

Meggan Herington, AICP, Executive Director
El Paso County Planning & Community Development

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Board of County Commissioners

Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

SUMMARY MEMORANDUM

TO: El Paso County Board of County Commissioners
FROM: Planning & Community Development
DATE: 1/25/2024
RE: VR2313 Hill Subdivision Filing No. 1

Project Description

A request by Douglas and Katherine Hill for approval of a 14.69-acre Vacation and Replat illustrating a replat of one (1) residential lot as three (3) residential lots, resulting in a net increase of residential lots of two (2). The property is zoned RR-5 (Residential Rural), and is located at 6910 Alpaca Heights, Colorado Springs, CO, 80908. The Vacation and Replat application was heard as a consent agenda item at the January 4, 2024, Planning Commission hearing and was unanimously recommended for approval by the Planning Commission with a vote of 9-0.

Notation

Please see the project manager's staff report for staff analysis and conditions.

Planning Commission Recommendation and Vote

Mr. Moraes moved and Ms. Offner seconded the motion to recommend approval for the Final Plat, utilizing the resolution attached to the staff report with seven (7) conditions, one (1) notation, one (1) waiver, and a recommended finding of sufficiency with regard to water quality, quantity, and dependability, that this item be forwarded to the Board of County Commissioners for their consideration. The motion to recommend approval was **approved (9-0)**. The item was heard as a consent agenda item. No public comment was received.

Discussion

The item was heard as a consent agenda item and, as such, had no discussion at the hearing.

Attachments

1. Draft Planning Commission minutes from 1/4/2024.
2. Signed Planning Commission Resolution.
3. Planning Commission Staff Report.
4. Draft BOCC Resolution.

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EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting

Thursday, January 4, 2024

El Paso County Planning and Community Development Department

2880 International Circle – Second Floor Hearing Room

Colorado Springs, Colorado

REGULAR HEARING, 9:00 A.M.

PC MEMBERS PRESENT AND VOTING: THOMAS BAILEY, SARAH BRITTAIN JACK, JIM BYERS, BECKY FULLER, JEFFREY MARKEWICH, ERIC MORAES, KARA OFFNER, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: TIM TROWBRIDGE.

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: JAY CARLSON, BRANDY MERRIAM, BRYCE SCHUETTPELZ, AND WAYNE SMITH.

STAFF PRESENT: MEGGAN HERINGTON, JUSTIN KILGORE, RYAN HOWSER, JOE LETKE, LACEY DEAN, ED SCHOENHEIT, CARLOS HERNANDEZ MARTINEZ, DANIEL TORRES, MIRANDA BENSON, AND LORI SEAGO.

OTHERS PRESENT AND SPEAKING: NONE.

1. REPORT ITEMS

Ms. Herington advised the board that PCD is moving forward with consultant proposals to update the LDC. She should have an update regarding the chosen consultant within the next month. She advised the board that PCD received a \$250,000 grant from the State to put towards that work. PCD is also working on an annual report of the Your El Paso Master Plan, which is not an update, but a review on efficiency. That should be presented in the spring.

Mr. Kilgore advised the board that the next PC Hearing is Thursday, January 18th, at 9:00 A.M. He also advised the board that the annual appreciation luncheon may take place following that hearing.

2. CALL FOR PUBLIC COMMENT FOR ITEMS NOT ON THE HEARING AGENDA (NONE)

3. CONSENT ITEMS

A. Adoption of Minutes for meeting held November 16, 2023.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (9-0).

Adoption of Minutes for meeting held December 7, 2023.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (9-0).

B. VR2313

HOWSER

**VACATION AND REPLAT
HILL SUBDIVISION FILING NO. 1**

A request by Douglas and Katherine Hill for approval of a 14.69-acre Vacation and Replat of one (1) residential lot into three (3) residential lots. The property is zoned RR-5 (Residential Rural) and is located at 6910 Alpaca Heights (Parcel No. 5129004018) (Commissioner District No. 1).

NO PUBLIC COMMENT

Mr. Whitney disclosed that he is a neighbor of the subject property. He had a conversation with Ms. Seago and he does not feel that he has a conflict of interest. He will not be recusing himself.

PC ACTION: MORAES MOVED / OFFNER SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3B, FILE NUMBER VR2313, FOR A VACATION AND REPLAT, HILL SUBDIVISION FILING NO. 1, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SEVEN (7) CONDITIONS, ONE (1) NOTATION, ONE (1) WAIVER, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).

C. SF2321

HOWSER

**FINAL PLAT
FOUNDATION LUTHERAN CHURCH SUBDIVISION FILING NO. 1**

A request by Foundation Lutheran Church for approval of a 5.968-acre Final Plat creating one (1) commercial lot. The property is zoned CR (Commercial Regional) and is located at the southwest corner of the intersection of Towner Avenue and Londonderry Drive, approximately three-quarters of a mile west of the intersection of Londonderry Drive and Meridian Road (Parcel No. 5225208001) (Commissioner District No. 2).

NO PUBLIC COMMENT OR DISCUSSION

PC ACTION: FULLER MOVED / MORAES SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3C, FILE NUMBER SF2321, FOR A FINAL PLAT, FOUNDATION LUTHERAN CHURCH SUBDIVISION FILING NO. 1, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWELVE (12) CONDITIONS, TWO (2) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).

Later during the hearing, Mr. Kilgore advised the board that a condition of approval had been updated and differs slightly between how it appears in the staff report and how it is written in the resolution. Ms. Seago recommended a board member make a motion to reconsider the item so the revised condition could be discussed and captured in the PC resolution forwarded to the BoCC.

PC ACTION: WHITNEY MOVED / FULLER SECONDED TO RECONSIDER CONSENT ITEM 3C, FILE NUMBER SF2321, FOR A FINAL PLAT, FOUNDATION LUTHERAN CHURCH SUBDIVISION FILING NO. 1. THE MOTION TO RECONSIDER PASSED (9-0).

Mr. Howser explained that the number of conditions did not change, nor did the intent. He reiterated that the revised conditions appear in the staff report (part of the packet) but were not updated on the resolution presented to the board.

Mr. Bailey asked for the revised conditions of approval to be presented before the board.

Mr. Howser pulled up the staff report packet from EDARP. He first presented the resolution to show the incorrect wording of condition number 12. The fee amount has not been finalized yet. The staff report's updated condition omits that detail and states, *"Drainage fees and bridge fees shall be paid for the Falcon drainage basin (CHWS1400) at the time of plat recordation. Fees shall be assessed, and fee amounts approved prior to plat recordation."* He apologized for the discrepancy.

PC ACTION: FULLER MOVED / MORAES SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3C, FILE NUMBER SF2321, FOR A FINAL PLAT, FOUNDATION LUTHERAN CHURCH SUBDIVISION FILING NO. 1, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT BUT MODIFYING THE TWELFTH CONDITION, WITH TWELVE (12) CONDITIONS, TWO (2) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).

D. P238

LETKE

**MAP AMENDMENT (REZONE)
WESTERN DRIVE TOWNHOMES REZONE**

A request by M.V.E., Inc. for approval of a Map Amendment (Rezone) of the southern 2.99 acres of 721 Western Drive, which is a split-zoned 7.12-acre lot, from M (Industrial) to RM-30 (Residential Multi-Dwelling). The property is located on the south side of Western Drive, north of US Highway 24, and east of Hathaway Drive (Parcel No. 5407401016) (Commissioner District No. 4).

Mr. Bailey asked a member of the audience who had indicated they were present for this item if they would like to provide a comment. They declined.

NO PUBLIC COMMENT OR DISCUSSION

PC ACTION: BRITAIN JACK MOVED / WHITNEY SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3D, FILE NUMBER P238 FOR A MAP AMENDMENT (REZONE), WESTERN DRIVE TOWNHOMES REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, WITH TWO (2) CONDITIONS

AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).

4. CALLED-UP CONSENT ITEMS (NONE)

5. REGULAR ITEM

A. LDC236

HERINGTON

**LAND DEVELOPMENT CODE
TEMPORARY SIGN CODE AMENDMENT**

Amendments to the El Paso County Land Development Code Chapter 6, General Development Standards, Article 2, Development Standards for Ancillary Facilities and Activities, Section 10, Signs, On-Premise, related to standards for temporary signs in residential, commercial, and industrial zoning districts (All Commissioner Districts).

STAFF PRESENTATION

Mr. Markewich asked Ms. Herington to explain the process of considering a Code amendment.

Ms. Herington explained that the item is being presented at this hearing as a regular action item. Its presentation on December 7, 2023, was non-action and for discussion only. After receiving a recommendation from this board, it will be presented to the BoCC on January 25, 2024. The presentation began.

Mr. Markewich asked if a different part of the Code addresses signs affixed to a structure.

Ms. Herington answered that 6.2.10.C.3.e, which currently exists in the Code, specifies that signs are not allowed on walls, fences, or rooftops. No vehicle or trailer can be used as signage, and no sign may be attached to natural objects. PCD is not proposing changes to that part of the Code.

Ms. Brittain Jack asked if home-builder semi-trailers with signage affixed to them that are parked on vacant property violates the Code.

Ms. Herington confirmed that would violate the Code. Presentation concluded.

NO PUBLIC COMMENTS

Mr. Moraes stated that all his questions from the last meeting were addressed. He noted that the first bullet point (“Do not require a permit”) on the final slide which shows proposed changes to 6.2.10.D.1.d and 6.2.10.D.2.e, appears to be redundant because it is specified earlier.

Ms. Herington stated that the bullet point could be removed.

Mr. Whitney asked for the rationale behind making changes to this section of the Code.

Ms. Herington explained that the changes are intended to ease enforceability. PCD is not currently receiving calls for signage Code criteria or complaints regarding temporary signage. The

complaints that PCD does receive are related to disrepair. The proposed Code change permits greater allowance for temporary signage on private property as well as establishing enforceability.

Mr. Markewich asked if it would be permitted for a builder to have a trailer with their logo on it parked on the street of a development actively being worked on.

Ms. Herington explained that there is a difference between a trailer being used as construction storage that happens to have a logo on it and a trailer off-site from active development that's sole purpose is advertising. She then added that if *"-Do not require a permit"* is to be removed, that should be included in the motion.

Mr. Moraes responded that it wasn't important, just an observation.

Ms. Herington agreed that it is redundant. She explained that PCD wanted to make sure anyone reading this part of the Code picked up that piece of information. She added that the Code will be rewritten within the next couple of years. The overall format of the Code will be changed to address repetition.

Mr. Bailey noted that the provided resolution does not include language that allows for administrative corrections as is typical for a Master Plan, for example.

Ms. Herington agreed and added that the resolution only references Exhibit A, which is the proposed change as it is currently written.

Ms. Seago stated that language is already in the Code itself. As changes are incorporated into the Code, the allowance for administrative edits is already in place.

Mr. Whitney proposed a hypothetical scenario. Would it be allowed for a landowner to park a trailer with signage on it that identifies themselves as the owner/builder of that vacant parcel? If that's not allowed on its own, if the landowner were to put a few boxes in the trailer and call it storage, would that then be permitted? He thinks signs that identify what's coming are useful.

Ms. Herington replied that if a complaint were received in that scenario, Code Enforcement would need make a judgement call regarding whether it is being used as a sign or construction storage.

Mr. Whitney reiterated that Code Enforcement is complaint driven.

Mr. Bailey asked if PCD currently receives many complaints of trailers used as signs.

Ms. Herington stated it is not common. She added that PCD has received some complaints that Code Enforcement will go out to investigate. She stated it becomes subjective.

PC ACTION: MORAES MOVED / OFFNER SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5A, FILE NUMBER LDC236 FOR A LAND DEVELOPMENT CODE UPDATE, TEMPORARY SIGN CODE AMENDMENT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH NO CONDITIONS OR NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).

6. NON-ACTION ITEM

A. LDC233

KILGORE

LAND DEVELOPMENT CODE LANDSCAPE CODE UPDATE

A request by the El Paso County Planning and Community Development Department to amend Chapter 6 of the El Paso County Land Development Code (as amended) pertaining to Section 6.2 Development Standards for Ancillary Facilities and Activities, specifically, sections 6.2.1 and 6.2.2, to provide clarification of the requirements, increase options for landscaping materials, and provide a Landscaping and Planting Manual for reference. The proposed revisions, in their entirety, are on file with the El Paso County Planning and Community Development Department. (All Commissioner Districts.)

STAFF PRESENTATION

Mr. Whitney asked for an explanation of “artificial landscaping”.

Mr. Kilgore replied that artificial turf, fake trees, rubber mulch, and landscape art (metal sculptures of nature), are all examples. The presentation continued.

Ms. Herington added that many of the changes stemmed from the Code being prohibitive of xeriscaping and would penalize property owners when attempting to use artificial materials. The proposed changes would allow more options without requiring an alternative process. The proposal will also codify by reference a Landscape Manual that has been in existence for many years. PCD worked with the HBA and the CSU Extension to update and formalize that manual. The presentation continued.

NO PC ACTION: THIS ITEM WAS HEARD AS A NON-ACTION ITEM FOR DISCUSSION ONLY.

MEETING ADJOURNED at 10:15 A.M.

Minutes Prepared By: Miranda Benson

VACATION AND REPLAT (RECOMMEND APPROVAL)

MORALES moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. VR2313
HILL SUBDIVISION FILING NO. 1

WHEREAS, Douglas and Katherine Hill did file an application with the El Paso County Planning and Community Development Department for approval of a vacation and replat to illustrating a replat of one (1) residential lot as three (3) residential lots, resulting in a net increase of residential lots of two (2) residential lots within the RR-5 (Residential Rural) zoning district for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on January 4, 2024; and

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

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;

6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations; and
7. For the above-stated and other reasons, the proposed vacation and replat is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, in approving a vacation and replat of a subdivision, the El Paso County Planning Commission and Board of County Commissioners shall find that the application meets the criteria of approval listed in Land Development Code 7.2.3(C)(4):

1. The replat complies with the Code, and the original conditions of approval associated with the recorded plat;
2. No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
3. The replat is in keeping with the purpose and intent of the Code;
4. The replat conforms to the required findings for a minor or major subdivision, whichever is applicable;
5. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM;
6. The approval will not adversely affect the public health, safety, and welfare; and
7. Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the replat has been resolved.

WHEREAS, a sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Land Development Code.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Douglas and Katherine Hill for approval of the vacation and replat to allow illustrating a replat of one (1) residential lot as three (3) residential lots, resulting in a net increase of residential lots of two (2) residential lots within the RR-5 (Residential Rural) zoning district be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.

2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

NOTATIONS

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

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

OFFNER seconded the adoption of the foregoing Resolution.

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

Thomas Bailey	<u>aye</u> / no / non-voting / recused / absent
Sarah Brittain Jack	<u>aye</u> / no / non-voting / recused / absent
Jim Byers	<u>aye</u> / no / non-voting / recused / absent
Jay Carlson	aye / no / non-voting / recused / <u>absent</u>
Becky Fuller	<u>aye</u> / no / non-voting / recused / absent
Jeffrey Markewich	<u>aye</u> / no / non-voting / recused / absent
Brandy Merriam	aye / no / non-voting / recused / <u>absent</u>
Eric Moraes	<u>aye</u> / no / non-voting / recused / absent
Kara Offner	<u>aye</u> / no / non-voting / recused / absent
Bryce Schuettpezl	aye / no / non-voting / recused / <u>absent</u>
Wayne Smith	aye / no / non-voting / recused / <u>absent</u>
Tim Trowbridge	<u>aye</u> / no / non-voting / recused / absent
Christopher Whitney	<u>aye</u> / no / non-voting / recused / absent

The Resolution was adopted by a vote of 9 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 4th day of January 2024 at Colorado Springs, Colorado

EL PASO COUNTY PLANNING COMMISSION

By: 
Thomas Bailey, Chair

EXHIBIT A

LOT 1 of C AND H ESTATES AS RECORDED UNDER RECEPTION NUMBER 206712276 OF THE RECORDS OF EL PASO COUNTY, COLORADO.

COMMISSIONERS:
CAMI BREMER (CHAIR)
CARRIE GEITNER (VICE-CHAIR)

HOLLY WILLIAMS
STAN VANDERWERF
LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Thomas Bailey, Chair

FROM: Ryan Howser, AICP, Planner III
Edward Schoenheit, EI, Engineer I
Meggan Herington, AICP, Executive Director

RE: Project File Number: VR2313
Project Name: Hill Subdivision Filing No. 1
Parcel Number: 5129004018

OWNER:	REPRESENTATIVE:
Douglas and Katherine Hill 13985 Silverton Road Colorado Springs, CO, 80921	M.V.E., Inc. 1903 Lelaray Street, Suite 200 Colorado Springs, CO 80909

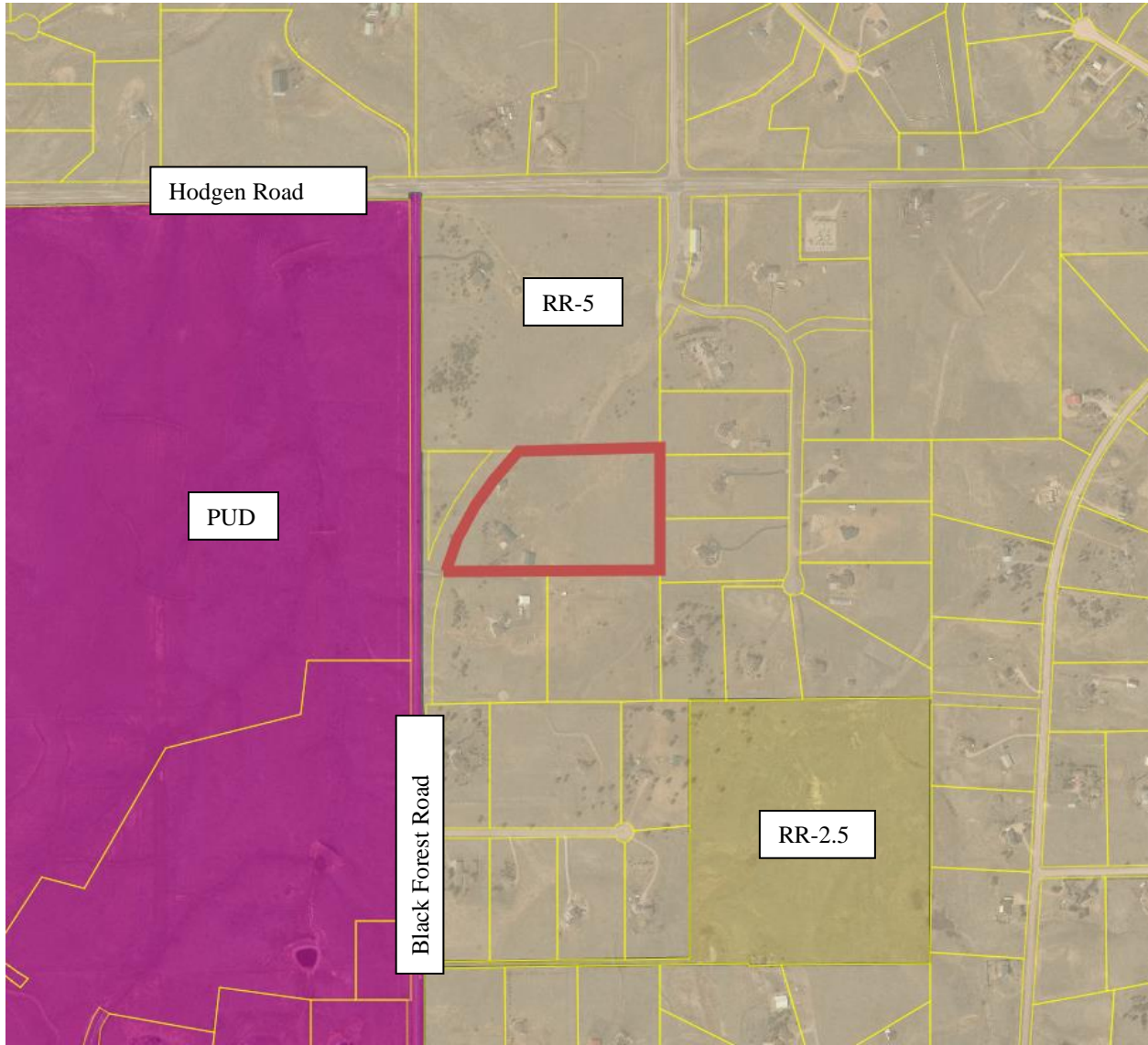
Commissioner District: 1

Planning Commission Hearing Date:	1/4/2024
Board of County Commissioners Hearing Date:	1/25/2024

EXECUTIVE SUMMARY

A request by Douglas and Katherine Hill for approval of a 14.69-acre Vacation and Replat for a replat of one (1) residential lot into three (3) residential lots, resulting in a net increase of two (2) residential lots. The property is zoned RR-5 (Residential Rural), and is located at 6910 Alpaca Heights, Colorado Springs, CO 80908. Two (2) of the three (3) proposed lots have frontage on the realigned Black Forest Road, which is a section line County Road; therefore, these two (2) lots are permitted to have a minimum lot size of 4.75 acres.





Vicinity Map

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COLORADO SPRINGS, CO 80910
PLNWEB@ELPASOCO.COM

A. WAIVERS AND AUTHORIZATION

Waiver(s):

The applicants are requesting a waiver to Section 8.4.3.B. of the El Paso County Land Development Code (as amended) to allow the proposed lots to be created without having direct access to and 30 feet of frontage along a public road. The applicant is requesting that the lots receive access via an existing private road.

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

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

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

The applicant is proposing to replat one (1) lot as three (3) lots. All three (3) of the lots are proposed to have access to Black Forest Road, an existing public road, via a private access easement for Alpaca Heights, an existing private road. Adequate access can be provided to all the proposed lots via the proposed access easement. The applicant has depicted a layout that accommodates lot access to Black Forest Road.

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

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B. APPROVAL CRITERIA

Section 7.2.3.C, Actions Vacating or Altering a Recorded Plat, Replat, of the El Paso County Land Development Code (as amended) states that a replat, "...involves two actions, the vacation of the portion of the subdivision plat where the change is proposed...and approval of a new subdivision plat." The Code goes on to define a replat as an alteration of a subdivision or lots in a subdivision, in which the original subdivision is substantially modified, or additional lots are created. In approving a replat, the following findings shall be made:

- The replat complies with this Code, and the original conditions of approval associated with the recorded plat;
- No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
- The replat is in keeping with the purpose and intent of this Code;
- The replat conforms to the required findings for a minor or major subdivision, whichever is applicable;
- Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The approval will not adversely affect the public health, safety, and welfare; and
- Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the replat has been resolved.

C. LOCATION

North:	RR-5 (Residential Rural)	Residential
South:	RR-5 (Residential Rural)	Residential
East:	RR-5 (Residential Rural)	Residential
West:	PUD (Planned Unit Development)	Vacant

D. BACKGROUND

On March 9, 2006, the subject property was created by a Minor Subdivision (PCD File No. MS05004). A condition of the subdivision included the dedication of land to El Paso County for a potential future road realignment of Black Forest Road. The acquisition of land for right-of-way purposes split the parent parcel, creating a 1.78-acre piece of property on the west side of the proposed realigned right-of-way and a 14.69-acre piece

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of property on the east side of the proposed realigned right-of-way. The property on the west side of the right-of-way was platted as a tract due to it not meeting the minimum lot size at the time, and the property on the east side of the proposed realigned right-of-way was platted as Lot 1, C and H Estates (Plat No. 12276). Please see the map exhibits for a depiction of the property as it currently exists with the realigned right-of-way for Black Forest Road.

On April 26, 2023, the Board of Adjustment denied a request for a Dimensional Variance to legalize the 1.78-acre property on the west side of the right-of-way. Due to the denial, this property will remain platted as a tract, excluded from the currently proposed Vacation and Replat, and will not be eligible for building permits. The applicant now requests to subdivide the 14.69-acre property on the east side of the right-of-way with a proposed minimum lot size of 4.86 acres (see below).

Properties to the east of the subject property are located within the Ridgeview Acres subdivision, with a minimum lot size of 5 acres. The property to the north of the subject property is an unplatted 37-acre parcel which is currently being used for residential purposes. The two lots to the south of the subject property are platted as Lots 2 and 3 of C and H Estates, and are 8.84 acres and 8.95 acres in size, respectively. To the west of the subject property is the Flying Horse North Sketch Plan area; Flying Horse North is a proposed high-density, mixed-use development that may incorporate rural residential lots as well as smaller suburban- and urban-scale development and is currently under review for PUD and Preliminary Plan proposals.

E. ANALYSIS

The proposed Vacation and Replat will create three (3) lots. The lots, as proposed, will conform to the standards of the RR-5 (residential Rural) zoning district. The RR-5 zoning district is intended to accommodate low-density, rural, single family residential development. The density and dimensional standards for the RR-5 zoning district are as follows:

- *Minimum lot size: 5 acres **
- *Minimum width at the front setback line: 200 feet*
- *Minimum setback requirement: front 25 feet, rear 25 feet, side 25 feet **
- *Maximum lot coverage: 25%*
- *Maximum height: 30 feet*

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** In the event that the land to be partitioned, platted, sold or zoned abuts a section line County road, the minimum lot area for lots abutting the road shall be 4.75 acres and minimum lot width shall be 165 ft.*

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

The property currently contains a residential home and accessory structure, which are both proposed to remain on the proposed Lot 1. The applicant has provided a site plan illustrating that, if the proposed Vacation and Replat was approved, the existing structures would meet the required density and dimensional standards of the RR-5 zoning district.

Black Forest Road is an existing section line County Road; lots in the RR-5 zoning district which abut the right-of-way for a section line County Road may have a reduced maximum lot size of 4.75 acres. Two (2) of the three (3) proposed lots show frontage on the existing dedicated County right-of-way for a realigned portion of Black Forest Road. Despite the realignment, Black Forest Road is still classified as a section line road; therefore, these two (2) lots are permitted to have a minimum lot size of 4.75 acres.

In order to initiate any new residential uses on the property, the applicant will need to obtain site plan approval. Any proposed additional structures will require site plan review and will include confirmation that all site improvements (existing and proposed) will comply with the dimensional standards included in Chapter 5 as well as the Development Standards of Chapter 6 of the Land Development Code.

F. MASTER PLAN COMPLIANCE

1. Your El Paso County Master Plan

a. Placetype Character: Large-Lot Residential

The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more, and are generally large and dispersed throughout the area so as to preserve a rural aesthetic. The Large-Lot Residential placetype generally supports accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote

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than Rural areas. Large-Lot Residential neighborhoods typically rely on well and septic, but some developments may be served by central water and waste-water utilities. If central water and wastewater can be provided, then lots sized less than 2.5 acres could be allowed if; 1.) the overall density is at least 2.5 acres/lot, 2.) the design for development incorporates conservation of open space, and 3.) it is compatible with the character of existing developed areas.

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

Recommended Land Uses:

Primary

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

Supporting

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

Analysis:

The Large-Lot Residential placetype supports the rural character of the County while providing for unique and desirable neighborhoods. Relevant goals and objectives are as follows:

Objective LU3-1 – *Development should be consistent with the allowable land uses set forth in the placetypes first and second to their built form guidelines.*

Objective HC1-5 – *Focus detached housing development in Large-Lot Residential and Suburban Residential areas given the increasing infrastructure and environmental constraints associated with such development to help maintain the established character of rural communities.*

Goal HC3 – *Locate attainable housing that provides convenient access to goods, services, and employment.*

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The proposed Vacation and Replat is consistent with the single-family detached residential density within the Large-Lot Residential placetype. The placetype allows single-family detached residential with 2.5-acre lots or larger as a primary use.

b. Area of Change Designation: Minimal Change: Undeveloped

The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall there will be no change to the prioritized rural and natural environments.

Analysis:

The proposed Vacation and Replat is not located in an area which is expected to significantly change in character. The proposed Vacation and Replat is not likely to change the character of the area, due to the proposed lot sizes being consistent with those in the surrounding area.

c. Key Area Influences: The property is not located within a key area.

d. Other Implications (Priority Development, Housing, etc.)

The property is not located within a priority development area.

2. Water Master Plan Analysis

The El Paso County Water Master Plan (2018) has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

Goal 1.1 – *Ensure an adequate water supply in terms of quantity, dependability and quality for existing and future development.*

Policy 1.1.1 – *Adequate water is a critical factor in facilitating future growth and it is incumbent upon the County to coordinate land use planning with water demand, efficiency and conservation.*

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

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The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 2 of the Plan, which is not an area anticipated to experience growth.

Water sufficiency has been analyzed with the review of the proposed subdivision. The applicant has shown a sufficient water supply for the required 300-year period. The State Engineer and the County Attorney's Office have recommended that the proposed subdivision has an adequate water supply in terms of quantity and dependability. El Paso County Public Health has recommended that there is an adequate water supply in terms of quality. Please see the Water section below for a summary of the water findings and recommendations for the proposed subdivision.

3. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a moderate wildlife impact potential. Colorado Parks and Wildlife and El Paso County Community Services, Environmental Division were each sent a referral and have no outstanding comments.

The Master Plan for Mineral Extraction (1996) identifies alluvial fan deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, severed mineral rights exist. The mineral rights owner has been notified of the application and hearing date.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No geologic hazards were identified during the review of the Vacation and Replat. Minor geologic constraints were identified; the Colorado Geological Survey was sent a referral and provided the following comment:

The subject area is outside of the floodplain area as mapped by FEMA, does not contain steep slopes or mapped landslides, nor is it exposed to any geologic hazards that preclude the three-lot rural subdivision. Entech's characterization of the geologic hazards and constraints associated with the site is valid. CGS, therefore, has no objection to approval of the minor subdivision as proposed. CGS agrees with Entech (page 8), "Individual investigations for new building sites and septic systems will be required prior to construction."

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2. **Floodplain:** The property is not located within a floodplain as determined by a review of the Federal Insurance Rate Map number 08041C0305G, effective December 7th, 2018. The property is in Zone "X" which is an area of minimal flood hazard determined to be outside the 500-year flood zone.
3. **Drainage and Erosion:** The property is in the East Cherry Creek drainage basin. This is an unstudied basin with no applicable drainage or bridge fees. Drainage on the parcel generally flows from the south to the north and to the east. Tract A flows to the west and under Black Forest Road with an existing culvert. No public drainage improvements are proposed or required with the plat due to the large lot and low impervious nature. A drainage report prepared by MVE, Inc. was included with this application. The drainage report concluded that "the proposed project will not, with respect to stormwater runoff, negatively impact the adjacent properties and downstream properties."
4. **Transportation:** The property is located along Black Forest Road which is a County-maintained paved road classified as a rural minor arterial. The property gains access to Black Forest Road from Alpaca Heights, a private local gravel road, which is located within a shared access easement. The development is expected to add approximately 28 daily trips to the surrounding road network. The property is subject to the El Paso County Road Impact Fees program. No public road improvements are proposed or required with the plat.

H. SERVICES

1. Water

Water will be provided by individual onsite wells. Water sufficiency has been analyzed with the review of the proposed subdivision. The applicant has shown a sufficient water supply for the required 300-year period. The State Water Engineer's Office has made a finding of adequacy and has stated water can be provided without causing injury to decreed water rights. The County Attorney's Office is recommending a finding of sufficiency with regard to water quantity and dependability. El Paso County Public Health is recommending a finding of sufficiency with regard to water quality.



2. Sanitation

Wastewater is provided by individual onsite wastewater treatment systems (OWTS). The applicant submitted an OWTS report which indicated that the lots are suitable for the construction of these systems.

3. Emergency Services

The property is within the Black Forest Fire Protection District. The District was sent a referral and provided the following comment:

Applicants shall demonstrate full compliance and conformance with El Paso County's adopted Land Development Code (LDC), Engineering Criteria Manual (ECM), adopted International Fire Code (IFC), and all other adopted codes, provisions, or statutes that impact fire safety to include access/egress, water supply, hardening of structures, addressing, fire protection systems, etc. The applicant shall submit a comprehensive fire protection report from a qualified fire protection engineer that is licensed as a Professional Engineer (PE) by the Colorado State Board of Registration for Professional Engineers to demonstrate conformance to all requirements. Furthermore, the District does not support any waivers or variances that negatively impact any fire safety provisions including access/egress, water supply, hardening of structures, addressing, fire protections systems, etc.

The applicant has provided a fire protection report that demonstrates compliance with the fire protection standards outlined in Section 6.3.3 of the Code.

4. Utilities

Electrical service is provided by Mountain View Electric Association (MVEA) and natural gas service is provided by Black Hills Energy. Both MVEA and Black Hills Energy were sent referrals and have no outstanding comments. The subdivider shall be responsible for extending utilities to each of the proposed lots.

5. Metropolitan Districts

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

6. Parks/Trails

Fees in lieu of park land dedication in the amount of \$1,010.00 for regional fees (Area 2) will be due at the time of recording the replat. Urban park fees are not applicable to this project.



7. Schools

Fees in lieu of school land dedication in the amount of \$616.00 for Lewis-Palmer School District No. 38 will be due at the time of recording the replat.

I. APPLICABLE RESOLUTIONS

See attached resolution.

J. STATUS OF MAJOR ISSUES

There are no major issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.3.C, Actions Vacating or Altering a Recorded Plat, Replat, of the El Paso County Land Development Code (as amended) staff recommends the following conditions and notation:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado

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Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.

6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

NOTATION

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

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified ten (10) adjoining property owners on December 19, 2023, for the Planning Commission and Board of County Commissioners meetings. Any responses will be provided at the hearing.

M. ATTACHMENTS

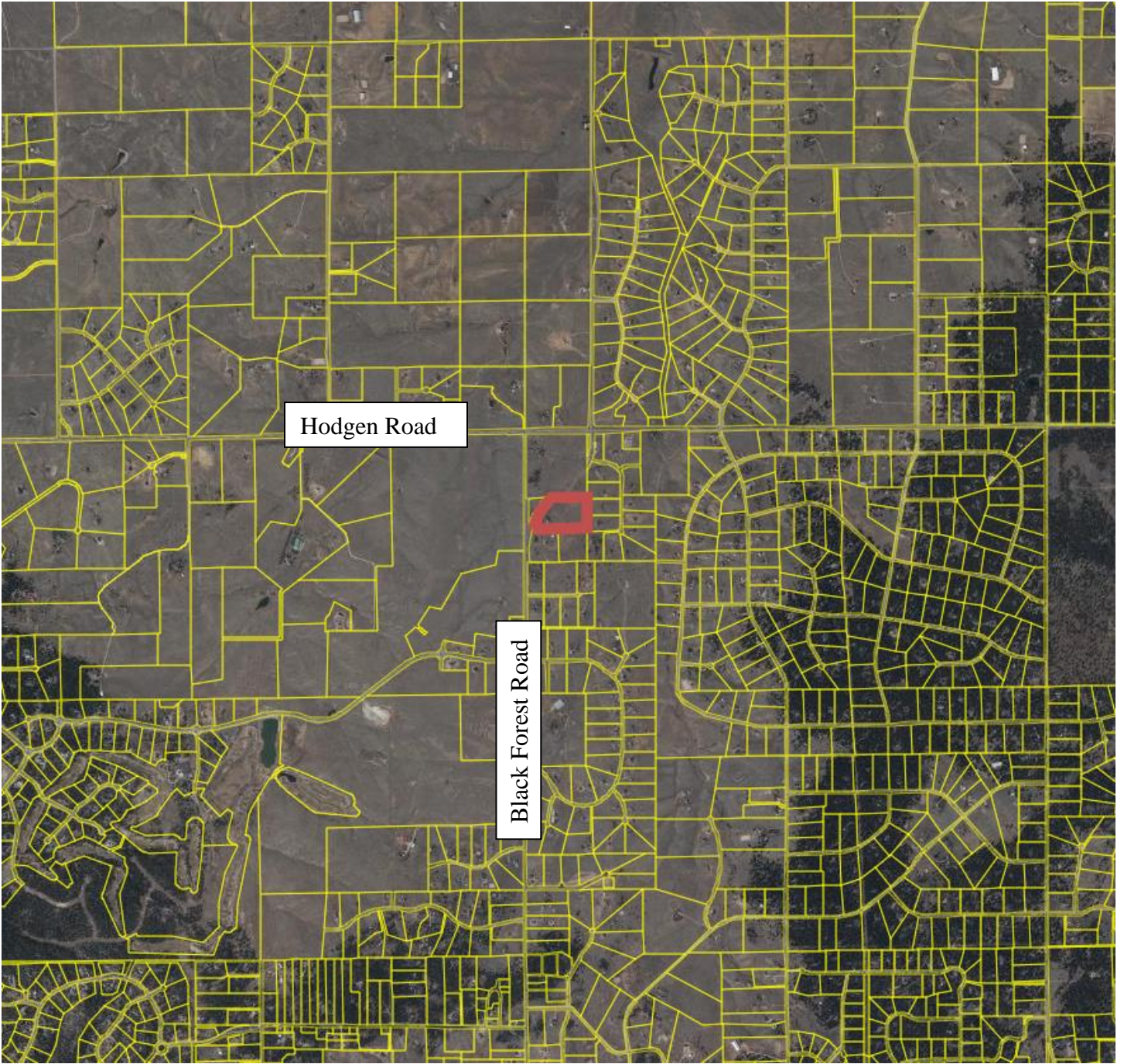
Map Series
Vicinity Map
Letter of Intent
Plat Drawing
State Engineer's Letter
County Public Health Letter
County Attorney's Letter

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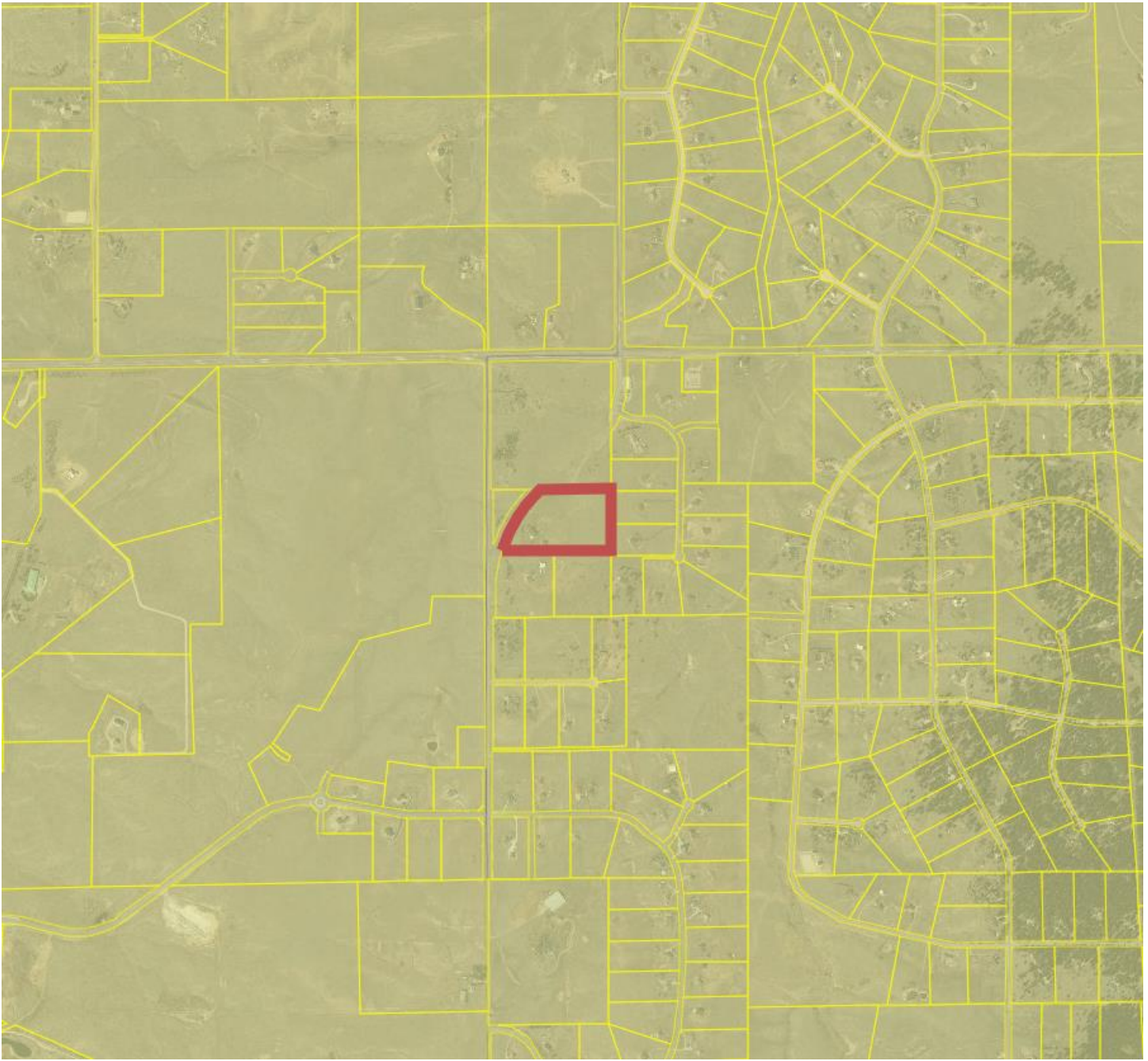


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Map Exhibit #1: Context



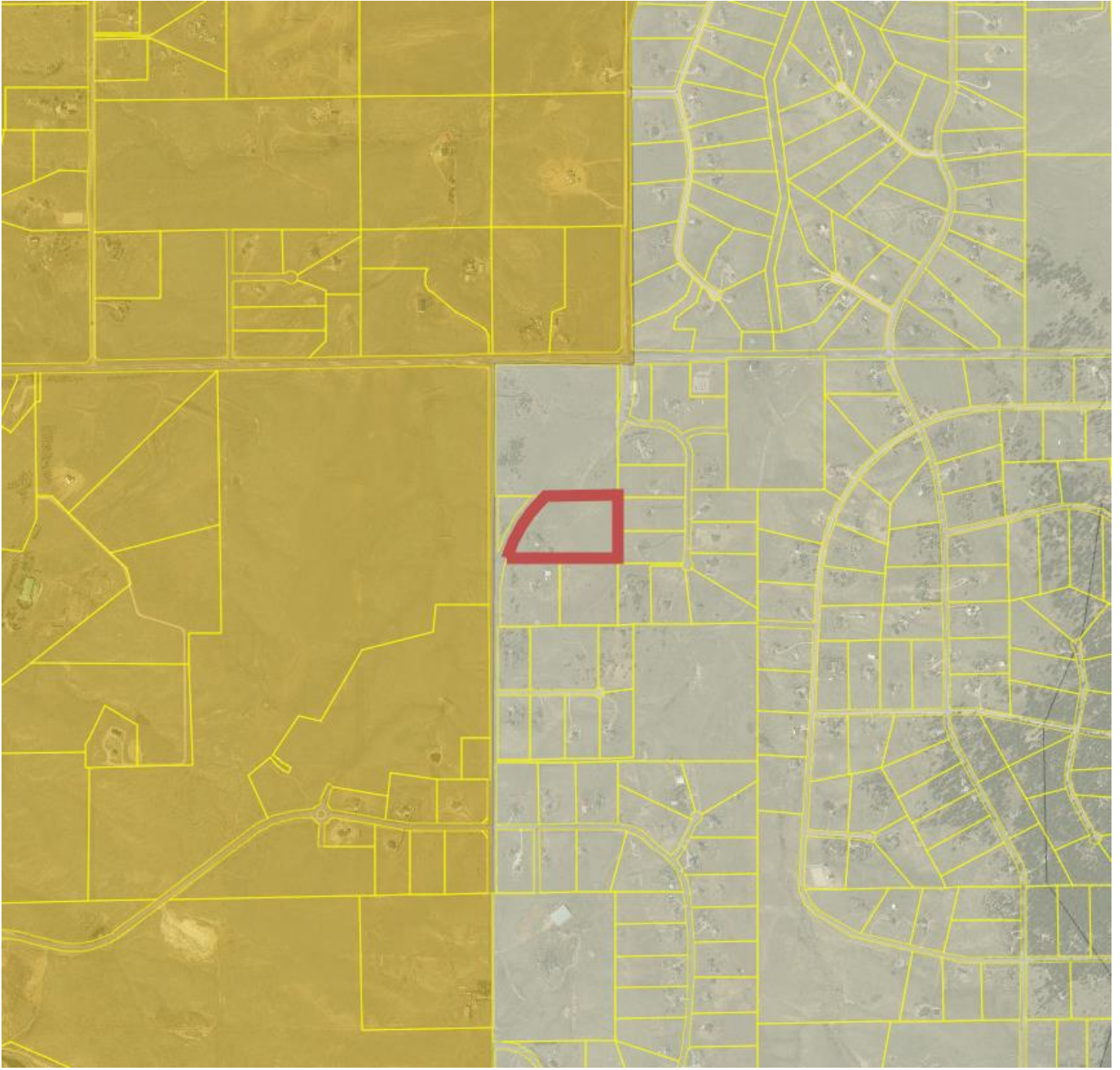
Map Exhibit #2: Placetype



Legend

- | | |
|---|---|
|  Rural |  Employment Center |
|  Large-Lot Residential |  Regional Open Space |
|  Suburban Residential |  Mountain Interface |
|  Urban Residential |  Military |
|  Rural Center |  Utility |
|  Regional Center |  Incorporated Area |

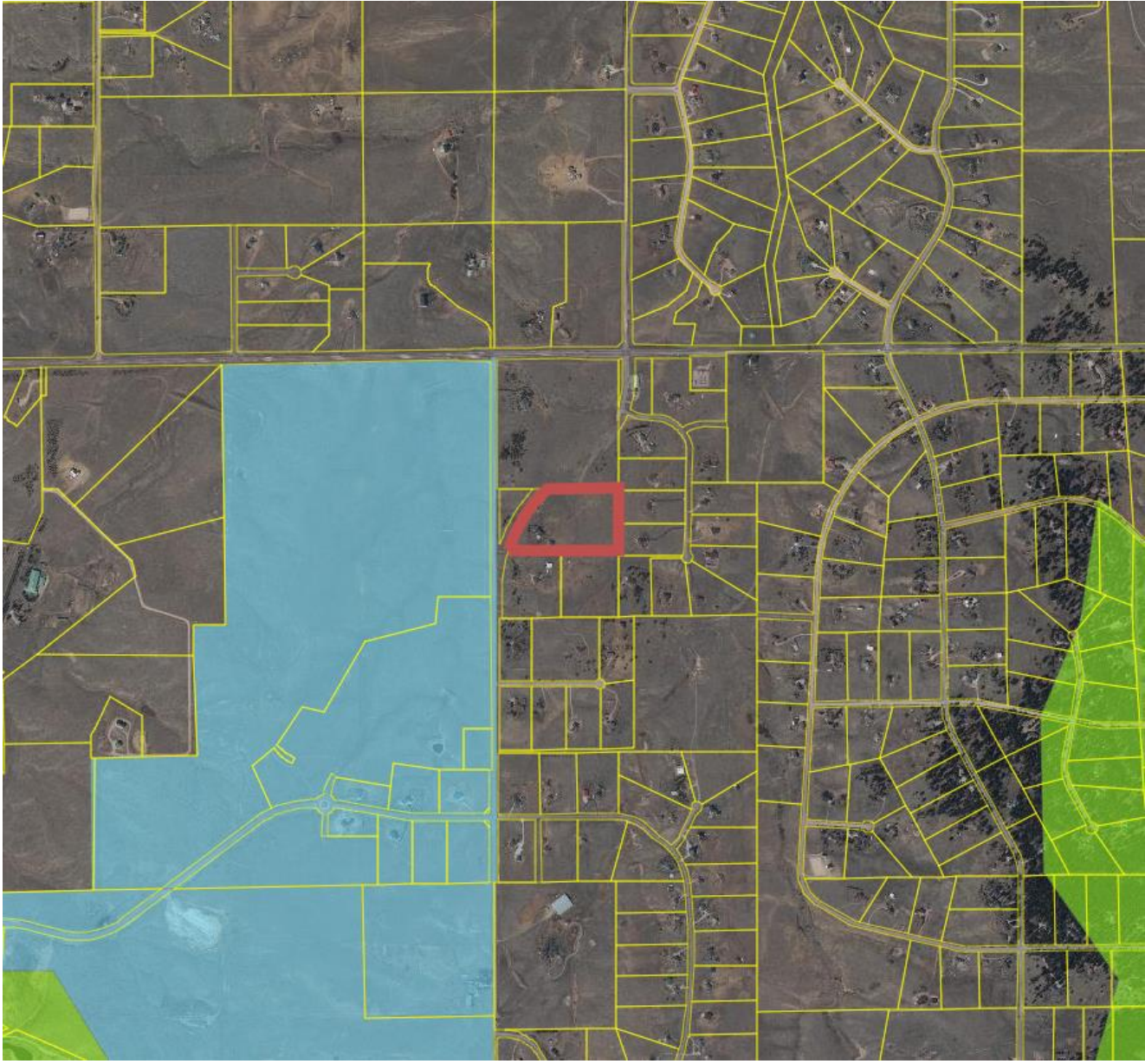
Map Exhibit #3: Area of Change



Legend

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

Map Exhibit #4: Key Areas



Legend

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

**EL PASO COUNTY
PARCEL INFORMATION**

FILE NO.:
VR2313

PARCEL NOS.:
5129004018 &
5129009002

OWNER NAMES:
DOUGLAS &
KATHERINE HILL

ADDRESS:
6910 ALPACA HTS
COLORADO SPRINGS
CO, 80908



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



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August 4, 2023

PCD File No.: VR2313

**LETTER OF INTENT
HILL SUBDIVISION FILING NO. 1
VACATION AND REPLAT**

Owner/Applicant:

Douglas Hill and Katherine Hill
13985 Silverton Road
Colorado Springs, CO 80921

Consultant:

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

Site Location Size and Zoning:

The proposed subdivision to be known as “Hill Subdivision Filing No. 1” is located within the North ½ of the Southwest ¼ of the Northwest ¼ of Section 29, Township 11 South, Range 65 west of the 6th principal meridian in El Paso County, Colorado. The site situated on the east side of Black Forest Road, north of Shoup Road, and south of Hodgen Road. The location of the site is within the existing subdivision “C and H Estates”. The proposed subdivision includes the following lot:

<u>EPC Tax ID No.:</u>	<u>Lot & Subdivision:</u>	<u>Addresses:</u>	<u>Acreage:</u>
5129-00-4018	Lot 1, C and H Estates	6910 Alpaca Heights	14.692 ± acres

Lot 1 is currently zoned Rural Residential - 5 Acres (RR-5) with a single family residence, garage, horse stable, gravel drive, private drive, windmill, and a well & septic system. Within existing Lot 1, there are 20-foot public utility and drainage easements along the R.O.W realignment that separates Tract A and Lot 1 with additional 20-foot easements along the east lot line. Along the north and south lot lines, there are 60-foot ingress/egress & public utility easements centered on the lot lines. The current access point for Lot 1 is an existing paved driveway situated along the south lot line. Said driveway was an existing private road, Alpaca Heights and provided access for Lots 1, 2, and 3 of “C and H Estates”. This private road was given to the owner of Lot 1 and the 30 foot easement for ingress/egress was vacated. For this minor subdivision, an easement for this driveway is to be established. The easement will extend to provide access for proposed Lots 1-3.

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

Request and Justification:

The request is for approval of the Minor Subdivision to be known as Hill Subdivision Filing No. 1, containing 14.692 ± acres collectively. This proposed Minor Plat will create three new rural residential lots within existing Lot 1, to be available for single-family residential construction. Existing Lot 1 will be subdivided into three RR-5 lots with sizes of approximately than 5 acres, with the existing residence to be contained within proposed Lot 1.

This Minor Plat for proposed Lots 1-3 are consistent with the requirements of their respective zoning such as: land use (single-family residential), lot size, minimum building setbacks, water supply, and wastewater disposal. The proposed lots are compatible with the surrounding land uses and neighborhood and coincides with the adjacent zoning and platted lot sizes found in all directions being approximately 5 acres or larger. All three lots will each have a single family residence with individual well & septic.

Access for proposed Lots 1-3 shall be by way of the existing driveway which is to be re-dedicated as a private road named Alpaca Heights, which will be extended to connect all proposed lots to Black Forest Road. This dedication for the private road requires approval of an Ingress/Egress Waiver. The justification for the requested waiver is included in a separate section below.

This application meets the Minor Subdivision submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivisions in Chapter 8 of the El Paso County Land Development Code (2023). Minor Subdivisions are reviewed and approved in consideration of the review criteria found in the El Paso County Land Development Code. Each criteria is listed below followed by the appropriate justification.

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

The site is located between the key areas defined as “Potential Area of Annexation” located west of Black Forest Road and the “Forested Area” of the county located east of Black Forest Road, north of Shoup Road, and south of Hodgen Road. The site is designated as a Large-Lot Residential Placetype. The Primary Land Use of this placetype is Single Family Detached Housing with Agriculture, Commercial Retail, Commercial Service, and Parks/Open Space as Supporting Land Uses. The location of this site and existing infrastructure is suited to single family residential use. In the Land Use category, Goal 1.1 is “*Ensure compatibility with established character and infrastructure capacity*”. This area of the County is conducive to rural residential development that allows residential use of property but preserves the natural character of the landscape. The proposed subdivision is compatible and identical to the existing neighborhood and surrounding development. The existing community character is preserved with this proposed plat. The proposed density is less than allowed by zoning. The proposed density is unlikely to overburden the existing roadway infrastructure or capacity of the land to support the water and wastewater needs of the development. The proposed Minor Plat will not create the need for additional public roadways or facilities. Goal 2.2 is “*Preserve the character of rural and environmentally sensitive areas*”. The proposed subdivision will keep the forested nature of the area intact. The five-acre lot density has reduced impact on environmental conditions. Density and land use are compatible with the surrounding area and the natural features of the site will

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remain preserved, even with the addition of three more residences on the site. The private driveways to be used for access will have minimal impact on the existing terrain.

No new public roads are proposed with this subdivision since access for these lots are through an existing private road that will be extended to allow proposed Lots 2 and 3 to have access to Black Forest Road. In this way, lot access is provided while eliminating the need for additional access points and additional public roadway. The existing private road presents a reduced impact on the natural terrain, land forms, and vegetation. Therefore, this project's access road maintains the rural character of site and neighborhood.

The proposed subdivision is in compliance with the **2040 Major Transportation Corridors Plan (MTCP)**. Currently, Black Forest Road is a paved two-lane county road and designated as a minor arterial in the 2040 Major Transportation Corridors Plan. The proposed subdivision will not significantly impact the traffic on this roadway. Black Forest Road will be realigned and improved in the future with right-of-way adjacent to the site being already dedicated to El Paso County (2.187± acres) by the previous plat.

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

The proposed subdivision is in compliance with the **El Paso County Water Master Plan (2018)**. The District Court, Water Division 2 Colorado, has decreed certain water rights and approved a plan for augmentation as necessary to allow use of the existing well and the drilling of three additional wells for this subdivision in Case No. 21CW3203 recorded under reception number 222096473 of the records of El Paso County. There will be only two additional wells as it was planned to rezone/replat Tract A into a lot and was unable to be rezoned. The owner seeks a finding of sufficiency from the Colorado Division of Water Resources and the eventual granting of the two additional well permits based on the decreed water rights.

Hill Subdivision Filing No. 1 is located within Region 2 in the Water Master Plan. The region is comprised of the northwest corner of the county including the tri-lakes area. The site is not located in a designated Growth Area as determined in the Water Master Plan. The Water Master Plan contains estimates of the demands and available supply by region at the years 2018, 2040 and 2060 Build-Out. The 2018/2040/2060 demands in Region 2 are estimated to be 7,532 acre-feet per year, 11,713 acre-feet per year, and 13,254 acre-feet per year, respectively. The 2018/2040/2060 supplies in Region 2 are estimated to be 13,607 acre-feet per year, 20,516 acre-feet per year, and 20,756 acre-feet per year, respectively, indicating a surplus of supply for the region at each time. However, a significant portion of the supply is derived from non-renewable Denver Basin groundwater. Considering only Hill Subdivision Filing No. 1, demands are estimated to be 2.48 acre-feet of water per year for the current, 2040 and 2060 time frames, respectively. Water supply available by decree to the subdivision is 3.30 acre-feet per year for each of the current, 2040 and 2060 time frames. The decree allows up to 0.98 acre-feet of water per year for irrigation of up to 6,400 square feet of landscaping and the use of 0.72 acre-feet per year for watering of livestock. In practice, every lot owner may not keep livestock and residents in the county limit water use for landscape irrigation in favor of natural grasses.

A listing of some of the policies of the Water Master Plan that are supported by the proposed development follow: *Policy 4.1.3 – Support enhanced monitoring of sources of surface and tributary groundwater in the County*. The referenced decree requires use of metering for the wells

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to insure compliance with the terms of the permit; *Policy 6.2.1.2 – Encourage re-use of treated wastewater for irrigation and other acceptable uses when feasible.* Both the existing residence and the new single-family residences on all proposed lots will utilize onsite wastewater treatment systems which will provide “Return Flows” to the environment as a condition of the groundwater findings and order and the well permit.

2. *The subdivision is in substantial conformance with the approved preliminary plan.*

This is a proposed Minor Subdivision and requires no Preliminary Plan for Plat approval. The subdivision will be developed in accordance with the currently proposed land use applications.

3. *The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.*

The proposed Minor Subdivision Plat is prepared in accordance with applicable subdivision design standards. No public improvements are required for this subdivision.

4. *A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code.*

Water service is to be provided by individual on site wells operated under a State approved Water Augmentation Plan.

5. *A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of this Code.*

Wastewater is intended to be treated via individual on site septic systems designed, constructed and operated under State and County Health Department rules and regulations and in accordance with the Water Decree.

6. *All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)].*

A soils report has been prepared for the site and the owner will comply with the recommendations of the report. Areas were encountered where the geologic conditions will impose some constraints on development and land use. These include areas of potentially seasonal shallow groundwater, potential expansive soils and downslope creep which can be satisfactorily mitigated through avoidance or proper engineering design and construction practices. Based on the proposed plat, it appears that these areas will have minor impacts on the development. These conditions are discussed in further detail in the Soil, Geology, and Geologic Hazard Study produced by Entech Engineering, Inc.

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

The proposed Minor Subdivision is consistent with the submitted Final Drainage Report. There are no Drainage facilities needed or proposed with this development. The owner will comply with the requirements of the drainage report.

M.V.E., Inc. • Engineers • Surveyors

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

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

Proposed Lots 1-3 will require a 30-foot easement to be placed along the south properties to allow access to Black Forest Road via the proposed private road Alpaca Heights. The existing driveway to be dedicated will need to be extended approximately 470 feet east toward the southwest corner of proposed Lot 3.

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

The site is located within the jurisdiction of the El Paso County Sheriff's Office. The sheriff's office currently provides police protection for the site and surrounding area. Hill Subdivision Filing No. 1 is located within the Black Forest Fire Protection District which already provides fire protection for the site and has agreed to serve this subdivision. Water and sanitary sewer provisions are discussed in items 4 & 5 above. The property is located within the service areas of Mountain View Electric Association, Blackhills Energy Corporation, and Lewis Palmer School District 38 which will serve the subdivision. Transportation is being facilitated by the existing adjacent roadway system.

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

Hill Subdivision Filing No. 1 is located within the Black Forest Fire Protection District which is providing fire protection for the site and the surrounding area. The district has agreed to serve this subdivision. Building permits for each structure shall be in accordance with the requirements of the fire district as administered by the Pikes Peak Regional Building Department.

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

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

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

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

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

Upon approval of a waiver to the LDC section 8.4.3 (B) stating “Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC pursuant to waiver granted under Section 8.4.4 (E)”, the subdivision will meet the requirements of the Land Development Code. The subdivision is in accordance with the Land Development Code with respect to zoning, lot size, building setbacks, provision of utilities and

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storm drainage. The waiver is requested with this application to allow access by one common private driveway for the three proposed lots without the required 30 feet of frontage for each lot. The code allows up to three lots to access one driveway, however the waiver is needed to address the lack of road frontage onto a public roadway for proposed Lot 3. The waiver is more fully discussed below.

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

Mineral estate owners have been notified of this application.

Requested Waiver:

As previously mentioned, a waiver from LDC section 8.4.3 (B) is requested. The provision requires that “Lots shall have a minimum of 30 feet of frontage on and have access from a public road, except where private roads are approved by the BoCC”. Proposed Lots 1-3 will gain access by way of a proposed private road connecting the site to Black Forest Road near the southwest corner of the site. The responsibility and maintenance of said access shall be carried out as described in a separate private access maintenance agreement.

Proposed Lots 1-3 can be connected along the south property lines using a 30-foot private ingress/egress easement as shown on the minor plat. Since the Land Development Code allows access for up to three lots from one private driveway, it is most practical for proposed Lots 1-3 to be able to access by a single drive, rather than extending a public roadway into the site. The arrangement eliminates the need for additional public right-of-way and additional public maintenance to serve the three large lot rural residential single family lots. Private access drives, coupled with private maintenance agreements have been shown to be effective and efficient modes of access for up to three lots within the county. The driveway will also have a much diminished impact on the natural terrain and landscape of the site compared to a public roadway which would be much larger dedication and require far more disturbance than a smaller private road.

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

1. *The waiver does not have the effect of nullifying the intent and purpose of this code;* The request for a waiver of the LDC section 8.4.3 (B) does not go against the intent and purpose of this code. This request is in line with the requirements set forth in the LDC, and the shared driveway will comply with all applicable design standards.
2. *The waiver will not result in the need for additional subsequent waivers;* With the approval of this waiver the lots will each be provided the required access necessary for their development. There will be no need for additional waivers as all applicable requirements of the El Paso County Land Development Code will be met.
3. *The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;* The proposed shared driveway will be constructed to provide safe and reliable access to each lot on the site. The responsibility and maintenance of said driveway shall be carried out as described in a private access maintenance agreement. The driveway will not pose a threat to the public safety, health, or welfare, nor will it be injurious to any other property.

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4. *The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;* Because proposed Lots 1-3 are adjacent to each other and does not contain more than three lots, a single driveway may be used to provide access to the entire site in lieu of a public road.
5. *A particular non-economical hardship to the owner would result from a strict application of this code;* With strict application of this code, the subdivision would be required to access by a public roadway in a 60-foot right-of-way constructed to El Paso County standards. The public road would significantly increase disturbance of the natural terrain and forest as well as the impervious area of the site while increasing the maintenance responsibility of the county.
6. *The waiver will not in any manner vary the zoning provisions of this code;* The proposed shared driveway will comply with all zoning provisions of this code.
7. *The proposed waiver is not contrary to any provision of the master plan;* The proposed shared driveway is in harmony with the goals of the master plan with regard to preserving place type characteristics and preserving natural features.

Existing and Proposed Facilities:

Existing improvements within these parcels are related to the existing residential use of the site, located in the southwest portion of existing Lot 1. The only proposed facilities/improvements would be on the private road which will need to be extended approximately 470 feet east to allow access for proposed Lots 2 and 3 of this subdivision.

Total Number Of Residential Units And Densities:

The gross area of Hill Subdivision Filing No. 1 is 14.693 ± acres and the site is proposed to contain three single-family residential units. The average lot size for the three proposed lots is 4.897 ± acres. The gross density of the site is 0.20 units per acre.

Fire Protection:

The Hill Subdivision Filing No. 1 property is located within the Black Forest Fire Protection District. The Black Forest Fire Protection District already serves existing Lot 1 of C and H Estates and has sent a Service Commitment Letter for the proposed lots. The lots and homes are subject to the codes and policies adopted by the said district regarding fire protection.

Proposed Access Locations:

The current access location for Hill Subdivision Filing No. 1 is 6910 Alpaca Heights located at the southwest corner of existing Lot 1. The existing driveway shall be dedicated with a 30-foot ingress/egress easement along the south property lines and the driveway shall be extended to the southwest corner of proposed Lot 3. This private road and easement will give access to proposed Lots 1, 2, and 3.

Traffic Impact and Traffic Impact Fees:

For all proposed lots, there will be one existing and two proposed single family residential units with access to Black Forest Road. The development is expected to generate a total of 28 trips per day based on 9.44 trips per unit for Single Family Detached Housing (Average weekday trips ends), 3 trips in the peak AM Hour (0.75 trips/unit for peak AM traffic), and 3 trips in the peak PM hour (1.00 trips/unit for peak PM traffic) according to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers. This number of trips is below the County threshold of 100 trips per day or 10 trip during the peak hour.

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Letter of Intent – Hill Subdivision Filing No. 1 - Minor Subdivision

August 4, 2023

Page 8

Therefore, a Transportation Impact Study (TIS) is not required for the project. This development is subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 19-471. The owners have elected to not be included in any Public Improvements District. Traffic Impact Fees will be paid at time of building permit.

Z:\61174\Documents\Letter of Intent\61174-LetterOfIntent-Minor Sub.odt

M.V.E., Inc. • Engineers • Surveyors

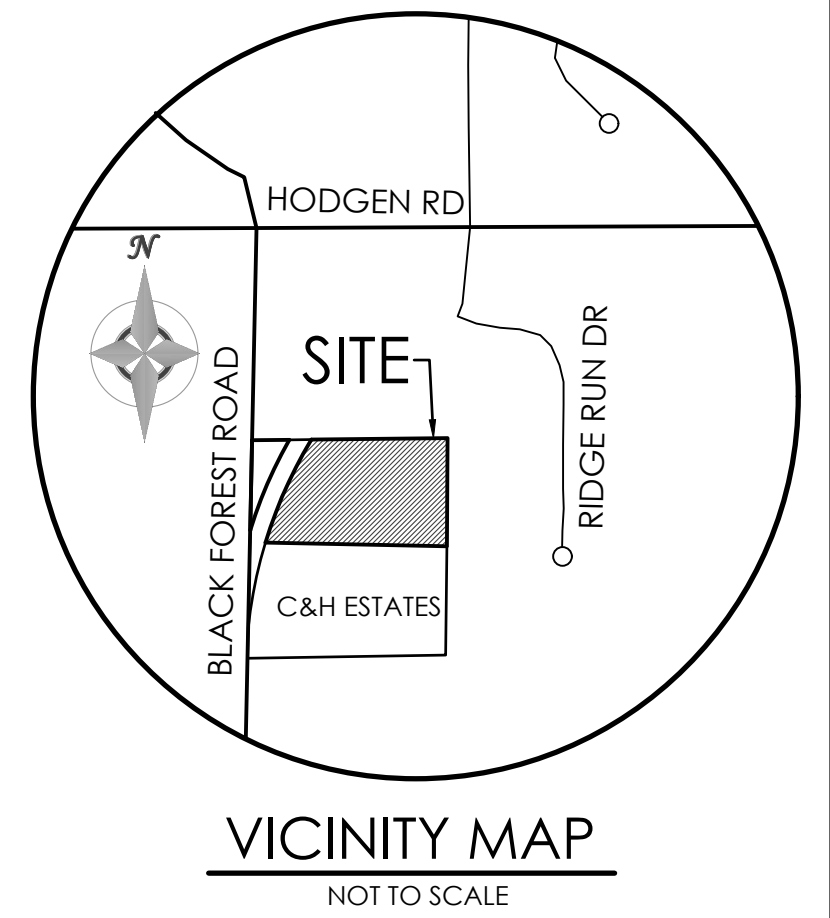
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HILL SUBDIVISION FILING NO. 1

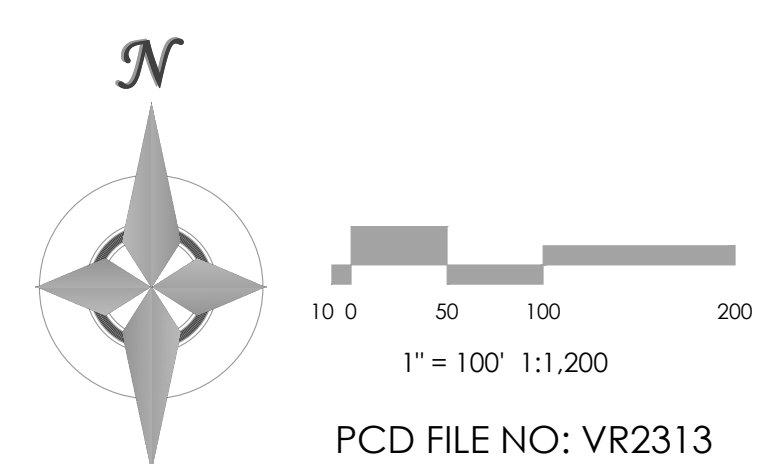
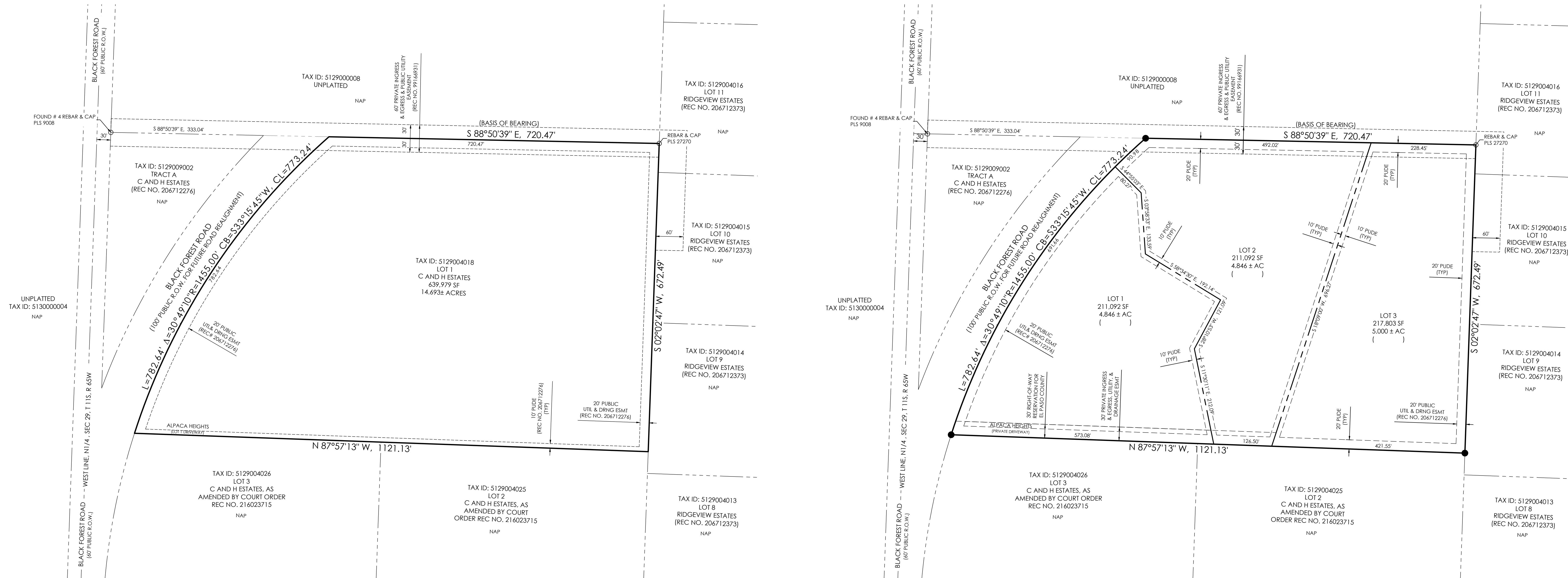
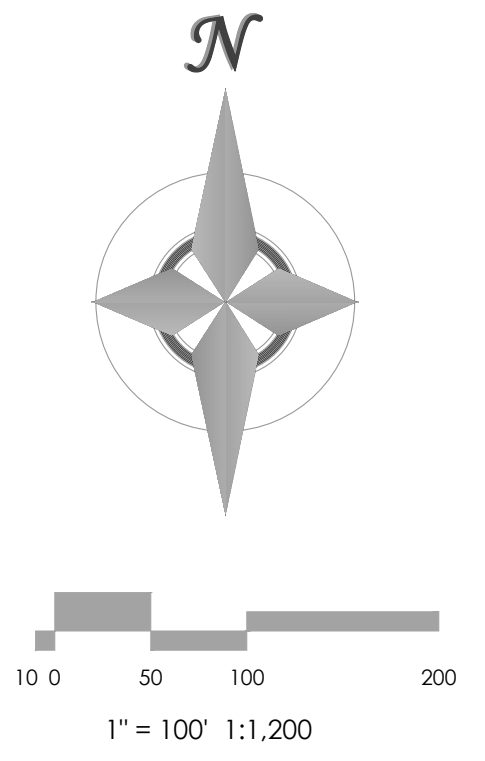
A REPLAT OF LOT 1, C AND H ESTATES

$N \frac{1}{2}$, OF THE $SW \frac{1}{4}$, OF THE $NW \frac{1}{4}$ OF SECTION 29, TOWNSHIP 11 SOUTH, RANGE 65 WEST,
EL PASO COUNTY, COLORADO



LEGEND

- PROPOSED BOUNDARY LINE
- - - PROPOSED LOT LINE
- - - PROPOSED EASEMENT
- - - SECTION LINE
- FOUND CORNER AS SHOWN
- SET #5 REBAR W/ ALUMINUM CAP MARKED "POLARIS, PLS 27605" FLUSH WITH THE GROUND (15980)
- (15980) ADDRESS NUMBER
- PUDE PUBLIC UTILITY AND DRAINAGE EASEMENT
- NAP NOT A PART OF THIS SUBDIVISION (NO AREAS OUTSIDE OF THE SHOWN BOUNDARY ARE A PART OF THIS SUBDIVISION)



MINOR SUBDIVISION PLAT
HILL SUBDIVISION FILING NO. 1

MVE, INC.
ENGINEERS SURVEYORS

MVE PROJECT: 61174
MVE DRAWING: 61174-PLAT-PS
DATE: AUGUST 31, 2023
SHEET: 2 OF 2

1903 LeBarry Street, Suite 300
Colorado Springs, CO 80909
719.635.5736 www.mvecivil.com

PCD FILE NO: VR2313



September 8, 2023

El Paso County
Planning and Community Development
2880 International Circle, Suite 110
Colorado Springs, CO 80910

Attn: Ryan Howser

Re: *Minor Plat Comments VR2313*
Project No. 61174

Dear Mr. Howser:

MVE would like to respond to a few of the comments received on the Minor Plat review. Please see the comments and our responses below;

1. *“Lot 1 C And H Estates, As Amended By Court Order Rec #216023715”*
The title/subtitle should not include documents that add, subtract or remove easements from the property. The court order does not amend the plat, it Extinguishes an Easement. Should this comment be enforced, the subtitle of the plat should therefor include all documents that affect the property. It is not reasonable to include every affecting document in the title of the Plat.
2. *Sight Distance Easements*
Any standard road section that would be constructed in the Black Forest Road Right-of-Way would allow a vehicle in the driveway to be entirely within the ROW and not have line of sight across the property. Therefor no Sight Distance Easements are required.
3. *“Depict the areas of geologic constraints as they are noted in the soils & geology report and designate them as no build areas.”*
The soils report outlines mitigation measures for all of the shown geologic hazards. No build areas should not be created for hazards that can be mediated through proper engineering design and construction practices.
4. *“Please identify which lot will own tract A. previous plat indicated that Lot 1 was the owner but now lot 1 is subdividing into 3 lots.”*
Tract A is outside of the boundary of this Plat. This plat only vacates and amends areas within the boundary of this subdivision. It already has ownership. Should this comment be enforced, it would link the ownership of one of the lots to the ownership of Tract A. The sale of the lot would therefor automatically grant Tract A to the new Lot owner. It for this reason that plats do not grant ownership.
5. *“Include the notes that say not a part of this subdivision”*
NAP (Not a Part of this Subdivision) was added to the legend and added to each surrounding property. Please note that the intention of the NAP note is to show areas WITHIN the boundary that are exempt and not a part of the subdivision. In this particular subdivision there are no areas

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within the boundary that are not included. The very nature of a “Boundary” designates the area that is being platted and separates it from that remaining 2,130 square miles of El Paso County that is not being platted. To designate every parcel that is OUTSIDE of the boundary as not a part is redundant and does not coincide with the intent of the note.

Very truly yours,

M.V.E., Inc.

David R. Gorman, P.E.
DRG:cwg

Z:\61174\Electronic Plan Submittals\Minor Subdivision 1st Resubmittal\61174 Final Plat Review Comments.odt



June 28, 2023

Ryan Howser, Project Manager
 El Paso County Development Services Department
 Transmitted via the EPC EDARP Portal: <https://epcdevplanreview.com>

RE: Hill Subdivision Filing 1 - 6910 Alpaca Heights
 Part of the N ½ of the SW ¼ of the NW ¼, Section 29, T11S, R65W, 6th P.M.
 Water Division 1, Water District 8

Dear Ryan Howser,

We have reviewed the submittal documents related to Hill Subdivision Filing 1, concerning the above referenced proposal to subdivide a 14.692-acre parcel, known as Lot 1, C & H Estates Subdivision into three single-family residential lots of approximately 5 acres each.

Water Supply Demand

Based on the water supply information summary and the April 27, 2023 Water Resource Report from M.V.E. (“Report”) the estimated annual water requirements totals 0.78 acre-feet for in-house use (0.26 acre-feet/year/lot), 0.975 acre-feet for irrigation of up to 0.11 acres (1,600 square-feet of lawn irrigation/lot and based on 0.325 acre-feet/year/1,000 square-feet of lawn irrigation) and 0.72 acre-feet for the watering of 12 heads (based on 0.06 acre-feet/year/head). The total annual demand for the subdivision would be 2.475 acre-feet/year.

Source of Water Supply

The proposed water source is individual on lot wells constructed in the Dawson aquifer operating pursuant to the decreed augmentation plan in consolidated case nos. 2021CW3203 (05CW37) (Division 1) and 2021CW3074 (05CW13) (Division 2). The decree in consolidated case nos. (05CW37) (Division 1) (05CW13) (Division 2) quantified the amount of water underlying a 37.47-acre parcel [consisting of Lot 1 and Tract A (16.47 acres) Lot 2 (8.95 acres) and Lot 3 (8.84 acres) of C & H Estates Subdivision], located in the NW ¼ of Section 29, Township 11 South, Range 65 West of the 6th P.M. The following amounts of water were deeded to the applicant for the Lot 1 and Tract A (16.47 acres):

Aquifer	Annual amount available for 16.47 acre parcel (Lot 1 and Tract A) (acre-feet)*		Type
	Based on 100 year allocation approach	Based on 300 year allocation approach	
Dawson	17.60	5.87	Not-Nontributary
Denver	14.31	4.77	Nontributary
Arapahoe	7.30	2.43	Nontributary
Laramie-Fox Hills	5.12	1.71	Nontributary

*Tract A is included in the augmentation plan in case nos. 2021CW3203 (05CW37) (Division 1) and 2021CW3074 (05CW13) (Division 2), however according to the information provided it is not part of this referral.



The decreed augmentation plan in the case nos. 2021CW3203 allows for the total annual withdrawal of 3.30 acre-feet (0.825 acre-feet/year for each of Hill Well Nos. 1 through 4) from the not nontributary Dawson aquifer, based on a 300-year allocation approach. The augmentation plan states that indoor use will utilize an estimated 0.26 acre-feet of water per year per residence, with remaining 0.565 acre-feet per year available for other uses, including, irrigation of lawn and garden, and the watering of domestic animals and livestock.

There is an existing well on the property operating under permit no. 63600-F. This well is constructed in the not nontributary Dawson aquifer and operates pursuant to the decreed augmentation plan in Division 1 Water Court case no. 05CW37 and is permitted to withdraw 2.0 acre-feet per year for ordinary household use, stock watering, recreational use, wildlife, commercial, fire protection, and lawn and garden irrigation. Well permit no. 63600-F is required to be re-permitted pursuant to the new augmentation plan in case no. 2021CW3203.

The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to 37-90-137(4)(b)(I), C.R.S., "Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years." Based on this allocation approach, the annual amounts of water decreed in consolidated case nos. (05CW37) (Division 1) (05CW13) (Division 2) and deeded to the applicant in case nos. 2021CW3203 (Division 1) and 2021CW3074 (Division 2) are equal to one percent of the total amount, as determined by rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

The *El Paso County Land Development Code*, Section 8.4.7.(B)(7)(b) states:

"(7) Finding of Sufficient Quantity

(b) Required Water Supply. The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of 300 years."

The State Engineer's Office does not have evidence regarding the length of time for which this source will "meet the average annual demand of the proposed subdivision." However, treating El Paso County's requirement as an allocation approach based on three hundred years, the proposed annual water demand equals the allowed average annual amount of withdrawal of 3.3 acre-feet per year, allowed by the augmentation plan in the case nos. 2021CW3203. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

Applications for on lot well permits, submitted by entities other than the water court Applicants in case no. 2021CW3203 (Douglas E. Hills and Katherine L. Hill) must include evidence that the Applicant has acquired the right to the portion of the water being requested on the application.

State Engineer's Office Opinion

Based upon the above and pursuant to Section 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights, provided well permit no. 63600-F is re-permitted to operate pursuant to the augmentation plan in case no. 2021CW3203.

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

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

Our opinion is qualified by the following:

The Division 1 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifers, and identified in this letter, are calculated based on estimated current aquifer conditions. For planning purposes the county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 300 years used for **allocation** due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.

Should you or the Applicant have any questions, please contact me at this office at 303-866-3581 x8246 or ioana.comanicu@state.co.us

Sincerely,



Ioana Comanicu, P.E.
Water Resource Engineer

Ec: Subdivision file: 30827
File permit no. 63600-F



Prevent • Promote • Protect

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

Hill Subdivision, VR-23-13

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

- The existing 16.47-acre developed lot is proposed to have three total lots. All 3 lots are approximately 5-acres in size. Lot 1 is a developed lot with an approved well and Onsite Wastewater Treatment System (OWTS). The 2 new lots will be served water from private wells, and new onsite OWTS's.
- There is a finding for sufficiency in terms of water quality based on the acceptable water sample results submitted by Colorado Analytical Laboratories dated 28July2022, and Hazen Research, Inc. dated 29July2022.
- The 12October2022, Soil, Geology, and Wastewater Study completed by Entech Engineering, Inc., found the site suitable for the installation of onsite wastewater treatment systems (OWTS). In some cases, due to rapid soil absorption, a professional engineer designed system may be required.
- Radon resistant construction techniques/practices are encouraged in this area. The EPA has determined that Colorado, and specifically the El Paso County area, have higher radon levels than other areas of the country.

Mike McCarthy
El Paso County Public Health
719-332-5771
mikemccarthy@elpasoco.com
23June2023

County Attorney

Kenneth R. Hodges, County Attorney
719-520-6485
Centennial Hall
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Board of County Commissioners
Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

August 15, 2023

VR-23-13 Hill Subdivision Filing No. 1

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

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a proposal for approval of Hill Subdivision Filing No. 1, an application for subdivision by Katherine and Douglas Hill (“Applicant”) for a 3-lot subdivision on a parcel of 14.693 acres of land (the “property”). The property is zoned RR-5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary (“WSIS”), the water demand for the subdivision is 2.475 acre-feet/year, comprised of .26 acre-feet/year for household use for each of the 3 residential lots totaling .78 acre-feet/year, 0.325 acre-feet per year for 1,600 square feet of irrigation per lot for a total of .975 acre-feet per year, and 0.06 acre-feet/year per head for stock watering of up to twelve for a total of .720 acre-feet per year. Based on this total demand, Applicant must be able to provide a supply of 742.5 acre-feet of water (2.475 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from the not-nontributary Dawson aquifer as provided in the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 1 Case No. 2021CW3203 (“Decree”). The groundwater decreed underlying the property, calculated as a pro rata share of water rights decreed in previous Division 1 Case No. 05CW37, includes 1,760.46 acre-feet of water in the Dawson aquifer, 1,431.46 acre-feet of water in the Denver aquifer, 730.16 acre-feet of water in the Arapahoe aquifer and 512.26 acre-feet of water in the Laramie-Fox Hills aquifer. The Decree approved the pumping of up to 3.30 acre-feet per year for 300 years and 990 acre-feet total of Dawson aquifer water. The Court further awarded a vested

ASSISTANT COUNTY ATTORNEYS

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BRYAN E. SCHMID
STEVEN W. MARTYN

MERI GERINGER
DOREY L. SPOTTS

right to use up to 4 wells on the property, one of which is currently permitted and constructed under Well Permit No. 63600-F and operates pursuant to the Decree in 2005CW37.¹

The approved augmentation plan has a term of 300 years and requires that non-evaporative septic system return flows be used for augmentation during the pumping period for the 4 approved wells. Applicant must reserve 512.26 acre-feet of its water rights in the Laramie-Fox Hills aquifer and an additional 529.74 acre-feet of Arapahoe aquifer which shall be used for replacement of post-pumping depletions. Each of the 4 wells may pump up to 0.825 acre-feet per year.

State Engineer's Office Opinion

4. In a letter dated June 28, 2023, the State Engineer stated that “[t]he estimated annual water requirements totals .78 acre-feet for in-house use (0.26 acre-feet/year/lot), 0.975 acre-feet for irrigation of up to 0.11 acres (1,600 square-feet of lawn irrigation/lot...) and 0.72 acre-feet for the watering of 12 heads (based on 0.06 acre-feet/year/head). The total annual demand for the subdivision would be 2.475 acre-feet/year.” The State Engineer noted that the wells will produce from the Dawson aquifer pursuant to the augmentation plan decreed in Case No. 2021CW3203. The State Engineer further noted that one existing well is located on the property operating under the previous Decree in 2005CW37 and must be re-permitted pursuant to the new augmentation plan in Case No. 2021CW3203.

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

Recommended Findings

5. Quantity and Dependability. Applicant’s water demand for the Hill Subdivision Filing No. 1 is 2.475 acre-feet per year for a total demand of 742.5 acre-feet for the subdivision for 300 years. The Decree allows for 4 wells to withdraw water from the Dawson aquifer up to 3.30 acre-feet per year, for a total of 990 acre-feet over 300 years, which is a surplus to the requested demand.

Based on the water demand of 2.475 acre-feet/year for Hill Subdivision Filing No. 1 and the Decree’s allowable amount of up to 3.30 acre-feet per year, the County Attorney’s Office recommends a finding of sufficient water quantity and dependability for Hill Subdivision Filing No. 1.

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

¹ Applicant must obtain a new well permit pursuant to the new augmentation plan in 21CW3203 Decree and Augmentation Plan.

7. **Basis.** The County Attorney's Office reviewed the following documents in preparing this review: a *Water Resources Report* dated April 27, 2023, the Water Supply Information Summary, the State Engineer's Office Opinion dated June 28, 2023, and Findings of Fact, Conclusions of Law, Ruling of the Referee and Judgment and Decree in Division 1 Case No. 2021CW3203 entered on July 15, 2022. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

REQUIREMENTS:

A. Applicant and its successors and assigns shall comply with all requirements of the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 1 Case No. 2021CW3203, specifically, that water withdrawn from the Dawson aquifer by each of the proposed four wells permitted shall not exceed 0.825 annual acre-feet, based on a total combined annual withdrawal of 3.3 acre-feet. Depletions during pumping shall be replaced by individual on-lot non-evaporative septic systems.

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

C. Applicant shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision, their successors and assigns, and the HOA regarding all applicable requirements of the Findings of Fact, Conclusions of Law, Ruling of the Referee and Judgment and Decree in Division 1 Case No. 2021CW3203.

Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 742.5 acre-feet of Dawson aquifer water, 512.26 acre-feet of Laramie-Fox Hills aquifer water, and 529.74 acre-feet of Arapahoe aquifer water pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 1 Case No. 2021CW3203 to satisfy El Paso County's 300-year water supply requirement for the 4 lots of the Hill Subdivision Filing No. 1 subdivision. The Covenants shall further identify that 247.5 acre-feet (0.825 acre-feet/year) of Dawson aquifer water, 128.065 acre-feet of Laramie-Fox Hills aquifer water, and 132.435 acre-feet of Arapahoe aquifer water is allocated to each of the 3 lots. Said reservations shall not be separated from transfer of title to the property and shall be used exclusively for primary water supply.

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

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

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

"The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 1 Case No. 21CW3203 and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

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

6) Require well permits. The Covenants shall require that well permits be obtained pursuant to the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 1 Case No. 21CW3203 and C.R.S. § 37-90-137(4) and (10).

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

“Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for Hill Subdivision Filing No. 1 pursuant to Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 1 Case No. 21CW3203. Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney’s Office. Any amendments must be pursuant to the Colorado Ground Water Commission approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such determination.”

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

“These Covenants shall not terminate unless the requirements of Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 1 Case No. 21CW3203 are also terminated by the Division 1 Water Court and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

D. Applicant and its successors and assigns shall reserve in any deeds of the property Dawson aquifer water in the decreed amount of 247.5 (0.825 acre-feet per year) per lot, as well as 128.065 acre-feet of Laramie-Fox Hills aquifer water and 132.435 acre-feet of Arapahoe aquifer water. Said reservation shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply.

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

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary supply (Dawson aquifer): “These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during pumping, for each of the lots of Hill Subdivision Filing No. 1. The water rights so conveyed and the return flows therefrom shall be appurtenant to each of the respective lots with which they are conveyed, shall not be separated from the transfer of title to the

land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

F. Applicant shall convey by recorded warranty deed the reserved 128.065 acre-feet of Laramie-Fox Hills and 132.435 acre-feet of Arapahoe aquifer water rights for use in the augmentation plan to replace post-pumping depletions. Applicant shall recite in the deed that this water shall be used exclusively for augmentation supply and shall not be sold, conveyed, traded, bartered, assigned, or encumbered in whole or in part for any other purpose.

G. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions, and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney’s Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney’s Office prior to recording the final plat. Said Declaration shall cross-reference Findings of Fact, Conclusions of Law, Ruling of Referee and Decree in Division 1 Case No. 2021CW3203 and shall identify the obligations of the individual lot owners thereunder.

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

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

“Water in the Denver Basin aquifers is allocated based on a 100-year aquifer life; however, for El Paso County planning purposes, water in the Denver Basin aquifers is evaluated based on a 300-year aquifer life. Applicant and all future owners in the subdivision should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than either the 100 years or 300 years used for allocation indicated due to anticipated water level declines. Furthermore, the water supply plan should not rely solely upon non-renewable aquifers. Alternative renewable water resources should be acquired and incorporated in a permanent water supply plan that provides future generations with a water supply.”

K. Prior to recording the final plat, Applicant shall:

- 1) Record the 2021 Decree in the records of the El Paso County Clerk and Recorder’s Office and upload the recorded decree into eDARP;
- 2) Upload into eDARP proof that the existing well operating under Permit No. 63600-F has been re-permitted.

cc: Ryan Howser, Project Manager, Planner

RESOLUTION NO. 24-

BOARD OF COUNTY COMMISSIONERS

COUNTY OF EL PASO

STATE OF COLORADO

APPROVAL OF FINAL PLAT
HILL SUBDIVISION FILING NO. 1 (VR2313)

WHEREAS, Douglas and Katherine Hill did file an application with the El Paso County Planning and Community Development Department for the approval of a final plat for the Hill Subdivision Filing No. 1 for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on January 4, 2024, upon which date the Planning Commission did by formal resolution recommend approval of the final plat application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on January 25, 2024; and

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

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;

6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations.
7. For the above-stated and other reasons, the proposed amendment of the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, in approving a vacation and replat of a subdivision, the El Paso County Planning Commission and Board of County Commissioners shall find that the application meets the criteria of approval listed in Land Development Code 7.2.3.C.4:

1. The replat complies with the Code, and the original conditions of approval associated with the recorded plat;
2. No nonconforming lots are created, and in the case of existing nonconforming lots, the nonconformity is not increased;
3. The replat is in keeping with the purpose and intent of the Code;
4. The replat conforms to the required findings for a minor or major subdivision, whichever is applicable;
5. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM;
6. The approval will not adversely affect the public health, safety, and welfare; and
7. Where the lots or parcels are subject to any CC&Rs or other restrictions, that any potential conflict with the CC&Rs or other restrictions resulting from the replat has been resolved.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the final plat application for the Hill Subdivision Filing No. 1;

BE IT FURTHER RESOLVED that the following conditions and notation shall be placed upon this approval:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that

the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.

3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

NOTATION

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

AND BE IT FURTHER RESOLVED that the record and recommendations of the El Paso County Planning Commission be adopted.

DONE THIS 25th day of January 2024 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

LOT 1 of C AND H ESTATES AS RECORDED UNDER RECEPTION NUMBER 206712276 OF THE RECORDS OF EL PASO COUNTY, COLORADO.