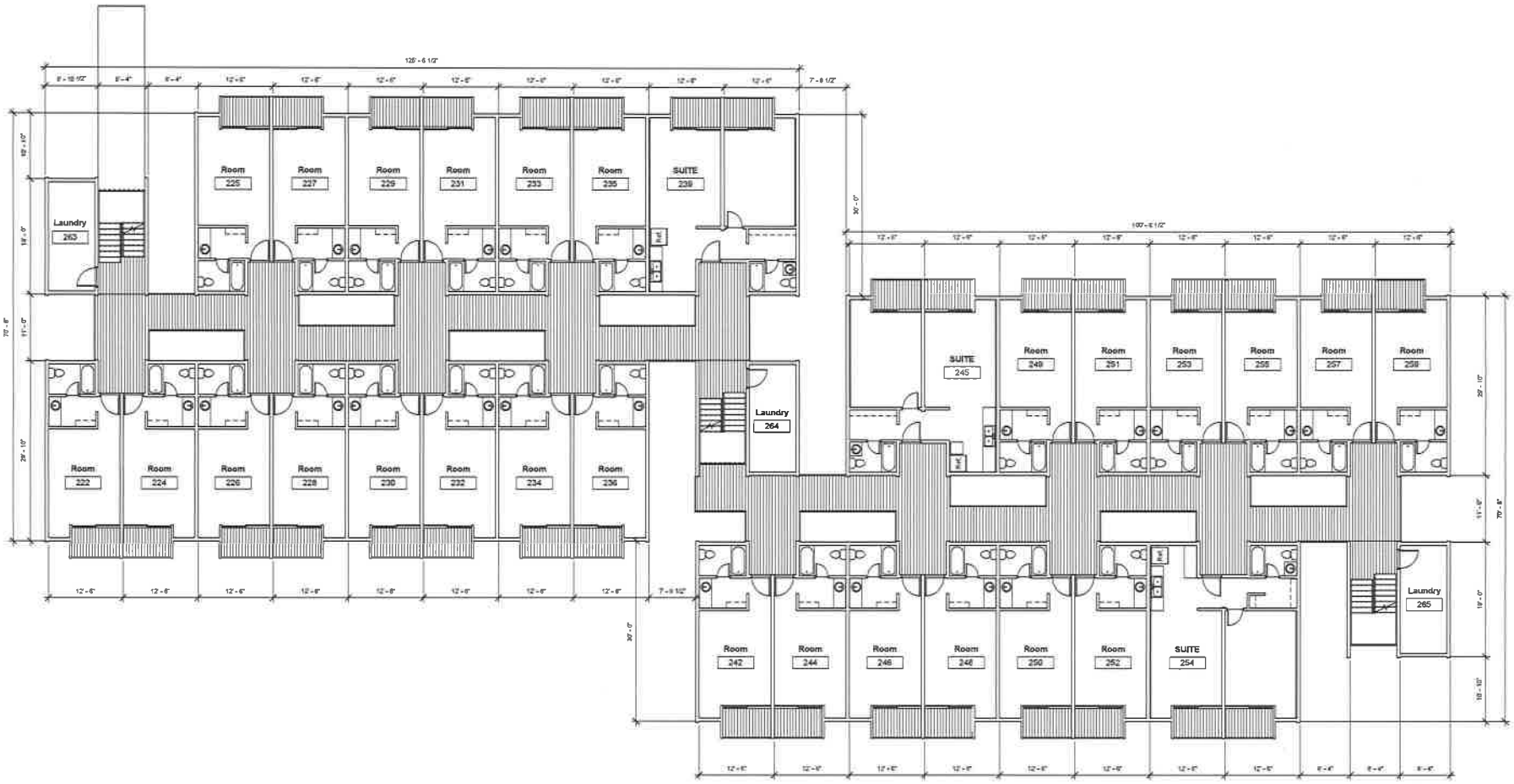
Revisions

Drawn By
ATT

Checked By
YOW

A1.4
Floor Plan - Bldg B and C

Scale
1/8" = 1'-0"



1 Level 2
1/8" = 1'-0"

YOW Architects PC
Architecture & Planning
115 S. Weber Colorado Springs, Colorado 719-473-8133

NOT FOR CONSTRUCTION

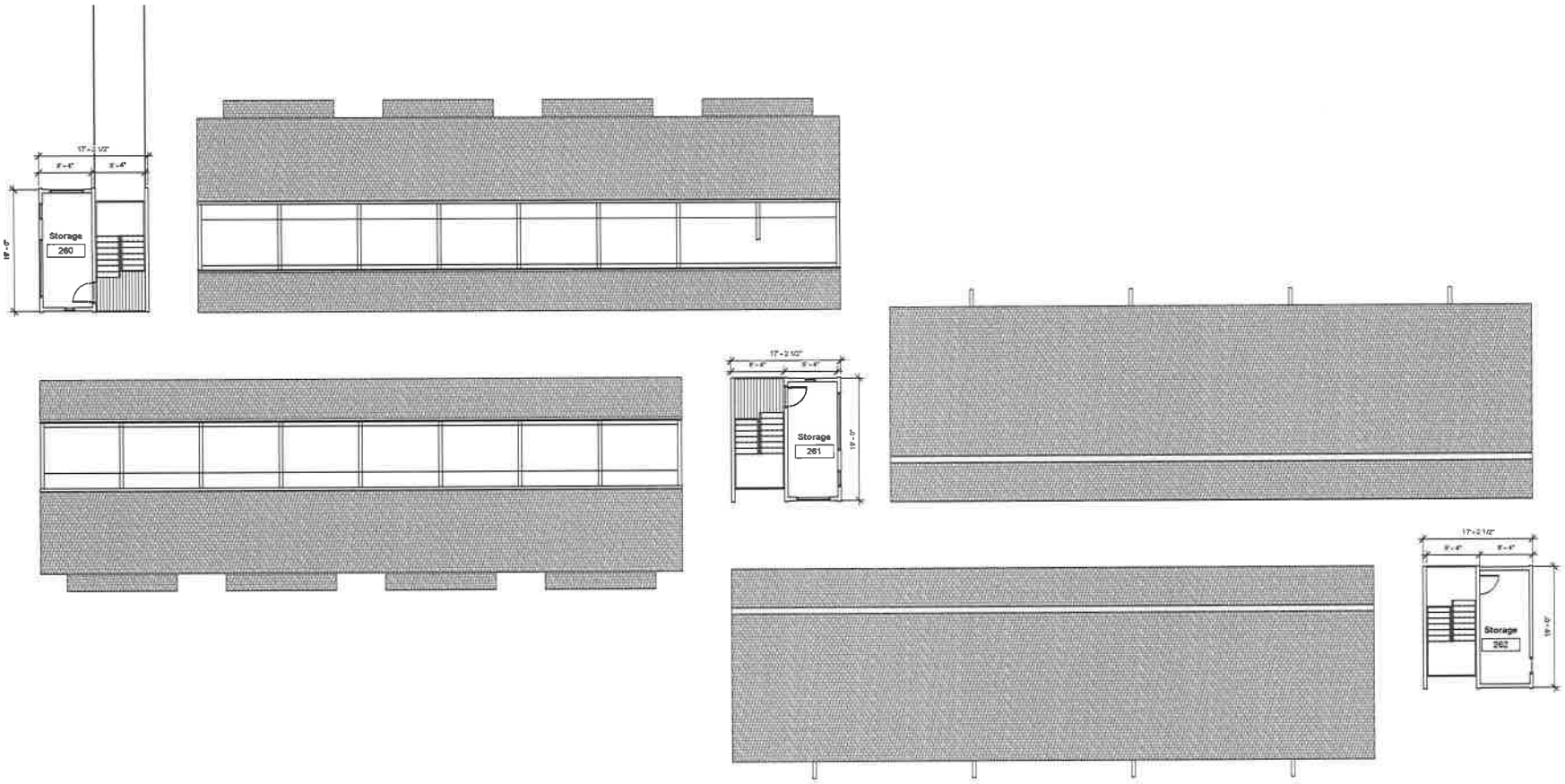
1865 Woodmoor Dr - Buildings B - Birch and C - Cottonwood
1865 Woodmoor Dr
Monument, CO
AS BUILT

Project Number
18.195
Date
6.14.18
Revisions

Drawn By
ATT
Checked By
YOW

A1.5
Floor Plans Bldgs B and C
Scale
1/8" = 1'-0"

6/15/2018 4:39:26 PM



1 Level 3
1/8" = 1'-0"

YOW Architects PC
Architecture & Planning
115 S. Weber Colorado Springs, Colorado 719-475-8133

NOT FOR CONSTRUCTION

1865 Woodmoor Dr - Buildings B - Birch and C - Cottonwood

1865 Woodmoor Dr
Monument, CO
AS BUILT

Project Number
18.195

Date
6.14.18

Revisions

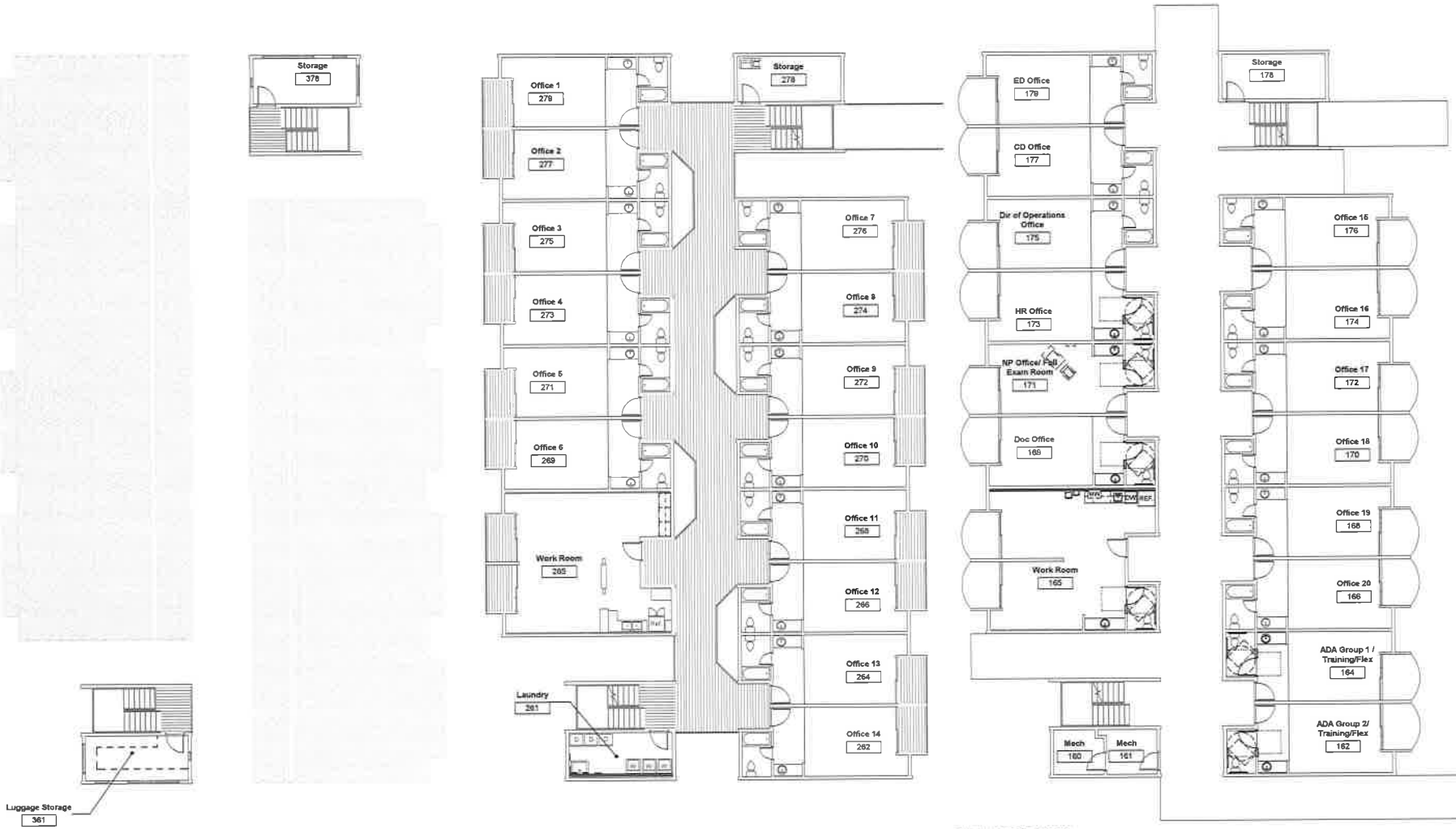
Drawn By
ATT

Checked By
YOW

A1.6
Floor Plans - Buildings B and C
Scale
1/8" = 1'-0"

6/15/2018 4:39:27 PM

81



3 Level 3 Floor Plan - Planning
1/8" = 1'-0"

2 Level 2 Floor Plan - Planning
1/8" = 1'-0"

1 Level 1 Floor Plan - Planning
1/8" = 1'-0"

YOW Architects PC
Architecture & Planning
115 S. Weber Colorado Springs, Colorado 719-475-8133

NOT FOR CONSTRUCTION

1865 Woodmoor Dr - Building 4 (D - Douglas)
1865 Woodmoor Dr
Monument, CO
CONSTRUCTION DOCUMENTS

Project Number
18.195

Date
8.12.18

Revisions

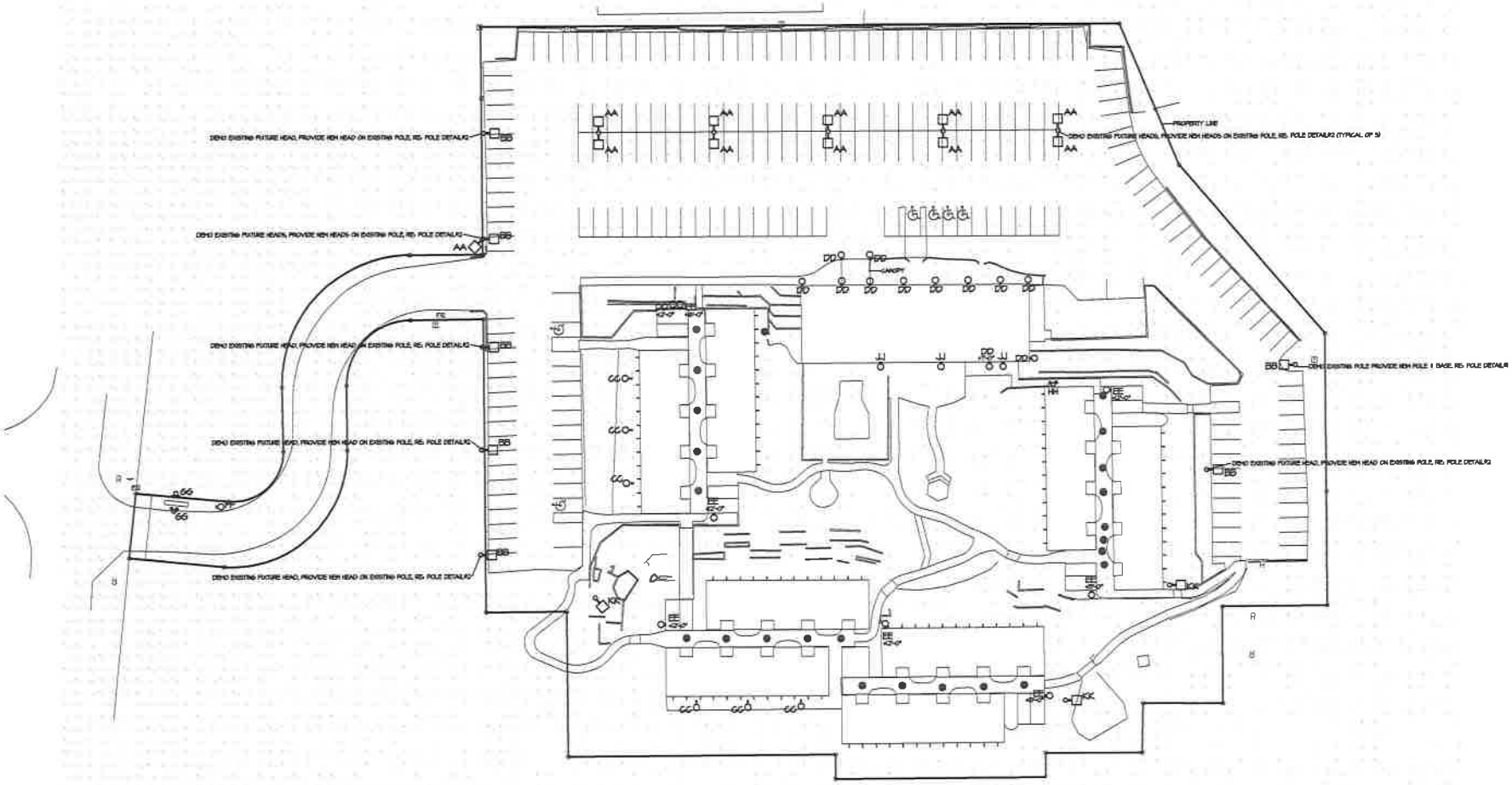
Drawn By
ATT

Checked By
YOW

Planning 1
Floor Plans

Scale
1/8" = 1'-0"

8/12/2019 11:55:00 AM



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Colorado Springs, CO 80903

Tel. 719.471.0073
Fax 719.471.0267

www.nesinc.com

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MEP PROJECT # 18288
DESIGNED BY: TM CHECKED BY: DGM

MEP ENGINEERING INC.
CLIENT CENTRIC CONSULTING

8402 S. Troy Circle Suite 100 (W) 303.996.1633
Centennial, CO 80111 (F) 303.994.5299
info@mep-eng.com www.mep-eng.com

1865 WOODMOOR DRIVE

MONUMENT
COLORADO

DATE: 7-9-2018
PROJECT MGR: TM
PREPARED BY: TM

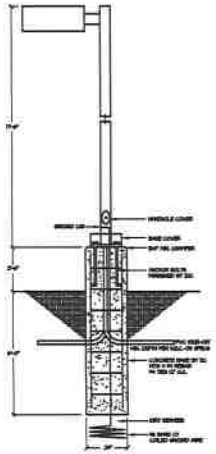
DATE	BY	DESCRIPTION
8/13/18	TM	Revised Per County Comments
11/28/18	TM	Revised Per County Comments

SITE PHOTOMECTRIC PLAN

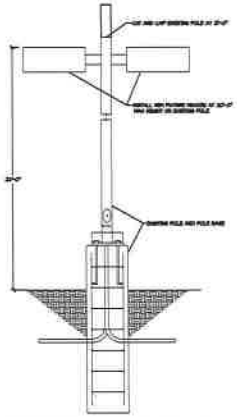
E-1

5 OF 6

PPR1830



LIGHTING POLE DETAIL #1
NEW LIGHTING FIXTURE POLE BASE DETAIL, NOT TO SCALE



LIGHTING POLE DETAIL #2
EXISTING FIXTURE POLE BASE DETAIL, NOT TO SCALE

FIXTURE TYPE DD (EXISTING)
SCALE: NONE

LIGHTING FIXTURE SCHEDULE

	LUMINAIRE							LAMPS				
ID	MANUFACTURER	MODEL	CATALOG NUMBER	DESCRIPTION	VOLTAGE	DIMMING	MOUNTING	QTY.	TYPE	WATTS	LUMENS	COLOR TEMP/CRI
AA	ILP	AREA LIGHT	AL-100WLED-MW-40-T4-D350PC	PARKING LOT AREA LIGHTING FIXTURE, UNIVERSAL VOLTAGE (120-277V) DRIVER, TYPE 4 DISTRIBUTION, MEDIUM SIZE 100P DIMMING PHOTOCELL FOR LIGHT REDUCTION CONTROL	120-277	Y	POLE (20'-0" AFG)	1	LED	100	8884	4000K/70
BB	ILP	AREA LIGHT	AL-100WLED-MW-40-T3-D350PC	SIMILAR TO TYPE "AA" EXCEPT TYPE 3 DISTRIBUTION	120-277	Y	POLE (20'-0" AFG)	1	LED	100	10219	4000K/70
CC	–	–	–	EXISTING FLOOD UPLIGHT, GRADE MOUNT, SINGLE LAMP	120	N	GRADE MOUNT	1	–	–	–	–
DD	–	–	–	EXISTING WALL MOUNTED DECORATIVE ARCHITECTURAL SCONCE WITH FROSTED GLASS INCANDESCENT LAMP	120	N	WALL MOUNT (8'-0" AFG) TYP. OR AS NOTED ON PLANS	1	–	–	–	–
EE	–	–	–	EXISTING WALL MOUNTED DECORATIVE ARCHITECTURAL SCONCE WITH FROSTED GLASS INCANDESCENT LAMP	120	N	WALL MOUNT (8'-0" AFG) TYP. OR AS NOTED ON PLANS	1	–	–	–	–
FF	–	–	–	EXISTING ARM MOUNTED DECORATIVE ARCHITECTURAL SCONCE WITH FROSTED GLASS INCANDESCENT LAMP	120	N	ARM MOUNT (8'-0" AFG)	1	–	–	–	–
GG	–	–	–	EXISTING ARM MOUNTED ACCENT SIGN LIGHTING WITH SINGLE LAMP	120	N	ARM MOUNT (4'-0" AFG)	1	–	–	–	–
HH	–	–	–	EXISTING WALL MOUNTED DUAL HEAD SPOT LIGHT WITH SINGLE LAMP EACH	120	N	WALL MOUNT (8'-0" AFG)	2	–	–	–	–
JJ	–	–	–	EXISTING WALL MOUNTED SINGLE HEAD AREA SCONCE LIGHT WITH SINGLE LAMP	120	N	WALL MOUNT (8'-0" AFG)	1	–	–	–	–
KK	–	–	–	EXISTING POLE MOUNTED PEDESTRIAN AREA LIGHTING FIXTURE, SINGLE HEAD	120	N	POLE (10'-0" AFG)	1	–	–	–	–

FIXTURE TYPE KK (EXISTING)
SCALE: NONE

FIXTURE TYPE HH (EXISTING)
SCALE: NONE

FIXTURE TYPE EE (EXISTING)
SCALE: NONE

FIXTURE TYPE CC (EXISTING)
SCALE: NONE

FIXTURE TYPE GG (EXISTING)
SCALE: NONE

FIXTURE TYPE FF (EXISTING)
SCALE: NONE

FIXTURE TYPE JJ (EXISTING)
SCALE: NONE

AREA LIGHT - 100W LED
OUTDOOR
ILP
407-478 3768
www.ilp-inc.com

FEATURES
- Sleek low profile die-cast aluminum housing (as low as 4 inch)
- Multiple housing color options over field paint
- Custom color options available (Call factory for pricing)
- Type II, III, IV, & VS optics available
- Tool-less hinged door allows driver access
- Universal Pole Mounting Brackets available (UPMB)
- Snapable driver cable
- IP65 Rated
- 3000K, 4000K, & 5000K color options
- 0-10V Dimmable Driver
- Dark Sky Compliant*
- 5 year warranty
- DesignLights Consortium® Qualified Luminaire
  *Not rated IP65 in AZ
  *Not rated IP65, IP66 optics coming soon (4 inch)

SUITABLE APPLICATIONS
- Parking Lots
- Residential
- Car Dealerships
- Shopping Centers

LED SYSTEMS INFO

		T2	T3	T4	VS4	T2	T3	T4	VS4
		100W				100W			
Calculated L_{70} (TM-21)	3000K	>100K	>100K	>100K	>100K	>100K	>100K	>100K	>100K
Delivered Lumens	3000K	11,455 lm	12,278 lm	11,883 lm	12,223 lm	12,536 lm	12,430 lm	12,233 lm	12,381 lm
Real Input Watts	3000K	100 W	100 W	100 W	105 W	100 W	100 W	100 W	105 W
Luminaire Efficacy Rating (LER)	3000K	117 lm/W	118 lm/W	112 lm/W	113 lm/W	125 lm/W	117 lm/W	115 lm/W	117 lm/W
Correlated Color Temperature (CCT)	3000K	4000K	4000K	4000K	4000K	5000K	5000K	5000K	5000K
Color Rendering Index (CRI)	3000K	>70	>70	>70	>70	>70	>70	>70	>70
BUG Rating	3000K	B3-U3-G2	B3-U3-G2	B3-U3-G2	B4-U3-G2	B3-U3-G2	B3-U3-G2	B3-U3-G2	B4-U3-G2
Ambient Temperature Range	3000K	-20°F-125°F	-20°F-125°F	-20°F-125°F	-20°F-125°F	-20°F-125°F	-20°F-125°F	-20°F-125°F	-20°F-125°F
Universal Driver	3000K	120-277 V	120-277 V	120-277 V	120-277 V	120-277 V	120-277 V	120-277 V	120-277 V

(1) Tested per standard practice in IESNA LM-79 and LM-80 Standards.
(2) Lower maintenance intervals and lower "B" ratings in the light source & UV output

ORDERING GUIDE

Series	Watts	Voltage	Lens	Color Temp	Finish	Options
AL New Light	100WLED	120W 120-277V Driver	T2 T3 T4 VS	3K 4K 5K		

FIXTURE TYPE AA & BB (NEW)
SCALE: NONE

Land Planning
Landscape
Architecture
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NES
N.E.S. Inc.
619 N. Cascade Avenue, Suite 200
Colorado Springs, CO 80903
Tel. 719.471.0073
Fax 719.471.0267
www.nesincorado.com

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MEP PROJECT # 18288
DESIGNED BY: TJM CHECKED BY: DGM

MEP ENGINEERING INC.
CLIENT CENTRIC CONSULTING
6402 S. Troy Circle, Suite 100 (W) 303.996.1633
Centennial, CO 80111 (F) 303.394.3299
info@mep-eng.com www.mep-eng.com

1865
WOODMOOR
DRIVE

MONUMENT
COLORADO

DATE: 7-9-2019
PROJECT MGR: TM
PREPARED BY: TM

DATE	BY	DESCRIPTION
8-12-19	TM	Revised Per County Comments
7-9-19	TM	Revised Per County Comments

SITE PHOTOMETRIC DETAILS

E-2
6 OF 6

PPR1830

1865 WOODMOOR DRIVE

LETTER OF INTENT

JULY 2018- REVISED OCTOBER 2018

OWNER/APPLICANT:
Sunshine Behavioral Health
30950 Rancho Viejo Road, Suite 225
San Juan Capistrano, CA 92675

CONSULTANT:
N.E.S. Inc.
619 North Cascade Avenue, Suite 200
Colorado Springs, Colorado 80903

LOCATION

The site is located at 1865 Woodmoor Drive in Monument, Colorado (Figure 1). The site is located east of Woodmoor Drive and north of Lake Woodmoor Drive. To the north is the Tri-Lakes Monument Fire Protection District Station and the Woodmoor Water & Sanitation District Office. To the west is vacant land owned by Lake Woodmoor Holdings LLC. To the east is vacant open space owned by Lake Woodmoor Development Inc. Immediately to the south is a pond, beyond which is Woodmoor Center, a commercial development. The site is approximately 5.11 acres and is currently an operating Ramada by Wyndham hotel.

Figure 1. Vicinity Map

REQUEST

Sunshine Behavioral Health requests approval of a Site Development Plan for the change of use from a hotel to a drug and alcohol rehabilitation facility.

HISTORY

The parcel was legally created in 1972 by a lease with an option to purchase. The lease included a surveyed legal description and required the lessee to pay taxes. Therefore, the parcel meets the definition of a legal lot as outlined by the El Paso County Land Development Code. The parcel was zoned C-2 (Commercial-Obsolete) in 1955. It has been determined that a drug and alcohol rehabilitation facility is a permitted principal use within the C-2 zoning district, as outlined in a zoning compliance letter from the El Paso Planning and Community Development Department dated May 22, 2018. The Land Development Code was revised in 2014 (LDC141) in response to changes in legislation. These amendments resulted in the use being allowed. The initiation of the use requires a site development plan to be submitted to the El Paso County Planning and Community Development Department. A rehabilitation facility is not subject to specific use standards listed in Chapter 5 of the Land Development Code, but is subject to the general development standards of Chapter 6.

SITE DESCRIPTION

The site is currently an operating Ramada hotel. There is a lodge with a restaurant that is open to guests as well as the public and four hotel buildings arranged around a central courtyard. The buildings are situated on the southern portion of the site and a parking lot wraps around the west, north and east sides of the site. Sidewalks provide connectivity throughout the property.

Figure 2. Courtyard Fire Pit

Figure 3. Courtyard Gazebo

The central courtyard comprises of a pool, plaza spaces, a gazebo and fire pit (Figures 2,3). There is significant vegetation on the site, including mature pines, spruces and aspen trees. The trees are clustered around the buildings and in the courtyard area (Figures 4,5).

Figure 4. Rooms facing internal courtyard.

Figure 5. Mature pine trees internal to site.

Figure 6. Mature pine trees south of entry.

Figure 7. Mature pine trees north of entry.

The site is set back from Woodmoor Drive and has an access drive that winds into the parking lot. There are mature pine trees along the west edge of the site, providing a buffer from Woodmoor Drive (Figures 6,7). Other site features include a "Ramada" sign at the entrance on Woodmoor Drive and existing parking lot light poles.

PROJECT DESCRIPTION

Description of Proposed Use

The property will be used as a rehabilitation facility, which is defined in Chapter 1 of the El Paso County Land Development Code as an institutional use-type facility, and not a group home, whether public, quasi-public, not-for-profit, providing accommodation, treatment and medical care for patients suffering from alcohol or drug-related illness. The facility will offer inpatient drug and alcohol rehabilitation services that specifically serve the medical and social needs of individuals diagnosed with substance use disorders.

In order to provide these services, the site will be licensed by the Colorado Department of Human Services (DHS), Office of Behavioral Health (OBH) as an Inpatient Treatment Facility. Once licensed by

the DHS OBH, this facility will only provide inpatient services and will be open 24/7. Outpatient and Methadone services will not be provided at this location. The facility will only provide services to individuals who meet the strict admission criteria for the program and voluntarily admit themselves into treatment. This facility will not perform any involuntary holds and will not offer any form of deferred sentencing services for those with criminal convictions. The program will be operated in accordance with State standards related to the licensure and certification credentials of treatment professionals who provide medical, therapeutic and counseling services. All requirements of daily living will be provided on-site and clients will not have access to personal vehicles or be able to leave the program without staff supervision. Transportation to and from the facility during admission and discharge is facilitated by staff members.

The interior spaces are to remain as currently constructed and are to be repurposed for the new use. To provide treatment for the maximum projected occupancy of 150 patients, there will be 75 patient rooms, each one being double occupancy. In addition to patient rooms, there will be offices for staff members, counseling and education rooms, and a recreational hall with gym equipment, games and lounge space. The restaurant will be converted into a dining hall and cafeteria.

Site Development Plan

The Site Development Plan shows the existing site conditions, with proposed minor modifications to comply with Chapter 6 of the Land Development Code.

Building Setbacks and Building Height: The existing buildings follow the C-2 zone district setback requirements, which are a 15-foot front setback, 20-foot rear setback, and 5-foot side setbacks. The existing buildings also comply with the C-2 zone district maximum building height of 50-feet. There are no proposed exterior modifications to the existing buildings.

Landscape: The Site Development Plan proposes adding parking lot islands to comply with Code Section 6.2.2.C. A total of 8 parking lot islands are proposed to break up the expanse of paving and long rows of parking and create a canopy effect over the parking lot with the addition of shade trees. The parking lot screening requirement is met with the addition of landscape adjacent to the PUD parcel on the east side of the property. Shrubs with a minimum height of 3' are proposed on the east side of the cedar fence. The internal landscape requirement is met with the exiting mature trees on site. The street frontage requirement is met with the addition of a tree near the entry drive off of Woodmoor Drive. Landscape calculations are shown on the Landscape Plan drawing.

Parking: Per Section 6.2.5.D.ii., the required parking spaces for a use which is not specifically listed in Table 6-2 shall be determined by the PCD Director based on the requirements of other similar uses. The Director has found that the most similar use is that of a "Nursing Home" which requires 1 space per 5 beds. For the maximum provision of 150 patients, 30 spaces are required under the Nursing Home category. Currently, there are 220 regular parking spaces and 6 ADA accessible parking spaces for a total of 226 spaces. The ADA accessible parking spaces will be restriped to comply with current ADA design standards. With the addition of parking lot islands, the entry gate and turn-around space, 26 spaces will be removed for a new total of 200 spaces, including 7 ADA spaces. This is more than enough parking for the proposed rehabilitation facility use, since patients of the facility will not have their own vehicles on site, only staff and visitors will be parking on site.

Based on the projected operation of the facility and assuming 100 percent occupancy, at any one time, there will be approximately 52 cars parked on site. This assumes the following: 2 Medical Directors, 11 Nurses, 2 UR Specialists, 1 Program Director, 16 Behavioral Health Technicians and drivers, 1 HR Manager, 1 Hospitality Manager, 1 Chef, 2 Cooks, 3 Kitchen Supports, 7 Housekeepers, 2 Deliveries or Contractors, and 3 Visitors. In addition to staff, deliveries and visitors, there will be 10 company vehicles parked on site, for a maximum total of 62 vehicles.

Signage and Lighting: The existing Ramada hotel sign is to be removed and no new sign is proposed. The existing parking lot lights are to remain. The light fixtures are to be updated to be full cutoff to comply with Code. A photometric plan and light specifications are provided with the resubmittal.

Fencing: The Site Development Plan shows a proposed perimeter fence, which is to be a 7-foot high cedar fence. The cedar fence will be installed on the west, north and east sides of the property. The south side of the property is adjacent to a pond; on the southwest side, a section of fence will be installed from the southern-most building wall to the south towards the edge of the pond and on the southeast side, the fence will end in dense vegetation (the vegetation extends to the pond edge). Reference the site plan for exact locations of the perimeter fence. An automatic sliding metal gate will be installed to control access to the property. The gate is to be located approximately 20 feet to the east of the intersection of the entry drive and the site's parking lot to allow for turn-around space. As shown on the plan, the cedar fence and gate configuration allow for a hammerhead turn-around space for vehicles. The gate will be controlled by a call box with key code entry. Emergency services will access the property through the gate with a Knox Box.

Trip Generation Information

The current operational plan is to open the facility with an initial census of 60 patients and grow to have a maximum final census of 150 patients.

The staffing plan for the facility has been further developed since the initial submittal. Once the facility reaches a maximum final census of 150 patients, there will be approximately 47 staff members during the day shift, 18 staff members during the evening shift, and 16 staff members during the overnight shift. The program will offer limited off-site excursions to clients who are in later phases of the program. The staff will provide transportation for each client coming into and leaving the facility. Large vans, with 15-person occupancy, will be used to transport patients to and from the site.

The trip generation for 150 patients and associated staff is estimated at a total of 96 trips per day. The hotel has approximately 120 hotel guest rooms, as well as hotel and restaurant staff. The hotel generates a total of 701 trips per day. Therefore, there is a net reduction of 605 trips per day with the proposed rehabilitation use. **See the included Transportation Memo prepared by CLH Associates, LLC, for additional analysis on Trip Generation.**

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RESOLUTION NO. 18 - 389

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

RESOLUTION TO APPROVE/REINSTATE AN INTERIM PROCEDURE FOR THE APPEAL OF CERTAIN ADMINISTRATIVE ACTIONS UNDER THE EL PASO COUNTY LAND DEVELOPMENT CODE

WHEREAS, in accordance with its authority in Article 28 of Title 30, Colorado Revised Statutes, on October 12, 2006 the Board of County Commissioners of El Paso County, Colorado ("Board") adopted a revised Land Development Code ("revised Code") pursuant to Resolution No. 06-365, which became effective upon further Board action on April 25, 2007 and was recorded at Reception No. 207056053 in the records of the El Paso County Clerk and Recorder's Office ("Code Resolution"); and

WHEREAS, while the previous Land Development Code had contained various procedures, including appeals procedures, the revised Code did not include such procedures, the intent being to create a separate Procedures Manual; and

WHEREAS, the Code Resolution stated that the Executive Director of the then Development Services Department ("Executive Director") (now known as the Planning and Community Development Department) is "authorized to create for development permit review and department administration the procedures . . . department policies, and implementation tools necessary to fully utilize the Land Development Code"; and

WHEREAS, the Board, by Resolution No. 09-164, dated April 28, 2009, and recorded at Reception No. 209057220 in the records of the El Paso County Clerk and Recorder's Office ("Direction Resolution"), approved certain Administrative Authorities, including that set forth above, "with the condition that the Authorities approved by this Resolution will thereafter be incorporated into the Procedures Manual, and with the further condition that the Procedures Manual, when finalized, requires DSD Director approval and may be endorsed by the El Paso County Planning Commission and the Board" (emphasis added); and

WHEREAS, the Planning and Community Development Department is preparing but has not yet completed the Procedures Manual; and

WHEREAS, the revised Code provides rights to appeal certain administrative actions of the Executive Director of the Planning and Community Development Department, but does not set forth the procedures for such appeals; and

WHEREAS, the Board has identified a need to adopt procedures for the appeal of Executive Director applications or interpretations of the use provisions of the

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revised Code and of Executive Director action on site plans and site development plans in the interim before the Procedures Manual is completed; and

WHEREAS, since 2006, El Paso County has continued the practice of using the appeal procedures set forth in the previous Land Development Code; and

WHEREAS, pursuant to his authority under both the Code Resolution and the Direction Resolution, the Executive Director in conjunction with the County Attorney's Office has developed interim appeals procedures consistent with prior appeals procedures, which he approves and recommends to the Board for endorsement and approval; and

WHEREAS, the Board desires to formally adopt/reinstate those appeal procedures as an interim measure until such time as such procedures are reviewed and updated.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of El Paso County, Colorado that the following procedures are hereby adopted/reinstated for the appeal of Executive Director application or interpretation of the use provisions of the El Paso County Land Development Code and of Executive Director action on site plans and site development plans.

I. Appeal of interpretations or applications of the use provisions of the El Paso County Land Development Code by the Executive Director of the Planning and Community Development Department to the Board of County Commissioners

   A. The aggrieved party may appeal within thirty (30) days following the specific interpretation or application of the Code use provisions by the Executive Director. In no event is an appeal to be made after a decision by the Board of County Commissioners on a zoning, rezoning, special use or use variance application which decides or addresses the disputed matter. An appeal may be filed concurrently with a zoning, rezoning, special use or use variance application which might, through a decision of the Board on the application, resolve the dispute otherwise.

   B. Any appeal shall be initiated by the filing of a written notice of appeal to the Planning and Community Development Department setting forth in detail the name and interest of the appealing party, the nature of the appeal, the legal description of the property affected, the reasons and any written or photographic documentation supporting the appeal, along with the applicable fee, and any other information or documentation as may be required by the Department for the adequate review of the appeal.

C. Upon receipt of an appeal, the Department shall refer such appeal to the appropriate County departments and agencies for their review and recommendations, and shall schedule the appeal to be heard before the Board within thirty-five (35) days. Written notice of the date, time and place of the appeal hearing shall be given no later than ten (10) days prior to the hearing to the appellant, appropriate County departments or agencies, and any other person or entity expressing an interest therein.

D. The appellant shall have the burden of proof to establish that the interpretation or application made by the Executive Director was erroneous or inapplicable.

E. The Board shall consider the relevant evidence submitted in support of or opposition to the appeal, the recommendations of the appropriate County departments and agencies, and any additional evidence which it deems relevant and appropriate. The Board shall either approve or disapprove the appeal.

F. No Board action on any zoning, rezoning, special use or use variance which may be dispositive on the disputed issue may be taken until there is a final determination of the appeal. Likewise, the Board's negative decision on an appeal is not a final action for judicial review purposes if the disputed matter could be resolved in favor of the impacted property owner by an action of the Board on a zoning, rezoning, special use or use variance application by the property owner.

II. Appeal of a denied site plan or site development plan to the Board of Adjustment

A. An applicant whose site plan or site development plan has been denied by the Executive Director of the Planning and Community Development Department may appeal such denial to the Board of Adjustment within thirty (30) days of such denial. No appeal of an approved site plan or site development plan may be taken by any party.

B. Any appeal shall be made by submitting a complete petition form provided by the Department, along with the applicable fee and any information or documentation required by the Department for the adequate review of the appeal. The completed petition, applicable fee and required supporting documentation must be provided at least twenty-two (22) days prior to the Board of Adjustment hearing at which the appeal is to be presented.

C. Copies of the petition may be sent by the Department to appropriate federal, state and local agencies for review and comment. These comments, along with the Department's comments, recommendations, and proposed conditions and restrictions, will be presented to the Board of Adjustment. Copies of these comments and recommendations will be available to the applicant and any other interested party by the date of the hearing.

D. Any interested party may appear before the Board of Adjustment in person, by agent or attorney, or by written comment. The applicant or his/her representative must be present at the hearing and willing to answer questions from the Board of Adjustment in order for the applicant to receive a favorable action.

E. The applicant on appeal shall have the burden of 1) providing all information necessary for an adequate evaluation and review of the petition, and 2) demonstrating that the petition addresses and satisfies the applicable standards and findings set forth below.

F. In order to grant an appeal of the denial of a site plan or site development plan, the Board of Adjustment must find, based on adequate evidence presented to it by the applicant, that all of the following exist:

1. There was a clear and harmful error in the denial of the site plan or site development plan.

2. Granting the appeal will permit only those uses specifically enumerated as permitted uses for the zoning district in which the property is located.

3. Granting the appeal will not substantially alter the character or development pattern of the zoning district nor significantly impair the intent and purpose of County's zoning regulations.

4. Granting the appeal will not violate any applicable federal, state or other local laws or regulations.

Done this 11th day of October, 2018 at Colorado Springs, Colorado.

ATTEST:

By: Charles D Broerman
E. Chuck Broerman
County Clerk & Recorder

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: Darryl Glenn
Darryl Glenn, President