

MARK D. FRANCIS
ATTORNEY AND COUNSELOR AT LAW

1880 OFFICE CLUB POINTE, SUITE 1000
COLORADO SPRINGS, CO 80920
TELEPHONE (719) 265-6900
FACSIMILE (719) 272-8051
EMAIL mdfesq@earthlink.net

Via Certified Mail

February 21, 2019

Mr. Patrick S. Nichols
Ms. Autumn Nichols
6775 Jicarilla Drive
Colorado Springs, CO 80908

Re: EA 18248 – Notice to Adjacent Property Owners concerning 13980 Black Forest Road

Dear Mr. Patrick S. Nichols and Autumn Nichols,

1. This letter is being sent to you because my client, Goebel Construction, Inc., is proposing a land use project in El Paso County at the referenced location (see item #3). This information is being provided to you prior to a submittal with the County. Please direct any questions on the proposal to the referenced contact(s) in item #2. Prior to any public hearing on this proposal, a notification of the time and place of the public hearing will be sent to the adjacent property owners by the El Paso County Planning Department. At that time you will be given the opportunity to respond either for, against or expressing no opinion in writing or in person at the public hearing for this proposal.

2. For questions specific to this project, please contact:

The Owner/Applicant: Goebel Construction, Inc., c/o Marvin Goebel
6840 Brentwood Drive, Colorado Springs, CO 80908
719-650-8586

The Consultant/Attorney: Mark D. Francis, Esq.
1880 Office Club Pointe, Suite 1000
Colorado Springs, CO 80919
719-265-6900

3. Site address: 13980 Black Forest Road and 6770 Jicarilla Drive
Location: Vicinity of Shoup Road and Elementary Drive on the South and
Vessey Road on the North
Size: 5 acres at present (4.70 acres after reduction for ROW expansion)
Zoning: RR-5

4. The Request and Justification:

This is a request to reinstate an interior lot line that was vacated in 1991 so as to reestablish the original platting of the now 5 acre property into the two separate roughly 2.5 acre parcels that were originally approved for the neighborhood, 2.35 acres after the ROW taking.

The Applicant owns Lot 7, Block 1, Apache Woods Subdivision, as revised by book 5883-813. The Applicant is requesting that the interior lot line that was vacated by the planning commission on September 18, 1991, to create the current five acre Lot 7 now be reinstated in its original location (as shown on the attached drawings from Rocky Mountain Land Services dated December 19, 2018) so that the property will be returned to its original configuration and so that the properties will be once again legally described as Lot 6, Block 1, Apache Woods Subdivision, and Lot 7, Block 1, Apache Woods Subdivision.

This property is located on the corner of Black Forest Road and Jicarilla Drive. As noted above, the interior lot line between Lots 6 and 7 was vacated and the two lots were combined into Lot 7, Block 1, Apache Woods Subdivision, through an Administrative Vacation of Interior Lot Lines that was approved by the El Paso County Planning Department on September 18, 1991. The Recording information for the approval was recorded in the El Paso County real property records on September 19, 1991, at Book 5883, Page 813.

On June 6, 2018, the Applicant secured a permit from the El Paso County Planning Department for driveway access from Lot 7 onto Black Forest Road (Permit Number 28048) if, and only so long as, such access is allowed. Lot 7 has been assigned the address of 13980 Black Forest Road.

Black Forest Road is designated as a Minor Arterial Road per the El Paso County 2040 MTCP. Permit 28048 included a statement that the permit was not good for access to planned arterial roadways. Additionally, El Paso County's Engineering Criteria Manual, Section 2.3.2 (Design Standards by Functional Classification) in Table 2-4 also states that access is not permitted on roads classified as Rural Minor Arterial Roads. As such, the access onto Black Forest Road can remain only so long it is as allowed by the governing body. The Applicant has also created an alternate means of access off of Jicarilla Drive so that if this application is approved, access to both parcels will continue in perpetuity. Lot 6 fronts Jicarilla Drive and will continue to have an address of 6770 Jicarilla Drive. Therefore, both properties will continue to have direct access to public roads.

The two lots will be reduced in size due to a right of way dedication in the future for the widening of Black Forest Road which abuts the lots. This will reduce each of the two remaining lots by 6,355 square feet of land area. The final lot sizes will therefore be 2.35 acres. The Austins' lot to the north will likewise be reduced to 3.52 acres after the ROW road expansion, and the lots on the east side of Black Forest Road will be reduced in size to 4.64 acres and 9.28 acres respectively. The Nichols' parcel to the South also drops in size to 4.20 acres. This is all shown on the attached revised site drawing. This means that even though the lots will drop in size to 2.35 acres, the surrounding lots will be equally affected and their sizes reduced as well.

The Applicant notes that the Black Forest Land Use Committee ("Committee") has already objected to the application because of what is believed to be resulting land areas that are too small for the Timbered Area in which the lots are located. The Applicant respects that position.

In response to the Committee's comments to the initial Letter of Intent, the Applicant points out that the Black Forest Preservation Plan ("Plan") is not by its wording controlling so as to mandate any minimum 5 acre lot size. Section 3.1 of the Plan states its policy is to "continue the promotion of residential subdivisions with an overall average minimum lot area of 5 acres in the Timbered Area and other designated portions of the planning area." Its focus is on the "promotion" of 5 acre lot sizes, not the requirement of 5 acre lots. The word promotion is permissive in nature and not mandatory and thus the 5 acre average lot size is a goal and not a mandate.

Further, the Land Use Scenario section of the Plan also states that it is meant to complement and further "describe the goals, policies and proposed actions adopted for the Black Forest Planning Area" which language also provides flexibility in planning decisions by focusing on lot size goals and not mandating absolutes.

Finally, the Plan also states that densities "should" be strictly held to an overall average of one dwelling unit per 5 acres. The word "should" is permissive in nature which allows the Board discretion in this decision. The words "must" or "shall" are mandatory and do not allow any discretion. Because the Plan uses permissive wording throughout and not mandatory wording, no strict adherence to 5 acres of size for this parcel of land is required by the Plan.

In fact, the Plan specifically acknowledges and permits smaller lots by stating that the "minimum lot size for five-acre overall density areas should be at least 2.5 acres in most instances" Thus, the Plan recognizes that smaller lots of the same size as these proposed lots are acceptable under the Plan. Also, by using the word "should", this section of the Plan once again recognizes the need for, and expressly allows, discretion in

the approval process to allow this size of lots after the right of way road expansion. The same is true with the phrase "in most instances", which again provides discretion in the final lot sizes to address unique situations such as the loss of area due to the Black Forest Road ROW road expansion.

Furthermore, the Plan in Chapter II, Land Use, also indicates that as of 1985, a full 36% of the land area under the Plan was comprised of lots that were smaller than 5 acres in size. That means that the lots that are the subject of this Application are by no means at all unusual in size as nearly one in four lots in the planning area are already under 5 acres in size. Therefore, approval of these lots will not be setting any new precedent that can be viewed as harmful as they are in fact consistent with the Plan.

Nor will these lots be out of character for the area. There are in fact already quite a number of lots in very close proximity to the subject property that are similar in size and in many cases quite a bit smaller. The Applicant attached an exhibit identifying the lots, their size and their proximity to the subject property. That shows that within just 1,000 feet of this site there are 3 lots ranging in size from 1.76 to 2.88 acres. Within just 1,500 feet of this site (about a quarter mile) there are 9 lots ranging in size from a small 32,234 s.f. (.74 acre lot) to 2.88 acres. Within 2,500 feet of the site there are 19 lots ranging in size from a tiny 10,000 s.f. (.23 acre lot) to 2.88 acres. All told, within a mile there are at least 34 other lots that are under 5 acres in size, excluding the Brentwood county club and cabin site lots.

If the Brentwood county club and cabin site lots are included the number of lots that are under 5 acres in size within a half mile of the subject property jumps significantly. The Applicant acknowledges that the Brentwood lots are from a filing made in 1929 and are not at all representative of current thinking on lot sizes nor the Plan. However, they are located very close to the subject property and so are in fact an important consideration due to the proximity of those very small lots to the property in this request as it shows these two resulting lots, even after the Black Forest ROW road expansion, are consistent with, or larger than, a significant number of lots within a small radius.

Also, the fact that the subject property is located on Black Forest Road favors approval as the new properties will be abutting a main traffic corridor on one side and so will have less impact on the properties located on the other side of Black Forest Road. These lots will have 2.35 acres of useable space after the right of way is deducted from them. That is still very close to the 2.5 acre objective sought in the Plan. And, all other lots on both sides of Black Forest Road will have their size reduced through no fault of those owners either, once the right of way is increased to its full width. The right of way reduction from the road expansion should not be held against the Applicant.

Mr. and Ms. Patrick S. Nichols
February 21, 2019
Page 5

The Applicant believes that the approval of this request will not be detrimental to the adjoining properties or the neighborhood in general. While the reestablishment of the original lot configuration will minimally increase development density over the current configuration, if approved, the two lot configuration will result in density that is exactly equal to the initial platted configuration. And, there will be no appreciable increase in traffic as the Applicant is seeking approval for a single family residence which will generate minimal daily vehicle trips and so the trip count from the reestablished lots will be no more than was originally envisioned when the plat was initially approved. Therefore, the reestablishment of the original platting will not have any meaningful detrimental effect on the adjoining properties.

5. Existing and Proposed Facilities, Structures, Roads:

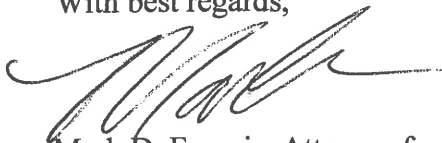
This is currently a vacant lot with no existing facilities or structures. If this request is approved, two new residential units are proposed to be constructed on the properties and the density will be identical to the initially platted properties, 1 unit on each 2.5 acre parcel (2.35 acre parcels after the ROW expansion of Black Forest Road). The proposed structures, single-family homes, will be consistent with the surrounding properties. The roads accessing the properties are public roads that already exist. The reestablished Lot 7 will have access from Black Forest Road if, and only so long as, such access is allowed, and the reestablished Lot 6 will have access from the existing Jicarilla Drive. Lot 7 will also have access from the existing Jicarilla Drive.

6. Waiver Requests:

The Applicant is not making any requests for waivers unless one is required to secure the approval in light of the application of the Black Forest Preservation Plan to this property and unless one is required for initial access onto Black Forest Road.

7. Vicinity Map – Please see attached.

With best regards,



Mark D. Francis, Attorney for Applicant

Enclosures: Drawing from Rocky Mountain Land Services dated December 19, 2018, Exhibit of Similar or Smaller Properties, Vicinity Map

REQUEST TO REINSTATE AN INTERIOR LOT LINE

13980 BLACK FOREST ROAD
 LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION
 EL PASO COUNTY, COLORADO

AS CURRENTLY PLATTED:

ANDREW AND HEATHER AUSTIN
 52060-00-062
 3251 LOUGHKEEPERS
 COLORADO SPRINGS, CO 80916

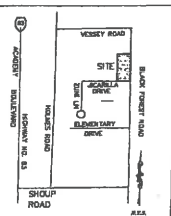
PATRICK A. HERKLOTZ
 52060-01-003
 8055 SMOKETREE ROAD
 PHELAN, CA 92371

LOT 7, BLOCK 1 APACHE WOODS SUBDIVISION
 REVISED IN BOOK 5883, PG. 813,

PATRICK E. HOEFFEL
 52053-04-001
 13970 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

HAMEL FAMILY LIVING TRUST
 52053-04-002
 13920 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

VICINITY MAP



JICARILLA DRIVE
 60' public right of way

PATRICK S. NICHOLS 52060-03-019
 6775 JICARILLA DRIVE
 COLORADO SPRINGS, CO 80908

TO BE REINSTATED AS:

LOT 7, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

13980 BLACK FOREST ROAD

LOT 6, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

6770 JICARILLA DRIVE

ADDRESS:

13980 BLACK FOREST ROAD
 COLORADO SPRINGS, COLORADO 80908

6770 JICARILLA DRIVE
 COLORADO SPRINGS, COLORADO 80908

OWNER/APPLICANT:

MARVIN GOEBEL/GOEBEL CONSTRUCTION, INC.
 6840 BRENTWOOD DRIVE
 COLORADO SPRINGS, COLORADO 80908
 719-650-8586

LOT AREA:

5.00 ACRES, 217,784 SF +/-

LEGAL DESCRIPTION

LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION AS REVISED BY BOOK 5883 AT PAGE 813, RECORDS OF EL PASO COUNTY, COLORADO.

ZONING:

RR 5

ASSESSORS SCHEDULE NUMBER

52060-01-006

PCD FILE NO. BOA 88

ROCKY MOUNTAIN LAND SERVICES
 4405 HORTHBARK DRIVE SUITE 303
 COLORADO SPRINGS, COLORADO 80907
 719-830-0559

SCALE: 1" = 50'
 JOB NO. 39043
 DECEMBER 19, 2018



20' easement right of way to be dedicated if line of future right of way following
 20' easement right of way to be dedicated if line of future right of way following
 20' easement right of way to be dedicated if line of future right of way following

Exhibit of Similar or Smaller Properties in Close Proximity to the Subject Property
By Distance from Property

<u>Address</u>	<u>Size</u>	<u>Approximate Distance From Subject Parcel at 13980 Black Forest Road</u>
14090 Black Forest Road	1.76 acres	500 feet
14130 Black Forest Road	2.70 acres	750 feet
13725 Highline Drive	2.88 acres	1000 feet
14275 Vessey Circle	2.68 acres	1250
14475 Vessey Circle	1.09 acres	1250
6680 Vessey Road	33,944 sf	1250
6750 Vessey Road	32,234 sf	1250
14320 Vessey Circle	1.49 acres	1500
14445 Vessey Circle	43,360 sf	1500
14330 Vessey Circle	1.29 acres	1750
13395 Black Forest Road	10,000 sf	2000
6825 Swan Road	1.66 acres	2000
14355 Vessey Circle	14,401 sf	2000
14375 Vessey Circle	31,950 sf	2000
14415 Vessey Circle	30,928 sf	2000
13405 Black Forest Road	40,000 sf	2250
13435 Black Forest Road	1.84 acres	2250
14395 Black Forest Road	1.22 acres	2500
6150 Coolwell Drive	2.64 acres	2500
6285 Vessey Road	21,450 sf	2750
6360 Coolwell Drive	3.51 acres	3000
14160 Neva Lane	1.29 acres	3250
14165 Neva Lane	1.51 acres	3250
14175 Neva Lane	1.19 acres	3250
14180 Neva Lane	1.01 acres	3250
6085 Vessey Road	42,689 sf	3250
6145 Vessey Road	21,450 sf	3250

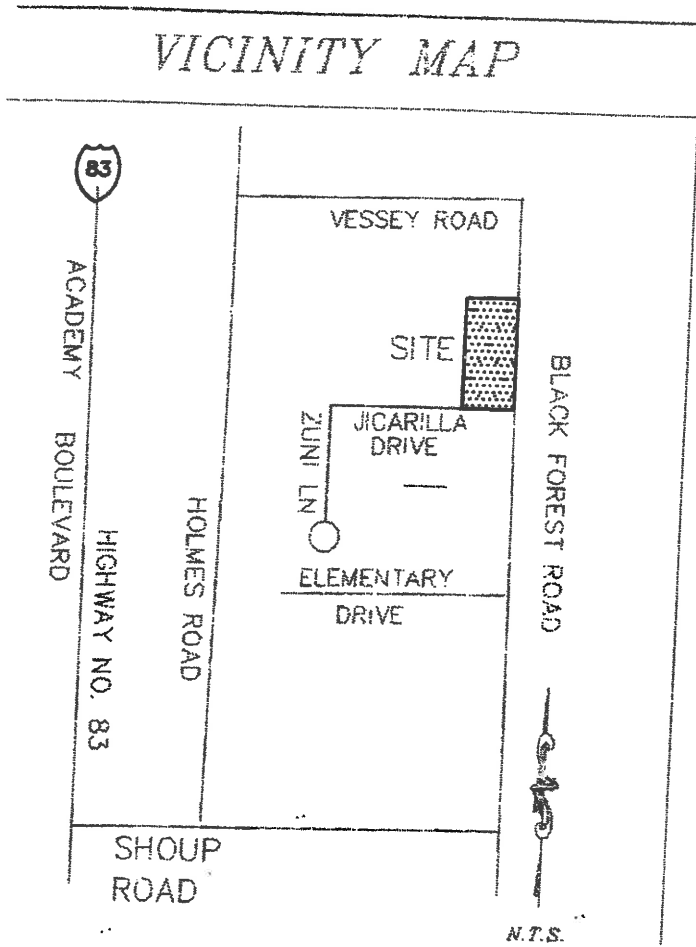
6015 Vessey Road	42,900 sf	3500
6055 Vessey Road	42,698 sf	3500
5910 Holmes Lane	38,478 sf	4500
14025 Holmes Rd	1.88 acres	4750
5915 Vessey Road	20,227 sf	5000
5835 Vessey Road	33,590 sf	5250
5875 Vessey Road	20,227 sf	5250

Brentwood Country Club starting approx 2000 feet from the property away with over 100 small lots. For example:

13235 Black Forest Road	20,000 sf
13265 Black Forest Road	21,501 sf
13280 Pine Drive	10,800 sf
Lola Mae Street	11,336 sf
6850 Beulah	20,000 sf
6870 Beulah	20,000 sf
6875 Juanita Street	22,263 sf
Gladys Street	10,000 sf
Gladys Street	10,921 sf

EA 18248

Letter of Intent for Board of Adjustment Application concerning 13980 Black Forest Road



MARK D. FRANCIS
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COLORADO SPRINGS, CO 80920
TELEPHONE (719) 265-6900
FACSIMILE (719) 272-8051
EMAIL mdfesq@earthlink.net

Via Certified Mail

February 21, 2019

Mr. Patrick E. Hoeffel
Ms. Sue Ellen Hoeffel
13970 Wyandott Drive
Colorado Springs, CO 80908

Re: EA 18248 – Notice to Adjacent Property Owners concerning 13980 Black Forest Road

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6840 Brentwood Drive, Colorado Springs, CO 80908
719-650-8586

The Consultant/Attorney: Mark D. Francis, Esq.
1880 Office Club Pointe, Suite 1000
Colorado Springs, CO 80919
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the approval process to allow this size of lots after the right of way road expansion. The same is true with the phrase "in most instances", which again provides discretion in the final lot sizes to address unique situations such as the loss of area due to the Black Forest Road ROW road expansion.

Furthermore, the Plan in Chapter II, Land Use, also indicates that as of 1985, a full 36% of the land area under the Plan was comprised of lots that were smaller than 5 acres in size. That means that the lots that are the subject of this Application are by no means at all unusual in size as nearly one in four lots in the planning area are already under 5 acres in size. Therefore, approval of these lots will not be setting any new precedent that can be viewed as harmful as they are in fact consistent with the Plan.

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Mr. and Ms. Patrick E. Hoeffel
February 21, 2019
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6. Waiver Requests:

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7. Vicinity Map – Please see attached.

With best regards,



Mark D. Francis, Attorney for Applicant

Enclosures: Drawing from Rocky Mountain Land Services dated December 19, 2018, Exhibit of Similar or Smaller Properties, Vicinity Map

REQUEST TO REINSTATE AN INTERIOR LOT LINE

13980 BLACK FOREST ROAD
 LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION
 EL PASO COUNTY, COLORADO

AS CURRENTLY PLATTED:

ANDREW AND HEATHER AUSTIN
 52080-00-002
 3251 POUGH-KEEPSIE
 COLORADO SPRINGS, CO 80916

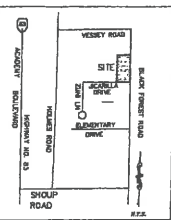
PATRICK A. HERKLOTZ
 52060-01-003
 8955 SMOKETREE ROAD
 PHELAN, CA 92371

LOT 7, BLOCK 1 APACHE WOODS SUBDIVISION
 REVISED IN BOOK 5883, PG. 813,

PATRICK E. HOFFEL
 52053-04-001
 13970 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

HAMEL FAMILY LIVING TRUST
 52053-04-002
 13920 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

VICINITY MAP



JICARILLA DRIVE
 60' public right of way

PATRICK S. NICHOLS 52080-03-019
 6775 JICARILLA DRIVE
 COLORADO SPRINGS, CO 80908

TO BE REINSTATED AS:

LOT 7, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

13980 BLACK FOREST ROAD

20' EASEMENT FOR INGRESS AND EGRESS
 TO SERVE LOT 7, BLOCK 1
 TO BE DEDICATED WHEN BLACK FOREST
 ROAD BECOMES A 100' R.O.W.

LOT 6, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

6770 JICARILLA DRIVE

ADDRESS:

13980 BLACK FOREST ROAD
 COLORADO SPRINGS, COLORADO 80908

6770 JICARILLA DRIVE
 COLORADO SPRINGS, COLORADO 80908

OWNER/APPLICANT:

MARVIN GOEBEL/GOEBEL CONSTRUCTION, INC.
 6840 BRENTWOOD DRIVE
 COLORADO SPRINGS, COLORADO 80908
 719-650-8586

LOT AREA:

5.00 ACRES, 217,784 SF +/-

LEGAL DESCRIPTION

LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION AS REVISED BY BOOK 5883 AT PAGE 813, RECORDS OF EL PASO COUNTY, COLORADO.

ZONING:

RR 5

ASSESSORS SCHEDULE NUMBER

52060-01-006

PCD FILE NO. BOA 88

ROCKY MOUNTAIN LAND SERVICES
 4485 NORTHPARK DRIVE SUITE 303
 COLORADO SPRINGS, COLORADO 80907
 719-530-0558



SCALE: 1" = 50'
 JOB NO. 39043
 DECEMBER 19, 2018

JICARILLA DRIVE
 60' public right of way

Exhibit of Similar or Smaller Properties in Close Proximity to the Subject Property
By Distance from Property

<u>Address</u>	<u>Size</u>	Approximate Distance From Subject Parcel at <u>13980 Black Forest Road</u>
14090 Black Forest Road	1.76 acres	500 feet
14130 Black Forest Road	2.70 acres	750 feet
13725 Highline Drive	2.88 acres	1000 feet
14275 Vessey Circle	2.68 acres	1250
14475 Vessey Circle	1.09 acres	1250
6680 Vessey Road	33,944 sf	1250
6750 Vessey Road	32,234 sf	1250
14320 Vessey Circle	1.49 acres	1500
14445 Vessey Circle	43,360 sf	1500
14330 Vessey Circle	1.29 acres	1750
13395 Black Forest Road	10,000 sf	2000
6825 Swan Road	1.66 acres	2000
14355 Vessey Circle	14,401 sf	2000
14375 Vessey Circle	31,950 sf	2000
14415 Vessey Circle	30,928 sf	2000
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13435 Black Forest Road	1.84 acres	2250
14395 Black Forest Road	1.22 acres	2500
6150 Coolwell Drive	2.64 acres	2500
6285 Vessey Road	21,450 sf	2750
6360 Coolwell Drive	3.51 acres	3000
14160 Neva Lane	1.29 acres	3250
14165 Neva Lane	1.51 acres	3250
14175 Neva Lane	1.19 acres	3250
14180 Neva Lane	1.01 acres	3250
6085 Vessey Road	42,689 sf	3250
6145 Vessey Road	21,450 sf	3250

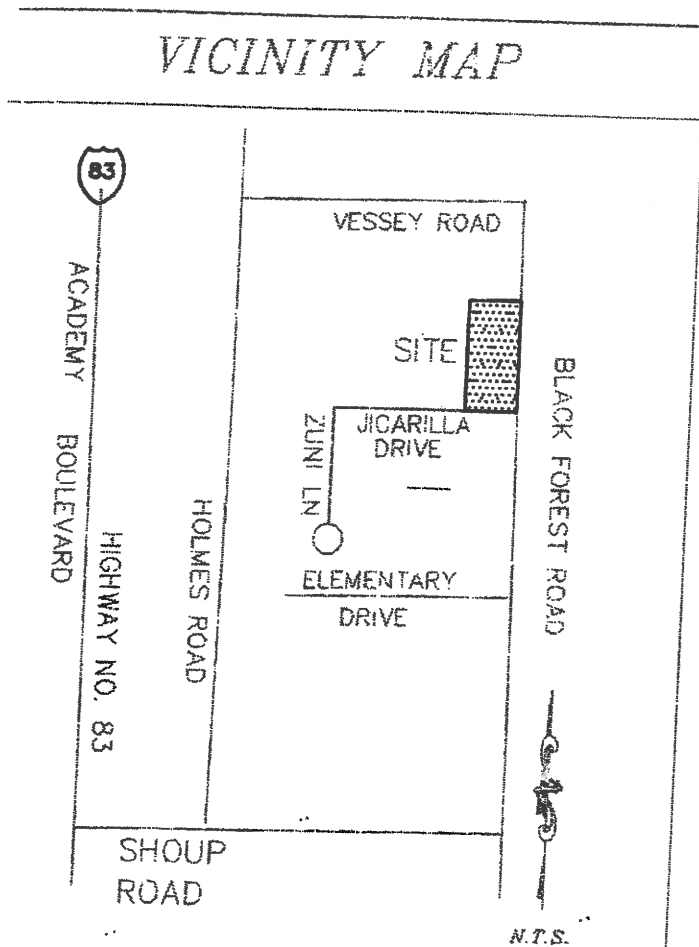
6015 Vessey Road	42,900 sf	3500
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14025 Holmes Rd	1.88 acres	4750
5915 Vessey Road	20,227 sf	5000
5835 Vessey Road	33,590 sf	5250
5875 Vessey Road	20,227 sf	5250

Brentwood Country Club starting approx 2000 feet from the property away with over 100 small lots. For example:

13235 Black Forest Road	20,000 sf
13265 Black Forest Road	21,501 sf
13280 Pine Drive	10,800 sf
Lola Mae Street	11,336 sf
6850 Beulah	20,000 sf
6870 Beulah	20,000 sf
6875 Juanita Street	22,263 sf
Gladys Street	10,000 sf
Gladys Street	10,921 sf

EA 18248

Letter of Intent for Board of Adjustment Application concerning 13980 Black Forest Road



MARK D. FRANCIS
ATTORNEY AND COUNSELOR AT LAW

1880 OFFICE CLUB POINTE, SUITE 1000
COLORADO SPRINGS, CO 80920
TELEPHONE (719) 265-6900
FACSIMILE (719) 272-8051
EMAIL mdfesq@earthlink.net

Via Certified Mail

February 21, 2019

Mr. Leonard B. Roberts
Ms. Theresa K. Roberts
13840 Wyandott Drive
Colorado Springs, CO 80908

Re: EA 18248 – Notice to Adjacent Property Owners concerning 13980 Black Forest Road

Dear Mr. Leonard B. Roberts and Ms. Theresa Roberts,

1. This letter is being sent to you because my client, Goebel Construction, Inc., is proposing a land use project in El Paso County at the referenced location (see item #3). This information is being provided to you prior to a submittal with the County. Please direct any questions on the proposal to the referenced contact(s) in item #2. Prior to any public hearing on this proposal, a notification of the time and place of the public hearing will be sent to the adjacent property owners by the El Paso County Planning Department. At that time you will be given the opportunity to respond either for, against or expressing no opinion in writing or in person at the public hearing for this proposal.

2. For questions specific to this project, please contact:

The Owner/Applicant: Goebel Construction, Inc., c/o Marvin Goebel
6840 Brentwood Drive, Colorado Springs, CO 80908
719-650-8586

The Consultant/Attorney: Mark D. Francis, Esq.
1880 Office Club Pointe, Suite 1000
Colorado Springs, CO 80919
719-265-6900

3. Site address: 13980 Black Forest Road and 6770 Jicarilla Drive
Location: Vicinity of Shoup Road and Elementary Drive on the South and Vessey Road on the North
Size: 5 acres at present (4.70 acres after reduction for ROW expansion)
Zoning: RR-5

4. The Request and Justification:

This is a request to reinstate an interior lot line that was vacated in 1991 so as to reestablish the original platting of the now 5 acre property into the two separate roughly 2.5 acre parcels that were originally approved for the neighborhood, 2.35 acres after the ROW taking.

The Applicant owns Lot 7, Block 1, Apache Woods Subdivision, as revised by book 5883-813. The Applicant is requesting that the interior lot line that was vacated by the planning commission on September 18, 1991, to create the current five acre Lot 7 now be reinstated in its original location (as shown on the attached drawings from Rocky Mountain Land Services dated December 19, 2018) so that the property will be returned to its original configuration and so that the properties will be once again legally described as Lot 6, Block 1, Apache Woods Subdivision, and Lot 7, Block 1, Apache Woods Subdivision.

This property is located on the corner of Black Forest Road and Jicarilla Drive. As noted above, the interior lot line between Lots 6 and 7 was vacated and the two lots were combined into Lot 7, Block 1, Apache Woods Subdivision, through an Administrative Vacation of Interior Lot Lines that was approved by the El Paso County Planning Department on September 18, 1991. The Recording information for the approval was recorded in the El Paso County real property records on September 19, 1991, at Book 5883, Page 813.

On June 6, 2018, the Applicant secured a permit from the El Paso County Planning Department for driveway access from Lot 7 onto Black Forest Road (Permit Number 28048) if, and only so long as, such access is allowed. Lot 7 has been assigned the address of 13980 Black Forest Road.

Black Forest Road is designated as a Minor Arterial Road per the El Paso County 2040 MTCP. Permit 28048 included a statement that the permit was not good for access to planned arterial roadways. Additionally, El Paso County's Engineering Criteria Manual, Section 2.3.2 (Design Standards by Functional Classification) in Table 2-4 also states that access is not permitted on roads classified as Rural Minor Arterial Roads. As such, the access onto Black Forest Road can remain only so long it is as allowed by the governing body. The Applicant has also created an alternate means of access off of Jicarilla Drive so that if this application is approved, access to both parcels will continue in perpetuity. Lot 6 fronts Jicarilla Drive and will continue to have an address of 6770 Jicarilla Drive. Therefore, both properties will continue to have direct access to public roads.

The two lots will be reduced in size due to a right of way dedication in the future for the widening of Black Forest Road which abuts the lots. This will reduce each of the two remaining lots by 6,355 square feet of land. The final lot sizes will therefore be 2.35 acres. The Austins' lot to the north will likewise be reduced to 3.52 acres after the ROW road expansion, and the lots on the east side of Black Forest Road will be reduced in size to 4.64 acres and 9.28 acres respectively. The Nichols' parcel to the South also drops in size to 4.20 acres. This is all shown on the attached revised site drawing. This means that even though the lots will drop in size to 2.35 acres, the surrounding lots will be equally affected and their sizes reduced as well.

The Applicant notes that the Black Forest Land Use Committee ("Committee") has already objected to the application because of what is believed to be resulting land areas that are too small for the Timbered Area in which the lots are located. The Applicant respects that position.

In response to the Committee's comments to the initial Letter of Intent, the Applicant points out that the Black Forest Preservation Plan ("Plan") is not by its wording controlling so as to mandate any minimum 5 acre lot size. Section 3.1 of the Plan states its policy is to "continue the promotion of residential subdivisions with an overall average minimum lot area of 5 acres in the Timbered Area and other designated portions of the planning area." Its focus is on the "promotion" of 5 acre lot sizes, not the requirement of 5 acre lots. The word promotion is permissive in nature and not mandatory and thus the 5 acre average lot size is a goal and not a mandate.

Further, the Land Use Scenario section of the Plan also states that it is meant to complement and further "describe the goals, policies and proposed actions adopted for the Black Forest Planning Area" which language also provides flexibility in planning decisions by focusing on lot size goals and not mandating absolutes.

Finally, the Plan also states that densities "should" be strictly held to an overall average of one dwelling unit per 5 acres. The word "should" is permissive in nature which allows the Board discretion in this decision. The words "must" or "shall" are mandatory and do not allow any discretion. Because the Plan uses permissive wording throughout and not mandatory wording, no strict adherence to 5 acres of size for this parcel of land is required by the Plan.

In fact, the Plan specifically acknowledges and permits smaller lots by stating that the "minimum lot size for five-acre overall density areas should be at least 2.5 acres in most instances" Thus, the Plan recognizes that smaller lots of the same size as these proposed lots are acceptable under the Plan. Also, by using the word "should", this section of the Plan once again recognizes the need for, and expressly allows, discretion in

the approval process to allow this size of lots after the right of way road expansion. The same is true with the phrase "in most instances", which again provides discretion in the final lot sizes to address unique situations such as the loss of area due to the Black Forest Road ROW road expansion.

Furthermore, the Plan in Chapter II, Land Use, also indicates that as of 1985, a full 36% of the land area under the Plan was comprised of lots that were smaller than 5 acres in size. That means that the lots that are the subject of this Application are by no means at all unusual in size as nearly one in four lots in the planning area are already under 5 acres in size. Therefore, approval of these lots will not be setting any new precedent that can be viewed as harmful as they are in fact consistent with the Plan.

Nor will these lots be out of character for the area. There are in fact already quite a number of lots in very close proximity to the subject property that are similar in size and in many cases quite a bit smaller. The Applicant attached an exhibit identifying the lots, their size and their proximity to the subject property. That shows that within just 1,000 feet of this site there are 3 lots ranging in size from 1.76 to 2.88 acres. Within just 1,500 feet of this site (about a quarter mile) there are 9 lots ranging in size from a small 32,234 s.f. (.74 acre lot) to 2.88 acres. Within 2,500 feet of the site there are 19 lots ranging in size from a tiny 10,000 s.f. (.23 acre lot) to 2.88 acres. All told, within a mile there are at least 34 other lots that are under 5 acres in size, excluding the Brentwood county club and cabin site lots.

If the Brentwood county club and cabin site lots are included the number of lots that are under 5 acres in size within a half mile of the subject property jumps significantly. The Applicant acknowledges that the Brentwood lots are from a filing made in 1929 and are not at all representative of current thinking on lot sizes nor the Plan. However, they are located very close to the subject property and so are in fact an important consideration due to the proximity of those very small lots to the property in this request as it shows these two resulting lots, even after the Black Forest ROW road expansion, are consistent with, or larger than, a significant number of lots within a small radius.

Also, the fact that the subject property is located on Black Forest Road favors approval as the new properties will be abutting a main traffic corridor on one side and so will have less impact on the properties located on the other side of Black Forest Road. These lots will have 2.35 acres of useable space after the right of way is deducted from them. That is still very close to the 2.5 acre objective sought in the Plan. And, all other lots on both sides of Black Forest Road will have their size reduced through no fault of those owners either, once the right of way is increased to its full width. The right of way reduction from the road expansion should not be held against the Applicant.

The Applicant believes that the approval of this request will not be detrimental to the adjoining properties or the neighborhood in general. While the reestablishment of the original lot configuration will minimally increase development density over the current configuration, if approved, the two lot configuration will result in density that is exactly equal to the initial platted configuration. And, there will be no appreciable increase in traffic as the Applicant is seeking approval for a single family residence which will generate minimal daily vehicle trips and so the trip count from the reestablished lots will be no more than was originally envisioned when the plat was initially approved. Therefore, the reestablishment of the original platting will not have any meaningful detrimental effect on the adjoining properties.

5. Existing and Proposed Facilities, Structures, Roads:

This is currently a vacant lot with no existing facilities or structures. If this request is approved, two new residential units are proposed to be constructed on the properties and the density will be identical to the initially platted properties, 1 unit on each 2.5 acre parcel (2.35 acre parcels after the ROW expansion of Black Forest Road). The proposed structures, single-family homes, will be consistent with the surrounding properties. The roads accessing the properties are public roads that already exist. The reestablished Lot 7 will have access from Black Forest Road if, and only so long as, such access is allowed, and the reestablished Lot 6 will have access from the existing Jicarilla Drive. Lot 7 will also have access from the existing Jicarilla Drive.

6. Waiver Requests:

The Applicant is not making any requests for waivers unless one is required to secure the approval in light of the application of the Black Forest Preservation Plan to this property and unless one is required for initial access onto Black Forest Road.

7. Vicinity Map – Please see attached.

With best regards,



Mark D. Francis, Attorney for Applicant

Enclosures: Drawing from Rocky Mountain Land Services dated December 19, 2018, Exhibit of Similar or Smaller Properties, Vicinity Map

REQUEST TO REINSTATE AN INTERIOR LOT LINE

13980 BLACK FOREST ROAD
 LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION
 EL PASO COUNTY, COLORADO

AS CURRENTLY PLATTED:

ANDREW AND HEATHER AUSTIN
 52060-00-062
 3251 PLOUGHKEEPSIE
 COLORADO SPRINGS, CO 80916

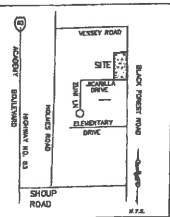
PATRICK A. HERKLOTZ
 52060-01-003
 8055 SMOKETREE ROAD
 PHELAN, CA 92371

LOT 7, BLOCK 1 APACHE WOODS SUBDIVISION
 REVISED IN BOOK 5883, PG. 813,

PATRICK E. HOFFEL
 52053-04-001
 13970 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

HAMEL FAMILY LIVING TRUST
 52053-04-002
 13920 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

VICINITY MAP



JICARILLA DRIVE
 60' public right of way

PATRICK S. NICHOLS 52080-03-019
 6775 JICARILLA DRIVE
 COLORADO SPRINGS, CO 80908

TO BE REINSTATED AS:

LOT 7, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

13980 BLACK FOREST ROAD

LOT 6, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

6770 JICARILLA DRIVE

20' EASEMENT FOR INGRESS AND EGRESS
 TO SERVE LOT 7, BLOCK 1
 TO BE DEDICATED WHEN BLACK FOREST
 ROAD BECOMES A 100' R.O.W.

ADDRESS:

13980 BLACK FOREST ROAD
 COLORADO SPRINGS, COLORADO 80908

6770 JICARILLA DRIVE
 COLORADO SPRINGS, COLORADO 80908

OWNER/APPLICANT:

MARVIN GOEBEL/GOEBEL CONSTRUCTION, INC.
 6840 BRENTWOOD DRIVE
 COLORADO SPRINGS, COLORADO 80908
 719-650-8586

LOT AREA:

5.00 ACRES, 217,784 SF +/-

LEGAL DESCRIPTION

LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION AS REVISED BY BOOK
 5883 AT PAGE 813, RECORDS OF EL PASO COUNTY, COLORADO.

ZONING:

RR 5

ASSESSORS SCHEDULE NUMBER

52060-01-008



SCALE: 1" = 50'
 JOB NO. 39043
 DECEMBER 19, 2018

JICARILLA DRIVE
 60' public right of way

PCD FILE NO. BOA 88



4485 NORTH-PARK DRIVE SUITE 303
 COLORADO SPRINGS, COLORADO 80907
 719-530-0559

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By Distance from Property

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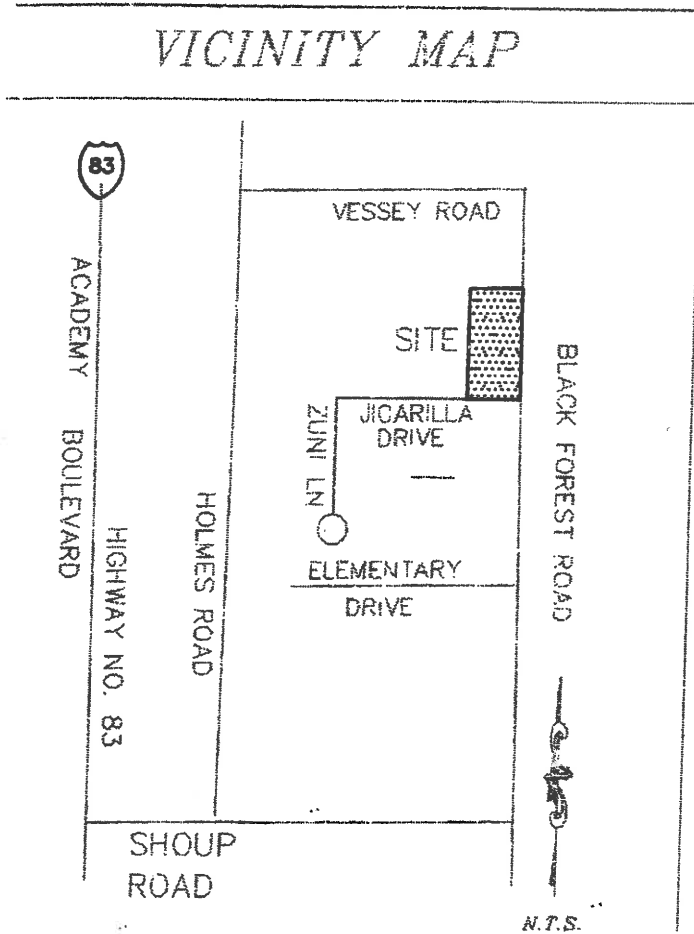
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EA 18248

Letter of Intent for Board of Adjustment Application concerning 13980 Black Forest Road



MARK D. FRANCIS
ATTORNEY AND COUNSELOR AT LAW

1880 OFFICE CLUB POINTE, SUITE 1000
COLORADO SPRINGS, CO 80920
TELEPHONE (719) 265-6900
FACSIMILE (719) 272-8051
EMAIL mdfesq@earthlink.net

Via Certified Mail

February 21, 2019

Mr. Jeffery G. Phares
Ms. Lorretta R. Phares
13840 Wyandott Drive
Colorado Springs, CO 80908

Re: EA 18248 – Notice to Adjacent Property Owners concerning 13980 Black Forest Road

Dear Mr. and Ms. Jeffery G. Phares,

1. This letter is being sent to you because my client, Goebel Construction, Inc., is proposing a land use project in El Paso County at the referenced location (see item #3). This information is being provided to you prior to a submittal with the County. Please direct any questions on the proposal to the referenced contact(s) in item #2. Prior to any public hearing on this proposal, a notification of the time and place of the public hearing will be sent to the adjacent property owners by the El Paso County Planning Department. At that time you will be given the opportunity to respond either for, against or expressing no opinion in writing or in person at the public hearing for this proposal.

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6840 Brentwood Drive, Colorado Springs, CO 80908
719-650-8586

The Consultant/Attorney: Mark D. Francis, Esq.
1880 Office Club Pointe, Suite 1000
Colorado Springs, CO 80919
719-265-6900

3. Site address: 13980 Black Forest Road and 6770 Jicarilla Drive
Location: Vicinity of Shoup Road and Elementary Drive on the South and Vessey Road on the North
Size: 5 acres at present (4.70 acres after reduction for ROW expansion)
Zoning: RR-5

4. The Request and Justification:

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The two lots will be reduced in size due to a right of way dedication in the future for the widening of Black Forest Road which abuts the lots. This will reduce each of the two remaining lots by 6,355 square feet of land. The final lot sizes will therefore be 2.35 acres. The Austins' lot to the north will likewise be reduced to 3.52 acres after the ROW road expansion, and the lots on the east side of Black Forest Road will be reduced in size to 4.64 acres and 9.28 acres respectively. The Nichols' parcel to the South also drops in size to 4.20 acres. This is all shown on the attached revised site drawing. This means that even though the lots will drop in size to 2.35 acres, the surrounding lots will be equally affected and their sizes reduced as well.

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Further, the Land Use Scenario section of the Plan also states that it is meant to complement and further "describe the goals, policies and proposed actions adopted for the Black Forest Planning Area" which language also provides flexibility in planning decisions by focusing on lot size goals and not mandating absolutes.

Finally, the Plan also states that densities "should" be strictly held to an overall average of one dwelling unit per 5 acres. The word "should" is permissive in nature which allows the Board discretion in this decision. The words "must" or "shall" are mandatory and do not allow any discretion. Because the Plan uses permissive wording throughout and not mandatory wording, no strict adherence to 5 acres of size for this parcel of land is required by the Plan.

In fact, the Plan specifically acknowledges and permits smaller lots by stating that the "minimum lot size for five-acre overall density areas should be at least 2.5 acres in most instances" Thus, the Plan recognizes that smaller lots of the same size as these proposed lots are acceptable under the Plan. Also, by using the word "should", this section of the Plan once again recognizes the need for, and expressly allows, discretion in

the approval process to allow this size of lots after the right of way road expansion. The same is true with the phrase "in most instances", which again provides discretion in the final lot sizes to address unique situations such as the loss of area due to the Black Forest Road ROW road expansion.

Furthermore, the Plan in Chapter II, Land Use, also indicates that as of 1985, a full 36% of the land area under the Plan was comprised of lots that were smaller than 5 acres in size. That means that the lots that are the subject of this Application are by no means at all unusual in size as nearly one in four lots in the planning area are already under 5 acres in size. Therefore, approval of these lots will not be setting any new precedent that can be viewed as harmful as they are in fact consistent with the Plan.

Nor will these lots be out of character for the area. There are in fact already quite a number of lots in very close proximity to the subject property that are similar in size and in many cases quite a bit smaller. The Applicant attached an exhibit identifying the lots, their size and their proximity to the subject property. That shows that within just 1,000 feet of this site there are 3 lots ranging in size from 1.76 to 2.88 acres. Within just 1,500 feet of this site (about a quarter mile) there are 9 lots ranging in size from a small 32,234 s.f. (.74 acre lot) to 2.88 acres. Within 2,500 feet of the site there are 19 lots ranging in size from a tiny 10,000 s.f. (.23 acre lot) to 2.88 acres. All told, within a mile there are at least 34 other lots that are under 5 acres in size, excluding the Brentwood county club and cabin site lots.

If the Brentwood county club and cabin site lots are included the number of lots that are under 5 acres in size within a half mile of the subject property jumps significantly. The Applicant acknowledges that the Brentwood lots are from a filing made in 1929 and are not at all representative of current thinking on lot sizes nor the Plan. However, they are located very close to the subject property and so are in fact an important consideration due to the proximity of those very small lots to the property in this request as it shows these two resulting lots, even after the Black Forest ROW road expansion, are consistent with, or larger than, a significant number of lots within a small radius.

Also, the fact that the subject property is located on Black Forest Road favors approval as the new properties will be abutting a main traffic corridor on one side and so will have less impact on the properties located on the other side of Black Forest Road. These lots will have 2.35 acres of useable space after the right of way is deducted from them. That is still very close to the 2.5 acre objective sought in the Plan. And, all other lots on both sides of Black Forest Road will have their size reduced through no fault of those owners either, once the right of way is increased to its full width. The right of way reduction from the road expansion should not be held against the Applicant.

The Applicant believes that the approval of this request will not be detrimental to the adjoining properties or the neighborhood in general. While the reestablishment of the original lot configuration will minimally increase development density over the current configuration, if approved, the two lot configuration will result in density that is exactly equal to the initial platted configuration. And, there will be no appreciable increase in traffic as the Applicant is seeking approval for a single family residence which will generate minimal daily vehicle trips and so the trip count from the reestablished lots will be no more than was originally envisioned when the plat was initially approved. Therefore, the reestablishment of the original platting will not have any meaningful detrimental effect on the adjoining properties.

5. Existing and Proposed Facilities, Structures, Roads:

This is currently a vacant lot with no existing facilities or structures. If this request is approved, two new residential units are proposed to be constructed on the properties and the density will be identical to the initially platted properties, 1 unit on each 2.5 acre parcel (2.35 acre parcels after the ROW expansion of Black Forest Road). The proposed structures, single-family homes, will be consistent with the surrounding properties. The roads accessing the properties are public roads that already exist. The reestablished Lot 7 will have access from Black Forest Road if, and only so long as, such access is allowed, and the reestablished Lot 6 will have access from the existing Jicarilla Drive. Lot 7 will also have access from the existing Jicarilla Drive.

6. Waiver Requests:

The Applicant is not making any requests for waivers unless one is required to secure the approval in light of the application of the Black Forest Preservation Plan to this property and unless one is required for initial access onto Black Forest Road.

7. Vicinity Map – Please see attached.

With best regards,



Mark D. Francis, Attorney for Applicant

Enclosures: Drawing from Rocky Mountain Land Services dated December 19, 2018, Exhibit of Similar or Smaller Properties, Vicinity Map

REQUEST TO REINSTATE AN INTERIOR LOT LINE

13980 BLACK FOREST ROAD
 LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION
 EL PASO COUNTY, COLORADO

AS CURRENTLY PLATTED:

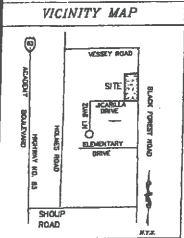
ANDREW AND HEATHER AUSTIN
 52060-00-082
 3251 POUCHKEEPSIE
 COLORADO SPRINGS, CO 80916

PATRICK A. HERKLOTZ
 52080-01-003
 8055 SMOKETREE ROAD
 PHELAN, CA 92371

LOT 7, BLOCK 1 APACHE WOODS SUBDIVISION
 REVISED IN BOOK 5883, PG. 813,

PATRICK E. HOEFFEL
 52053-04-001
 13870 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

HAMEL FAMILY LIVING TRUST
 52053-04-002
 13820 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908



JICARILLA DRIVE
 60' public right of way

PATRICK S. NICHOLS 52060-03-019
 6775 JICARILLA DRIVE
 COLORADO SPRINGS, CO 80908

TO BE REINSTATED AS:

LOT 7, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

13980 BLACK FOREST ROAD

ADDRESS:
 13980 BLACK FOREST ROAD
 COLORADO SPRINGS, COLORADO 80908

6770 JICARILLA DRIVE
 COLORADO SPRINGS, COLORADO 80908

OWNER/APPLICANT:
 MARVIN GOEBEL/GOEBEL CONSTRUCTION, INC.
 6840 BRENTWOOD DRIVE
 COLORADO SPRINGS, COLORADO 80908
 719-650-8586

LOT AREA:
 5.00 ACRES, 217,784 SF +/-

LEGAL DESCRIPTION:
 LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION AS REVISED BY BOOK
 5883 AT PAGE 813, RECORDS OF EL PASO COUNTY, COLORADO.

ZONING:
 RR 5

ASSESSORS SCHEDULE NUMBER
 52060-01-008

LOT 6, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

6770 JICARILLA DRIVE

JICARILLA DRIVE
 60' public right of way



PCD FILE NO. BOA 88

ROCKY MOUNTAIN LAND SERVICES
 4485 NORTH PARK DRIVE SUITE 303
 COLORADO SPRINGS, COLORADO 80907
 719-630-0299

Exhibit of Similar or Smaller Properties in Close Proximity to the Subject Property
By Distance from Property

<u>Address</u>	<u>Size</u>	Approximate Distance From Subject Parcel at <u>13980 Black Forest Road</u>
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14375 Vessey Circle	31,950 sf	2000
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14395 Black Forest Road	1.22 acres	2500
6150 Coolwell Drive	2.64 acres	2500
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6360 Coolwell Drive	3.51 acres	3000
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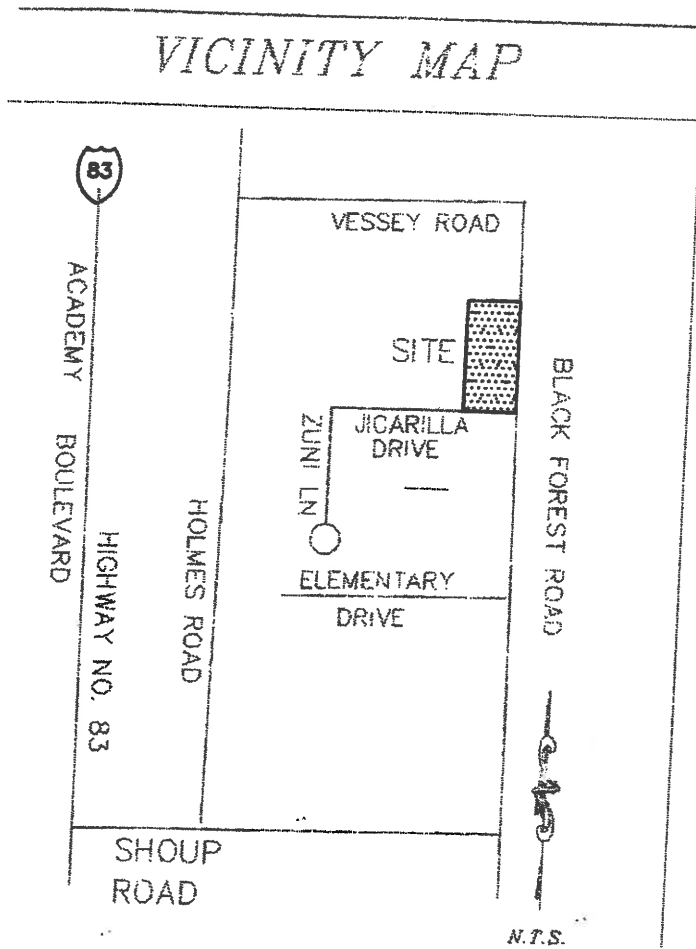
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6055 Vessey Road	42,698 sf	3500
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14025 Holmes Rd	1.88 acres	4750
5915 Vessey Road	20,227 sf	5000
5835 Vessey Road	33,590 sf	5250
5875 Vessey Road	20,227 sf	5250

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Lola Mae Street	11,336 sf
6850 Beulah	20,000 sf
6870 Beulah	20,000 sf
6875 Juanita Street	22,263 sf
Gladys Street	10,000 sf
Gladys Street	10,921 sf

EA 18248

Letter of Intent for Board of Adjustment Application concerning 13980 Black Forest Road



**MARK D. FRANCIS
ATTORNEY AND COUNSELOR AT LAW**

**1880 OFFICE CLUB POINTE, SUITE 1000
COLORADO SPRINGS, CO 80920
TELEPHONE (719) 265-6900
FACSIMILE (719) 272-8051
EMAIL mdfesq@earthlink.net**

Via Certified Mail

February 21, 2019

Mr. Patrick A. Herklotz
9055 Smoketree Road
Phelan, CA 92371

Re: EA 18248 – Notice to Adjacent Property Owners concerning 13980 Black Forest Road

Dear Mr. Patrick A. Herklotz,

1. This letter is being sent to you because my client, Goebel Construction, Inc., is proposing a land use project in El Paso County at the referenced location (see item #3). This information is being provided to you prior to a submittal with the County. Please direct any questions on the proposal to the referenced contact(s) in item #2. Prior to any public hearing on this proposal, a notification of the time and place of the public hearing will be sent to the adjacent property owners by the El Paso County Planning Department. At that time you will be given the opportunity to respond either for, against or expressing no opinion in writing or in person at the public hearing for this proposal.

2. For questions specific to this project, please contact:

The Owner/Applicant: Goebel Construction, Inc., c/o Marvin Goebel
6840 Brentwood Drive, Colorado Springs, CO 80908
719-650-8586

The Consultant/Attorney: Mark D. Francis, Esq.
1880 Office Club Pointe, Suite 1000
Colorado Springs, CO 80919
719-265-6900

3. Site address: 13980 Black Forest Road and 6770 Jicarilla Drive
Location: Vicinity of Shoup Road and Elementary Drive on the South and Vessey Road on the North
Size: 5 acres at present (4.70 acres after reduction for ROW expansion)
Zoning: RR-5

4. The Request and Justification:

This is a request to reinstate an interior lot line that was vacated in 1991 so as to reestablish the original platting of the now 5 acre property into the two separate roughly 2.5 acre parcels that were originally approved for the neighborhood, 2.35 acres after the ROW taking.

The Applicant owns Lot 7, Block 1, Apache Woods Subdivision, as revised by book 5883-813. The Applicant is requesting that the interior lot line that was vacated by the planning commission on September 18, 1991, to create the current five acre Lot 7 now be reinstated in its original location (as shown on the attached drawings from Rocky Mountain Land Services dated December 19, 2018) so that the property will be returned to its original configuration and so that the properties will be once again legally described as Lot 6, Block 1, Apache Woods Subdivision, and Lot 7, Block 1, Apache Woods Subdivision.

This property is located on the corner of Black Forest Road and Jicarilla Drive. As noted above, the interior lot line between Lots 6 and 7 was vacated and the two lots were combined into Lot 7, Block 1, Apache Woods Subdivision, through an Administrative Vacation of Interior Lot Lines that was approved by the El Paso County Planning Department on September 18, 1991. The Recording information for the approval was recorded in the El Paso County real property records on September 19, 1991, at Book 5883, Page 813.

On June 6, 2018, the Applicant secured a permit from the El Paso County Planning Department for driveway access from Lot 7 onto Black Forest Road (Permit Number 28048) if, and only so long as, such access is allowed. Lot 7 has been assigned the address of 13980 Black Forest Road.

Black Forest Road is designated as a Minor Arterial Road per the El Paso County 2040 MTCP. Permit 28048 included a statement that the permit was not good for access to planned arterial roadways. Additionally, El Paso County's Engineering Criteria Manual, Section 2.3.2 (Design Standards by Functional Classification) in Table 2-4 also states that access is not permitted on roads classified as Rural Minor Arterial Roads. As such, the access onto Black Forest Road can remain only so long it is as allowed by the governing body. The Applicant has also created an alternate means of access off of Jicarilla Drive so that if this application is approved, access to both parcels will continue in perpetuity. Lot 6 fronts Jicarilla Drive and will continue to have an address of 6770 Jicarilla Drive. Therefore, both properties will continue to have direct access to public roads.

The two lots will be reduced in size due to a right of way dedication in the future for the widening of Black Forest Road which abuts the lots. This will reduce each of the two remaining lots by 6,355 square feet of land. The final lot sizes will therefore be 2.35 acres. The Austins' lot to the north will likewise be reduced to 3.52 acres after the ROW road expansion, and the lots on the east side of Black Forest Road will be reduced in size to 4.64 acres and 9.28 acres respectively. The Nichols' parcel to the South also drops in size to 4.20 acres. This is all shown on the attached revised site drawing. This means that even though the lots will drop in size to 2.35 acres, the surrounding lots will be equally affected and their sizes reduced as well.

The Applicant notes that the Black Forest Land Use Committee ("Committee") has already objected to the application because of what is believed to be resulting land areas that are too small for the Timbered Area in which the lots are located. The Applicant respects that position.

In response to the Committee's comments to the initial Letter of Intent, the Applicant points out that the Black Forest Preservation Plan ("Plan") is not by its wording controlling so as to mandate any minimum 5 acre lot size. Section 3.1 of the Plan states its policy is to "continue the promotion of residential subdivisions with an overall average minimum lot area of 5 acres in the Timbered Area and other designated portions of the planning area." Its focus is on the "promotion" of 5 acre lot sizes, not the requirement of 5 acre lots. The word promotion is permissive in nature and not mandatory and thus the 5 acre average lot size is a goal and not a mandate.

Further, the Land Use Scenario section of the Plan also states that it is meant to complement and further "describe the goals, policies and proposed actions adopted for the Black Forest Planning Area" which language also provides flexibility in planning decisions by focusing on lot size goals and not mandating absolutes.

Finally, the Plan also states that densities "should" be strictly held to an overall average of one dwelling unit per 5 acres. The word "should" is permissive in nature which allows the Board discretion in this decision. The words "must" or "shall" are mandatory and do not allow any discretion. Because the Plan uses permissive wording throughout and not mandatory wording, no strict adherence to 5 acres of size for this parcel of land is required by the Plan.

In fact, the Plan specifically acknowledges and permits smaller lots by stating that the "minimum lot size for five-acre overall density areas should be at least 2.5 acres in most instances" Thus, the Plan recognizes that smaller lots of the same size as these proposed lots are acceptable under the Plan. Also, by using the word "should", this section of the Plan once again recognizes the need for, and expressly allows, discretion in

the approval process to allow this size of lots after the right of way road expansion. The same is true with the phrase "in most instances", which again provides discretion in the final lot sizes to address unique situations such as the loss of area due to the Black Forest Road ROW road expansion.

Furthermore, the Plan in Chapter II, Land Use, also indicates that as of 1985, a full 36% of the land area under the Plan was comprised of lots that were smaller than 5 acres in size. That means that the lots that are the subject of this Application are by no means at all unusual in size as nearly one in four lots in the planning area are already under 5 acres in size. Therefore, approval of these lots will not be setting any new precedent that can be viewed as harmful as they are in fact consistent with the Plan.

Nor will these lots be out of character for the area. There are in fact already quite a number of lots in very close proximity to the subject property that are similar in size and in many cases quite a bit smaller. The Applicant attached an exhibit identifying the lots, their size and their proximity to the subject property. That shows that within just 1,000 feet of this site there are 3 lots ranging in size from 1.76 to 2.88 acres. Within just 1,500 feet of this site (about a quarter mile) there are 9 lots ranging in size from a small 32,234 s.f. (.74 acre lot) to 2.88 acres. Within 2,500 feet of the site there are 19 lots ranging in size from a tiny 10,000 s.f. (.23 acre lot) to 2.88 acres. All told, within a mile there are at least 34 other lots that are under 5 acres in size, excluding the Brentwood county club and cabin site lots.

If the Brentwood county club and cabin site lots are included the number of lots that are under 5 acres in size within a half mile of the subject property jumps significantly. The Applicant acknowledges that the Brentwood lots are from a filing made in 1929 and are not at all representative of current thinking on lot sizes nor the Plan. However, they are located very close to the subject property and so are in fact an important consideration due to the proximity of those very small lots to the property in this request as it shows these two resulting lots, even after the Black Forest ROW road expansion, are consistent with, or larger than, a significant number of lots within a small radius.

Also, the fact that the subject property is located on Black Forest Road favors approval as the new properties will be abutting a main traffic corridor on one side and so will have less impact on the properties located on the other side of Black Forest Road. These lots will have 2.35 acres of useable space after the right of way is deducted from them. That is still very close to the 2.5 acre objective sought in the Plan. And, all other lots on both sides of Black Forest Road will have their size reduced through no fault of those owners either, once the right of way is increased to its full width. The right of way reduction from the road expansion should not be held against the Applicant.

The Applicant believes that the approval of this request will not be detrimental to the adjoining properties or the neighborhood in general. While the reestablishment of the original lot configuration will minimally increase development density over the current configuration, if approved, the two lot configuration will result in density that is exactly equal to the initial platted configuration. And, there will be no appreciable increase in traffic as the Applicant is seeking approval for a single family residence which will generate minimal daily vehicle trips and so the trip count from the reestablished lots will be no more than was originally envisioned when the plat was initially approved. Therefore, the reestablishment of the original platting will not have any meaningful detrimental effect on the adjoining properties.

5. Existing and Proposed Facilities, Structures, Roads:

This is currently a vacant lot with no existing facilities or structures. If this request is approved, two new residential units are proposed to be constructed on the properties and the density will be identical to the initially platted properties, 1 unit on each 2.5 acre parcel (2.35 acre parcels after the ROW expansion of Black Forest Road). The proposed structures, single-family homes, will be consistent with the surrounding properties. The roads accessing the properties are public roads that already exist. The reestablished Lot 7 will have access from Black Forest Road if, and only so long as, such access is allowed, and the reestablished Lot 6 will have access from the existing Jicarilla Drive. Lot 7 will also have access from the existing Jicarilla Drive.

6. Waiver Requests:

The Applicant is not making any requests for waivers unless one is required to secure the approval in light of the application of the Black Forest Preservation Plan to this property and unless one is required for initial access onto Black Forest Road.

7. Vicinity Map – Please see attached.

With best regards,



Mark D. Francis, Attorney for Applicant

Enclosures: Drawing from Rocky Mountain Land Services dated December 19, 2018, Exhibit of Similar or Smaller Properties, Vicinity Map

REQUEST TO REINSTATE AN INTERIOR LOT LINE

13980 BLACK FOREST ROAD
 LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION
 EL PASO COUNTY, COLORADO

AS CURRENTLY PLATTED:

ANDREW AND HEATHER AUSTIN
 52060-00-062
 3251 POLIUKKEEPSIE
 COLORADO SPRINGS, CO 80916

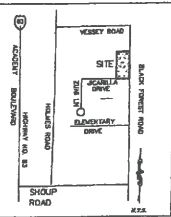
PATRICK A. HERKLOITZ
 52060-01-003
 9055 SMOKETREE ROAD
 PHELAN, CA 92371

LOT 7, BLOCK 1 APACHE WOODS SUBDIVISION
 REVISED IN BOOK 5883, PG. 813,

PATRICK E. HOEFFEL
 52053-04-001
 13970 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

HAMEL FAMILY LIVING TRUST
 52053-04-002
 13920 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

VICINITY MAP



JICARILLA DRIVE
 60' public right of way

PATRICK S. NICHOLS 52060-03-019
 6775 JICARILLA DRIVE
 COLORADO SPRINGS, CO 80908

TO BE REINSTATED AS:

LOT 7, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

13980 BLACK FOREST ROAD

LOT 6, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

6770 JICARILLA DRIVE

ADDRESS:

13980 BLACK FOREST ROAD
 COLORADO SPRINGS, COLORADO 80908

6770 JICARILLA DRIVE
 COLORADO SPRINGS, COLORADO 80908

OWNER/APPLICANT:

MARVIN GOEBEL/GOEBEL CONSTRUCTION, INC.
 6840 BRENTWOOD DRIVE
 COLORADO SPRINGS, COLORADO 80908
 719-650-8586

LOT AREA:

5.00 ACRES, 217,784 SF +/-

LEGAL DESCRIPTION

LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION AS REVISED BY BOOK 5883 AT PAGE 813, RECORDS OF EL PASO COUNTY, COLORADO.

ZONING:

RR 5

ASSESSORS SCHEDULE NUMBER

52060-01-008



SCALE: 1" = 50'
 JOB NO. 39043
 DECEMBER 19, 2018

JICARILLA DRIVE
 60' public right of way

PCD FILE NO. BOA 88

ROCKY MOUNTAIN LAND SERVICES
 4445 NORTHBARK DRIVE SUITE 303
 COLORADO SPRINGS, COLORADO 80907
 719-430-0509

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By Distance from Property

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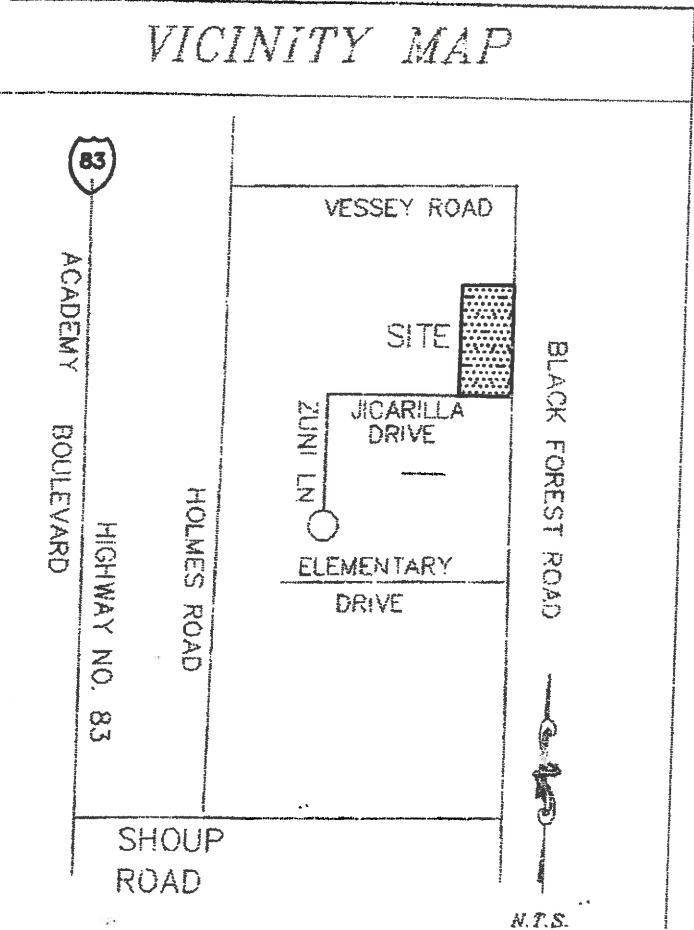
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EA 18248

Letter of Intent for Board of Adjustment Application concerning 13980 Black Forest Road



MARK D. FRANCIS
ATTORNEY AND COUNSELOR AT LAW

1880 OFFICE CLUB POINTE, SUITE 1000
COLORADO SPRINGS, CO 80920
TELEPHONE (719) 265-6900
FACSIMILE (719) 272-8051
EMAIL mdfesq@earthlink.net

Via Certified Mail

February 21, 2019

Hamel Family Living Trust
13920 Wyandott Drive
Colorado Springs, CO 80908

Re: EA 18248 – Notice to Adjacent Property Owners concerning 13980 Black Forest Road

Dear Hamel Family Living Trust,

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2. For questions specific to this project, please contact:

The Owner/Applicant: Goebel Construction, Inc., c/o Marvin Goebel
6840 Brentwood Drive, Colorado Springs, CO 80908
719-650-8586

The Consultant/Attorney: Mark D. Francis, Esq.
1880 Office Club Pointe, Suite 1000
Colorado Springs, CO 80919
719-265-6900

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Furthermore, the Plan in Chapter II, Land Use, also indicates that as of 1985, a full 36% of the land area under the Plan was comprised of lots that were smaller than 5 acres in size. That means that the lots that are the subject of this Application are by no means at all unusual in size as nearly one in four lots in the planning area are already under 5 acres in size. Therefore, approval of these lots will not be setting any new precedent that can be viewed as harmful as they are in fact consistent with the Plan.

Nor will these lots be out of character for the area. There are in fact already quite a number of lots in very close proximity to the subject property that are similar in size and in many cases quite a bit smaller. The Applicant attached an exhibit identifying the lots, their size and their proximity to the subject property. That shows that within just 1,000 feet of this site there are 3 lots ranging in size from 1.76 to 2.88 acres. Within just 1,500 feet of this site (about a quarter mile) there are 9 lots ranging in size from a small 32,234 s.f. (.74 acre lot) to 2.88 acres. Within 2,500 feet of the site there are 19 lots ranging in size from a tiny 10,000 s.f. (.23 acre lot) to 2.88 acres. All told, within a mile there are at least 34 other lots that are under 5 acres in size, excluding the Brentwood county club and cabin site lots.

If the Brentwood county club and cabin site lots are included the number of lots that are under 5 acres in size within a half mile of the subject property jumps significantly. The Applicant acknowledges that the Brentwood lots are from a filing made in 1929 and are not at all representative of current thinking on lot sizes nor the Plan. However, they are located very close to the subject property and so are in fact an important consideration due to the proximity of those very small lots to the property in this request as it shows these two resulting lots, even after the Black Forest ROW road expansion, are consistent with, or larger than, a significant number of lots within a small radius.

Also, the fact that the subject property is located on Black Forest Road favors approval as the new properties will be abutting a main traffic corridor on one side and so will have less impact on the properties located on the other side of Black Forest Road. These lots will have 2.35 acres of useable space after the right of way is deducted from them. That is still very close to the 2.5 acre objective sought in the Plan. And, all other lots on both sides of Black Forest Road will have their size reduced through no fault of those owners either, once the right of way is increased to its full width. The right of way reduction from the road expansion should not be held against the Applicant.

The Applicant believes that the approval of this request will not be detrimental to the adjoining properties or the neighborhood in general. While the reestablishment of the original lot configuration will minimally increase development density over the current configuration, if approved, the two lot configuration will result in density that is exactly equal to the initial platted configuration. And, there will be no appreciable increase in traffic as the Applicant is seeking approval for a single family residence which will generate minimal daily vehicle trips and so the trip count from the reestablished lots will be no more than was originally envisioned when the plat was initially approved. Therefore, the reestablishment of the original platting will not have any meaningful detrimental effect on the adjoining properties.

5. Existing and Proposed Facilities, Structures, Roads:

This is currently a vacant lot with no existing facilities or structures. If this request is approved, two new residential units are proposed to be constructed on the properties and the density will be identical to the initially platted properties, 1 unit on each 2.5 acre parcel (2.35 acre parcels after the ROW expansion of Black Forest Road). The proposed structures, single-family homes, will be consistent with the surrounding properties. The roads accessing the properties are public roads that already exist. The reestablished Lot 7 will have access from Black Forest Road if, and only so long as, such access is allowed, and the reestablished Lot 6 will have access from the existing Jicarilla Drive. Lot 7 will also have access from the existing Jicarilla Drive.

6. Waiver Requests:

The Applicant is not making any requests for waivers unless one is required to secure the approval in light of the application of the Black Forest Preservation Plan to this property and unless one is required for initial access onto Black Forest Road.

7. Vicinity Map – Please see attached.

With best regards,



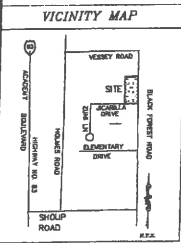
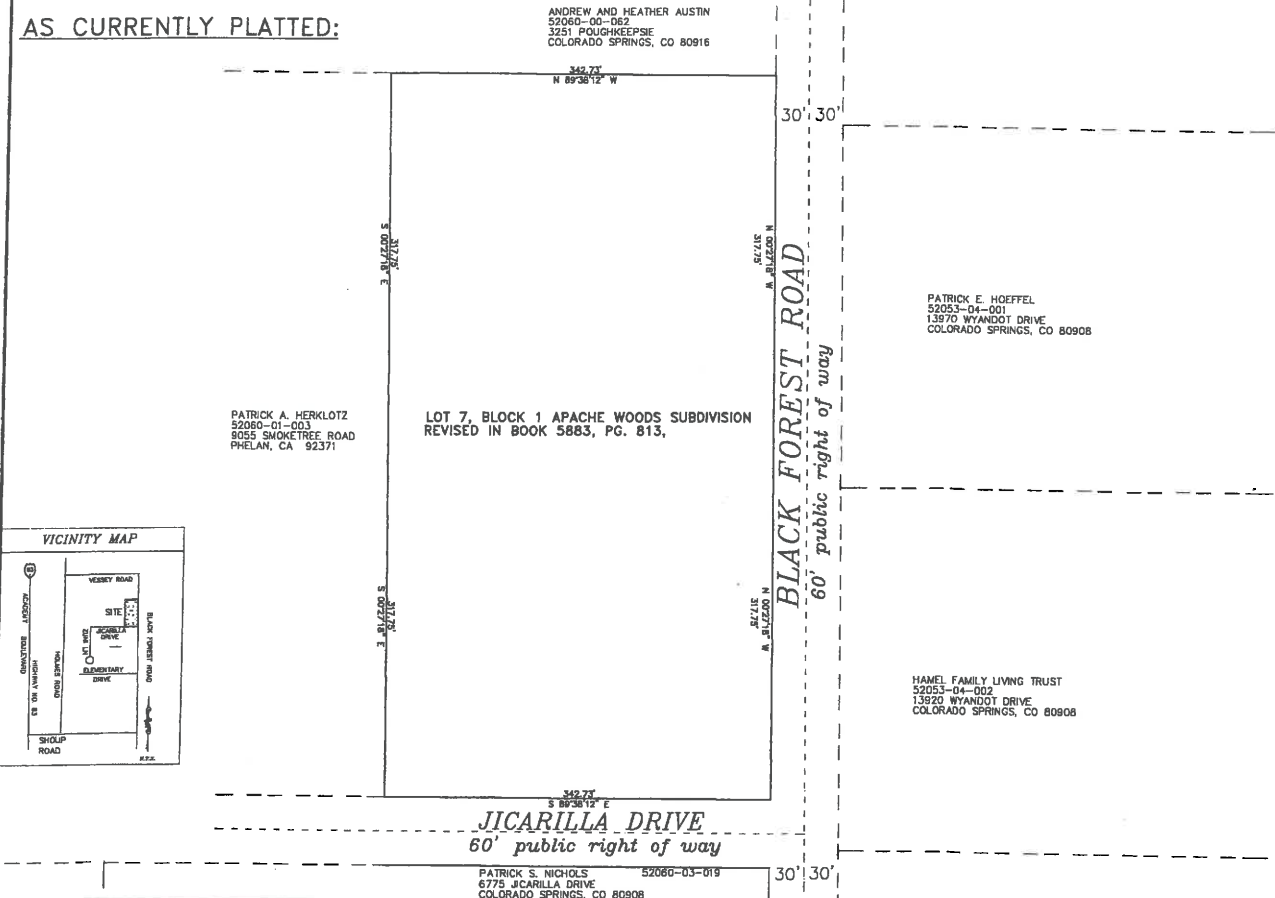
Mark D. Francis, Attorney for Applicant

Enclosures: Drawing from Rocky Mountain Land Services dated December 19, 2018, Exhibit of Similar or Smaller Properties, Vicinity Map

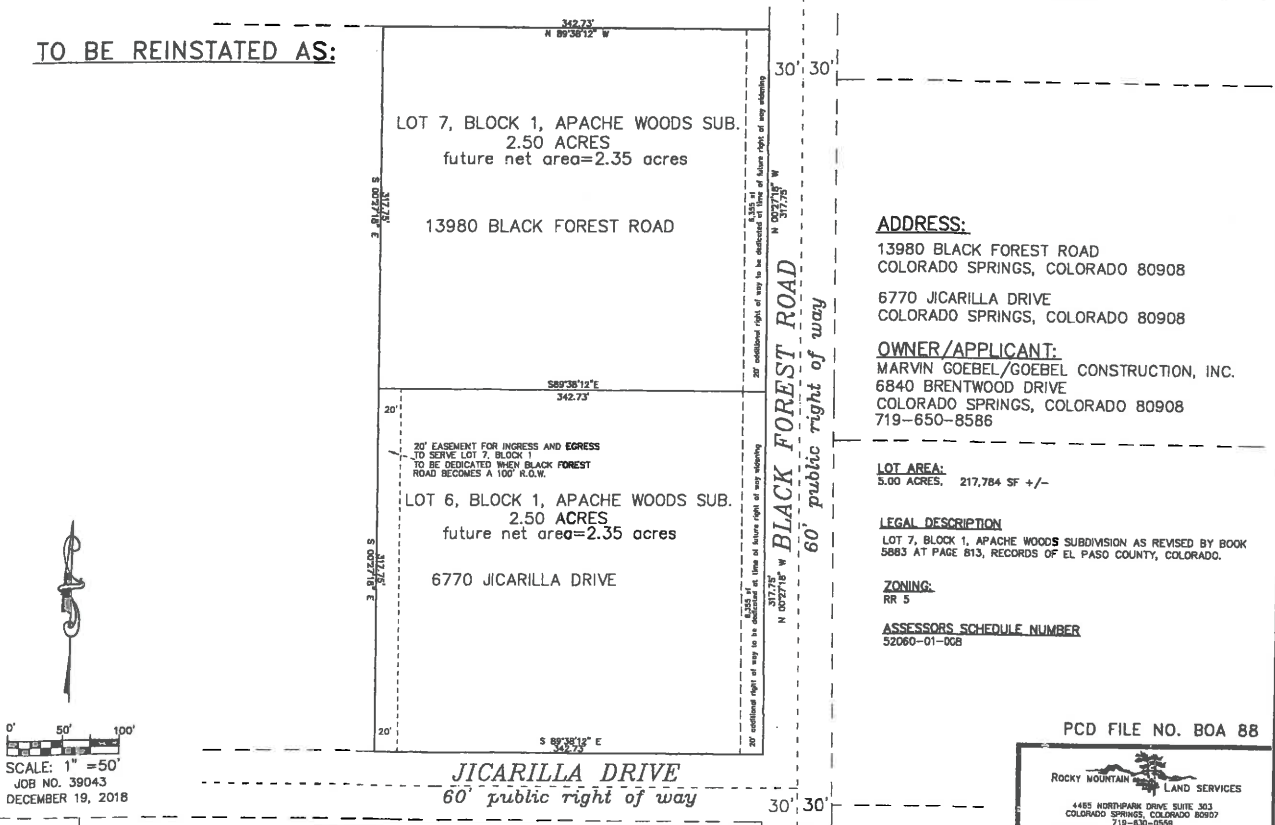
REQUEST TO REINSTATE AN INTERIOR LOT LINE

13980 BLACK FOREST ROAD
 LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION
 EL PASO COUNTY, COLORADO

AS CURRENTLY PLATTED:



TO BE REINSTATED AS:



0' 50' 100'
 SCALE: 1" = 50'
 JOB NO. 39043
 DECEMBER 19, 2018

PCD FILE NO. BOA 88
 ROCKY MOUNTAIN LAND SERVICES
 4485 NORTHSPRING DRIVE SUITE 303
 COLORADO SPRINGS, COLORADO 80907
 719-430-0558

Exhibit of Similar or Smaller Properties in Close Proximity to the Subject Property
By Distance from Property

<u>Address</u>	<u>Size</u>	<u>Approximate Distance From Subject Parcel at 13980 Black Forest Road</u>
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14130 Black Forest Road	2.70 acres	750 feet
13725 Highline Drive	2.88 acres	1000 feet
14275 Vessey Circle	2.68 acres	1250
14475 Vessey Circle	1.09 acres	1250
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6750 Vessey Road	32,234 sf	1250
14320 Vessey Circle	1.49 acres	1500
14445 Vessey Circle	43,360 sf	1500
14330 Vessey Circle	1.29 acres	1750
13395 Black Forest Road	10,000 sf	2000
6825 Swan Road	1.66 acres	2000
14355 Vessey Circle	14,401 sf	2000
14375 Vessey Circle	31,950 sf	2000
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13435 Black Forest Road	1.84 acres	2250
14395 Black Forest Road	1.22 acres	2500
6150 Coolwell Drive	2.64 acres	2500
6285 Vessey Road	21,450 sf	2750
6360 Coolwell Drive	3.51 acres	3000
14160 Neva Lane	1.29 acres	3250
14165 Neva Lane	1.51 acres	3250
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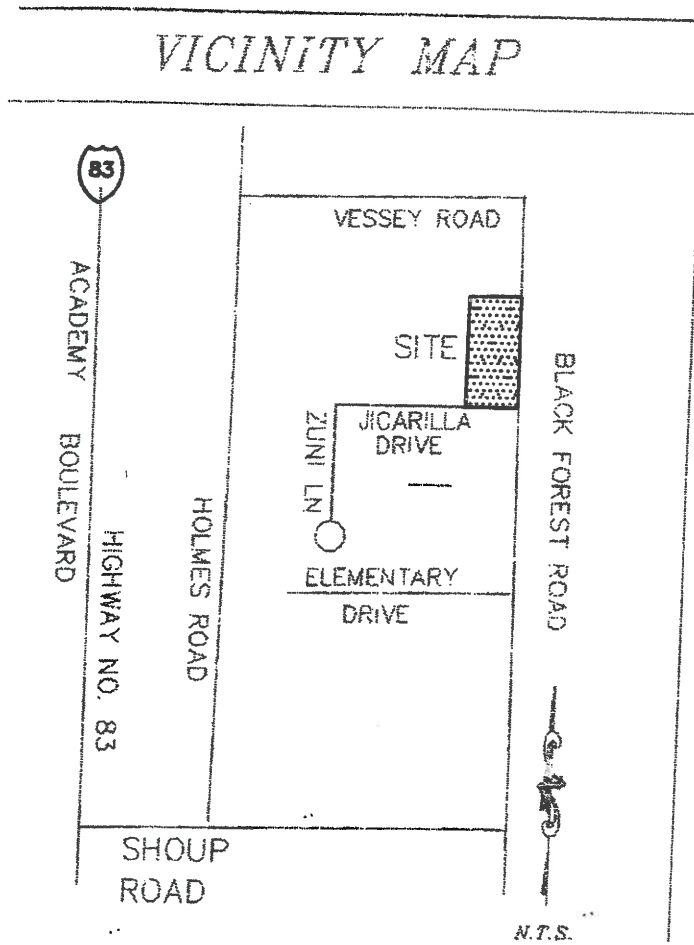
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EA 18248

Letter of Intent for Board of Adjustment Application concerning 13980 Black Forest Road



MARK D. FRANCIS
ATTORNEY AND COUNSELOR AT LAW

1880 OFFICE CLUB POINTE, SUITE 1000
COLORADO SPRINGS, CO 80920
TELEPHONE (719) 265-6900
FACSIMILE (719) 272-8051
EMAIL mdfesq@earthlink.net

Via Certified Mail

February 21, 2019

Mr. Andrew Austin
Ms. Heather Austin
3251 Poughkeepsie
Colorado Springs, CO 80916

Re: EA 18248 – Notice to Adjacent Property Owners concerning 13980 Black Forest Road

Dear Mr. and Ms. Andrew Austin,

1. This letter is being sent to you because my client, Goebel Construction, Inc., is proposing a land use project in El Paso County at the referenced location (see item #3). This information is being provided to you prior to a submittal with the County. Please direct any questions on the proposal to the referenced contact(s) in item #2. Prior to any public hearing on this proposal, a notification of the time and place of the public hearing will be sent to the adjacent property owners by the El Paso County Planning Department. At that time you will be given the opportunity to respond either for, against or expressing no opinion in writing or in person at the public hearing for this proposal.

2. For questions specific to this project, please contact:

The Owner/Applicant: Goebel Construction, Inc., c/o Marvin Goebel
6840 Brentwood Drive, Colorado Springs, CO 80908
719-650-8586

The Consultant/Attorney: Mark D. Francis, Esq.
1880 Office Club Pointe, Suite 1000
Colorado Springs, CO 80919
719-265-6900

3. Site address: 13980 Black Forest Road and 6770 Jicarilla Drive
Location: Vicinity of Shoup Road and Elementary Drive on the South and Vessey Road on the North
Size: 5 acres at present (4.70 acres after reduction for ROW expansion)
Zoning: RR-5

4. The Request and Justification:

This is a request to reinstate an interior lot line that was vacated in 1991 so as to reestablish the original platting of the now 5 acre property into the two separate roughly 2.5 acre parcels that were originally approved for the neighborhood, 2.35 acres after the ROW taking.

The Applicant owns Lot 7, Block 1, Apache Woods Subdivision, as revised by book 5883-813. The Applicant is requesting that the interior lot line that was vacated by the planning commission on September 18, 1991, to create the current five acre Lot 7 now be reinstated in its original location (as shown on the attached drawings from Rocky Mountain Land Services dated December 19, 2018) so that the property will be returned to its original configuration and so that the properties will be once again legally described as Lot 6, Block 1, Apache Woods Subdivision, and Lot 7, Block 1, Apache Woods Subdivision.

This property is located on the corner of Black Forest Road and Jicarilla Drive. As noted above, the interior lot line between Lots 6 and 7 was vacated and the two lots were combined into Lot 7, Block 1, Apache Woods Subdivision, through an Administrative Vacation of Interior Lot Lines that was approved by the El Paso County Planning Department on September 18, 1991. The Recording information for the approval was recorded in the El Paso County real property records on September 19, 1991, at Book 5883, Page 813.

On June 6, 2018, the Applicant secured a permit from the El Paso County Planning Department for driveway access from Lot 7 onto Black Forest Road (Permit Number 28048) if, and only so long as, such access is allowed. Lot 7 has been assigned the address of 13980 Black Forest Road.

Black Forest Road is designated as a Minor Arterial Road per the El Paso County 2040 MTCP. Permit 28048 included a statement that the permit was not good for access to planned arterial roadways. Additionally, El Paso County's Engineering Criteria Manual, Section 2.3.2 (Design Standards by Functional Classification) in Table 2-4 also states that access is not permitted on roads classified as Rural Minor Arterial Roads. As such, the access onto Black Forest Road can remain only so long it is as allowed by the governing body. The Applicant has also created an alternate means of access off of Jicarilla Drive so that if this application is approved, access to both parcels will continue in perpetuity. Lot 6 fronts Jicarilla Drive and will continue to have an address of 6770 Jicarilla Drive. Therefore, both properties will continue to have direct access to public roads.

The two lots will be reduced in size due to a right of way dedication in the future for the widening of Black Forest Road which abuts the lots. This will reduce each of the two remaining lots by 6,355 square feet of land. The final lot sizes will therefore be 2.35 acres. The Austins' lot to the north will likewise be reduced to 3.52 acres after the ROW road expansion, and the lots on the east side of Black Forest Road will be reduced in size to 4.64 acres and 9.28 acres respectively. The Nichols' parcel to the South also drops in size to 4.20 acres. This is all shown on the attached revised site drawing. This means that even though the lots will drop in size to 2.35 acres, the surrounding lots will be equally affected and their sizes reduced as well.

The Applicant notes that the Black Forest Land Use Committee ("Committee") has already objected to the application because of what is believed to be resulting land areas that are too small for the Timbered Area in which the lots are located. The Applicant respects that position.

In response to the Committee's comments to the initial Letter of Intent, the Applicant points out that the Black Forest Preservation Plan ("Plan") is not by its wording controlling so as to mandate any minimum 5 acre lot size. Section 3.1 of the Plan states its policy is to "continue the promotion of residential subdivisions with an overall average minimum lot area of 5 acres in the Timbered Area and other designated portions of the planning area." Its focus is on the "promotion" of 5 acre lot sizes, not the requirement of 5 acre lots. The word promotion is permissive in nature and not mandatory and thus the 5 acre average lot size is a goal and not a mandate.

Further, the Land Use Scenario section of the Plan also states that it is meant to complement and further "describe the goals, policies and proposed actions adopted for the Black Forest Planning Area" which language also provides flexibility in planning decisions by focusing on lot size goals and not mandating absolutes.

Finally, the Plan also states that densities "should" be strictly held to an overall average of one dwelling unit per 5 acres. The word "should" is permissive in nature which allows the Board discretion in this decision. The words "must" or "shall" are mandatory and do not allow any discretion. Because the Plan uses permissive wording throughout and not mandatory wording, no strict adherence to 5 acres of size for this parcel of land is required by the Plan.

In fact, the Plan specifically acknowledges and permits smaller lots by stating that the "minimum lot size for five-acre overall density areas should be at least 2.5 acres in most instances" Thus, the Plan recognizes that smaller lots of the same size as these proposed lots are acceptable under the Plan. Also, by using the word "should", this section of the Plan once again recognizes the need for, and expressly allows, discretion in

the approval process to allow this size of lots after the right of way road expansion. The same is true with the phrase "in most instances", which again provides discretion in the final lot sizes to address unique situations such as the loss of area due to the Black Forest Road ROW road expansion.

Furthermore, the Plan in Chapter II, Land Use, also indicates that as of 1985, a full 36% of the land area under the Plan was comprised of lots that were smaller than 5 acres in size. That means that the lots that are the subject of this Application are by no means at all unusual in size as nearly one in four lots in the planning area are already under 5 acres in size. Therefore, approval of these lots will not be setting any new precedent that can be viewed as harmful as they are in fact consistent with the Plan.

Nor will these lots be out of character for the area. There are in fact already quite a number of lots in very close proximity to the subject property that are similar in size and in many cases quite a bit smaller. The Applicant attached an exhibit identifying the lots, their size and their proximity to the subject property. That shows that within just 1,000 feet of this site there are 3 lots ranging in size from 1.76 to 2.88 acres. Within just 1,500 feet of this site (about a quarter mile) there are 9 lots ranging in size from a small 32,234 s.f. (.74 acre lot) to 2.88 acres. Within 2,500 feet of the site there are 19 lots ranging in size from a tiny 10,000 s.f. (.23 acre lot) to 2.88 acres. All told, within a mile there are at least 34 other lots that are under 5 acres in size, excluding the Brentwood county club and cabin site lots.

If the Brentwood county club and cabin site lots are included the number of lots that are under 5 acres in size within a half mile of the subject property jumps significantly. The Applicant acknowledges that the Brentwood lots are from a filing made in 1929 and are not at all representative of current thinking on lot sizes nor the Plan. However, they are located very close to the subject property and so are in fact an important consideration due to the proximity of those very small lots to the property in this request as it shows these two resulting lots, even after the Black Forest ROW road expansion, are consistent with, or larger than, a significant number of lots within a small radius.

Also, the fact that the subject property is located on Black Forest Road favors approval as the new properties will be abutting a main traffic corridor on one side and so will have less impact on the properties located on the other side of Black Forest Road. These lots will have 2.35 acres of useable space after the right of way is deducted from them. That is still very close to the 2.5 acre objective sought in the Plan. And, all other lots on both sides of Black Forest Road will have their size reduced through no fault of those owners either, once the right of way is increased to its full width. The right of way reduction from the road expansion should not be held against the Applicant.

Mr. and Ms. Andrew Austin
February 21, 2019
Page 5

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5. Existing and Proposed Facilities, Structures, Roads:

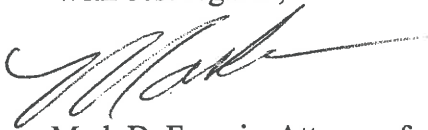
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6. Waiver Requests:

The Applicant is not making any requests for waivers unless one is required to secure the approval in light of the application of the Black Forest Preservation Plan to this property and unless one is required for initial access onto Black Forest Road.

7. Vicinity Map – Please see attached.

With best regards,



Mark D. Francis, Attorney for Applicant

Enclosures: Drawing from Rocky Mountain Land Services dated December 19, 2018, Exhibit of Similar or Smaller Properties, Vicinity Map

REQUEST TO REINSTATE AN INTERIOR LOT LINE

13980 BLACK FOREST ROAD
 LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION
 EL PASO COUNTY, COLORADO

AS CURRENTLY PLATTED:

ANDREW AND HEATHER AUSTIN
 52060-00-062
 3251 PLOUGHKEEPSIE
 COLORADO SPRINGS, CO 80916

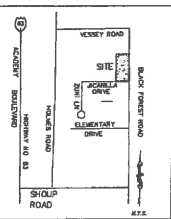
PATRICK A. HERKLOTZ
 52060-01-003
 9055 SMOKETREE ROAD
 PHELAN, CA 92371

LOT 7, BLOCK 1 APACHE WOODS SUBDIVISION
 REVISED IN BOOK 5883, PG. 813.

PATRICK E. HOFFEL
 52053-04-001
 13970 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

HAMEL FAMILY LIVING TRUST
 52053-04-002
 13820 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

VICINITY MAP



JICARILLA DRIVE
 60' public right of way

PATRICK S. NICHOLS 52060-03-019
 6775 JICARILLA DRIVE
 COLORADO SPRINGS, CO 80908

TO BE REINSTATED AS:

LOT 7, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

13980 BLACK FOREST ROAD

LOT 6, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

6770 JICARILLA DRIVE

JICARILLA DRIVE
 60' public right of way

ADDRESS:

13980 BLACK FOREST ROAD
 COLORADO SPRINGS, COLORADO 80908

6770 JICARILLA DRIVE
 COLORADO SPRINGS, COLORADO 80908

OWNER/APPLICANT:

MARVIN GOEBEL/GOEBEL CONSTRUCTION, INC.
 6840 BRENTWOOD DRIVE
 COLORADO SPRINGS, COLORADO 80908
 719-650-8586

LOT AREA:

5.00 ACRES, 217,784 SF +/-

LEGAL DESCRIPTION

LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION AS REVISED BY BOOK 5883 AT PAGE 813, RECORDS OF EL PASO COUNTY, COLORADO.

ZONING:

RR 5

ASSESSORS SCHEDULE NUMBER

52060-01-008



0' 50' 100'
 SCALE: 1" = 50'
 JOB NO. 39043
 DECEMBER 19, 2018

PCD FILE NO. BOA 88

Rocky Mountain LAND SERVICES
 4465 NORTH PARK DRIVE SUITE 303
 COLORADO SPRINGS, COLORADO 80907
 719-630-0508

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By Distance from Property

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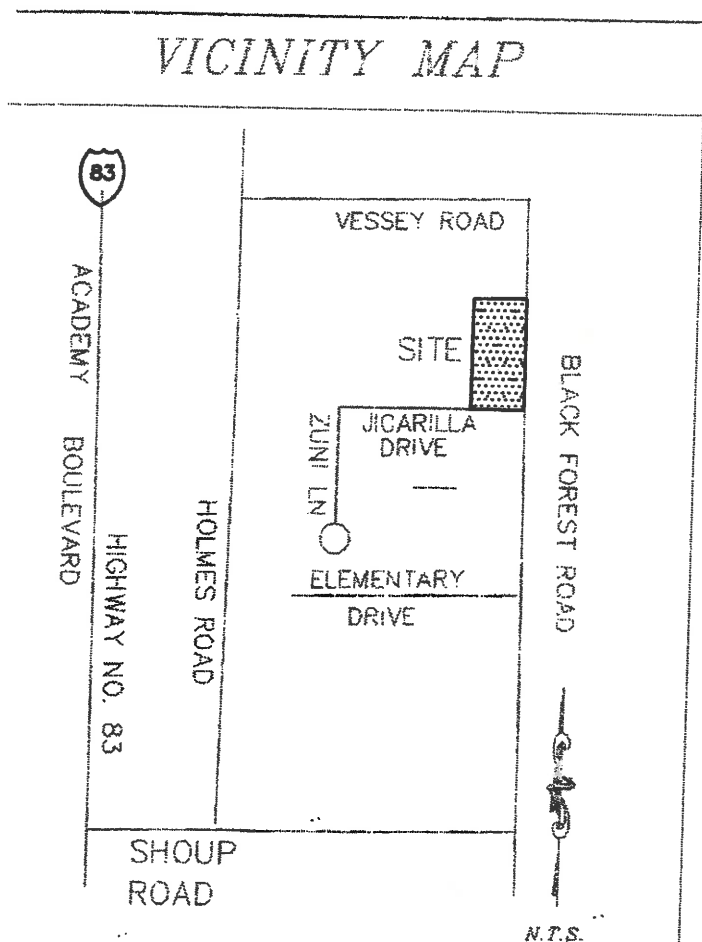
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EA 18248

Letter of Intent for Board of Adjustment Application concerning 13980 Black Forest Road



MARK D. FRANCIS
ATTORNEY AND COUNSELOR AT LAW

1880 OFFICE CLUB POINTE, SUITE 1000
COLORADO SPRINGS, CO 80920
TELEPHONE (719) 265-6900
FACSIMILE (719) 272-8051
EMAIL mdfesq@earthlink.net

Via Certified Mail

February 21, 2019

Mr. Jeffery Gaither
6675 Jicarilla Drive
Colorado Springs, CO 80908

Re: EA 18248 – Notice to Adjacent Property Owners concerning 13980 Black Forest Road

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6840 Brentwood Drive, Colorado Springs, CO 80908
719-650-8586

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1880 Office Club Pointe, Suite 1000
Colorado Springs, CO 80919
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In response to the Committee's comments to the initial Letter of Intent, the Applicant points out that the Black Forest Preservation Plan ("Plan") is not by its wording controlling so as to mandate any minimum 5 acre lot size. Section 3.1 of the Plan states its policy is to "continue the promotion of residential subdivisions with an overall average minimum lot area of 5 acres in the Timbered Area and other designated portions of the planning area." Its focus is on the "promotion" of 5 acre lot sizes, not the requirement of 5 acre lots. The word promotion is permissive in nature and not mandatory and thus the 5 acre average lot size is a goal and not a mandate.

Further, the Land Use Scenario section of the Plan also states that it is meant to complement and further "describe the goals, policies and proposed actions adopted for the Black Forest Planning Area" which language also provides flexibility in planning decisions by focusing on lot size goals and not mandating absolutes.

Finally, the Plan also states that densities "should" be strictly held to an overall average of one dwelling unit per 5 acres. The word "should" is permissive in nature which allows the Board discretion in this decision. The words "must" or "shall" are mandatory and do not allow any discretion. Because the Plan uses permissive wording throughout and not mandatory wording, no strict adherence to 5 acres of size for this parcel of land is required by the Plan.

In fact, the Plan specifically acknowledges and permits smaller lots by stating that the "minimum lot size for five-acre overall density areas should be at least 2.5 acres in most instances" Thus, the Plan recognizes that smaller lots of the same size as these proposed lots are acceptable under the Plan. Also, by using the word "should", this section of the Plan once again recognizes the need for, and expressly allows, discretion in

the approval process to allow this size of lots after the right of way road expansion. The same is true with the phrase "in most instances", which again provides discretion in the final lot sizes to address unique situations such as the loss of area due to the Black Forest Road ROW road expansion.

Furthermore, the Plan in Chapter II, Land Use, also indicates that as of 1985, a full 36% of the land area under the Plan was comprised of lots that were smaller than 5 acres in size. That means that the lots that are the subject of this Application are by no means at all unusual in size as nearly one in four lots in the planning area are already under 5 acres in size. Therefore, approval of these lots will not be setting any new precedent that can be viewed as harmful as they are in fact consistent with the Plan.

Nor will these lots be out of character for the area. There are in fact already quite a number of lots in very close proximity to the subject property that are similar in size and in many cases quite a bit smaller. The Applicant attached an exhibit identifying the lots, their size and their proximity to the subject property. That shows that within just 1,000 feet of this site there are 3 lots ranging in size from 1.76 to 2.88 acres. Within just 1,500 feet of this site (about a quarter mile) there are 9 lots ranging in size from a small 32,234 s.f. (.74 acre lot) to 2.88 acres. Within 2,500 feet of the site there are 19 lots ranging in size from a tiny 10,000 s.f. (.23 acre lot) to 2.88 acres. All told, within a mile there are at least 34 other lots that are under 5 acres in size, excluding the Brentwood county club and cabin site lots.

If the Brentwood county club and cabin site lots are included the number of lots that are under 5 acres in size within a half mile of the subject property jumps significantly. The Applicant acknowledges that the Brentwood lots are from a filing made in 1929 and are not at all representative of current thinking on lot sizes nor the Plan. However, they are located very close to the subject property and so are in fact an important consideration due to the proximity of those very small lots to the property in this request as it shows these two resulting lots, even after the Black Forest ROW road expansion, are consistent with, or larger than, a significant number of lots within a small radius.

Also, the fact that the subject property is located on Black Forest Road favors approval as the new properties will be abutting a main traffic corridor on one side and so will have less impact on the properties located on the other side of Black Forest Road. These lots will have 2.35 acres of useable space after the right of way is deducted from them. That is still very close to the 2.5 acre objective sought in the Plan. And, all other lots on both sides of Black Forest Road will have their size reduced through no fault of those owners either, once the right of way is increased to its full width. The right of way reduction from the road expansion should not be held against the Applicant.

The Applicant believes that the approval of this request will not be detrimental to the adjoining properties or the neighborhood in general. While the reestablishment of the original lot configuration will minimally increase development density over the current configuration, if approved, the two lot configuration will result in density that is exactly equal to the initial platted configuration. And, there will be no appreciable increase in traffic as the Applicant is seeking approval for a single family residence which will generate minimal daily vehicle trips and so the trip count from the reestablished lots will be no more than was originally envisioned when the plat was initially approved. Therefore, the reestablishment of the original platting will not have any meaningful detrimental effect on the adjoining properties.

5. Existing and Proposed Facilities, Structures, Roads:

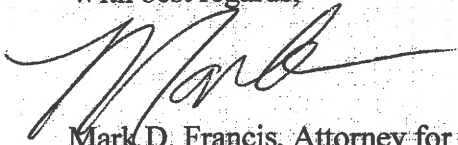
This is currently a vacant lot with no existing facilities or structures. If this request is approved, two new residential units are proposed to be constructed on the properties and the density will be identical to the initially platted properties, 1 unit on each 2.5 acre parcel (2.35 acre parcels after the ROW expansion of Black Forest Road). The proposed structures, single-family homes, will be consistent with the surrounding properties. The roads accessing the properties are public roads that already exist. The reestablished Lot 7 will have access from Black Forest Road if, and only so long as, such access is allowed, and the reestablished Lot 6 will have access from the existing Jicarilla Drive. Lot 7 will also have access from the existing Jicarilla Drive.

6. Waiver Requests:

The Applicant is not making any requests for waivers unless one is required to secure the approval in light of the application of the Black Forest Preservation Plan to this property and unless one is required for initial access onto Black Forest Road.

7. Vicinity Map – Please see attached.

With best regards,



Mark D. Francis, Attorney for Applicant

Enclosures: Drawing from Rocky Mountain Land Services dated December 19, 2018, Exhibit of Similar or Smaller Properties, Vicinity Map

REQUEST TO REINSTATE AN INTERIOR LOT LINE

13980 BLACK FOREST ROAD
 LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION
 EL PASO COUNTY, COLORADO

AS CURRENTLY PLATTED:

ANDREW AND HEATHER AUSTIN
 52050-00-062
 3251 POUCHKOPFSE
 COLORADO SPRINGS, CO 80918

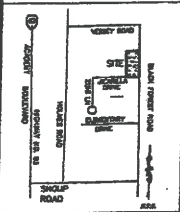
PATRICK A. MENKLOTZ
 52090-01-003
 9055 SMOKE TREE ROAD
 PHELAN, CA 92371

LOT 7, BLOCK 1 APACHE WOODS SUBDIVISION
 REVISED IN BOOK 5883, PG. 813.

PATRICK E. HOFFEL
 52053-04-001
 13970 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

HANEL FAMILY LIVING TRUST
 52053-04-002
 13950 WYANDOT DRIVE
 COLORADO SPRINGS, CO 80908

VICINITY MAP



JICARILLA DRIVE
 60' public right of way

PATRICK S. NICHOLS
 52050-03-019
 6775 JICARILLA DRIVE
 COLORADO SPRINGS, CO 80908

TO BE REINSTATED AS:

LOT 7, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

13980 BLACK FOREST ROAD

LOT 6, BLOCK 1, APACHE WOODS SUB.
 2.50 ACRES
 future net area=2.35 acres

6770 JICARILLA DRIVE

ADDRESS:

13980 BLACK FOREST ROAD
 COLORADO SPRINGS, COLORADO 80908

6770 JICARILLA DRIVE
 COLORADO SPRINGS, COLORADO 80908

OWNER/APPLICANT:

MARVIN GOEBEL/GOEBEL CONSTRUCTION, INC.
 6840 BRENTWOOD DRIVE
 COLORADO SPRINGS, COLORADO 80908
 719-650-8586

LOT AREA:

5.00 ACRES, 217,794 SF +/-

LEGAL DESCRIPTION

LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION AS REVISED BY BOOK 5883 AT PAGE 813, RECORDS OF EL PASO COUNTY, COLORADO.

ZONING:

RT 5

ASSESSORS SCHEDULE NUMBER

52090-01-006

PCD FILE NO. BOA 88

ROCKY MOUNTAIN LAND SERVICES
 4416 HERRINGBONE DRIVE SUITE 303
 COLORADO SPRINGS, COLORADO 80907
 719-430-0550

0' 50' 100'

SCALE: 1" = 50'
 JOB NO. 39043
 DECEMBER 19, 2018

**Exhibit of Similar or Smaller Properties in Close Proximity to the Subject Property
By Distance from Property**

<u>Address</u>	<u>Size</u>	<u>Approximate Distance From Subject Parcel at 13980 Black Forest Road</u>
14090 Black Forest Road	1.76 acres	500 feet
14130 Black Forest Road	2.70 acres	750 feet
13725 Highline Drive	2.88 acres	1000 feet
14275 Vessey Circle	2.68 acres	1250
14475 Vessey Circle	1.09 acres	1250
6680 Vessey Road	33,944 sf	1250
6750 Vessey Road	32,234 sf	1250
14320 Vessey Circle	1.49 acres	1500
14445 Vessey Circle	43,360 sf	1500
14330 Vessey Circle	1.29 acres	1750
13395 Black Forest Road	10,000 sf	2000
6825 Swan Road	1.66 acres	2000
14355 Vessey Circle	14,401 sf	2000
14375 Vessey Circle	31,950 sf	2000
14415 Vessey Circle	30,928 sf	2000
13405 Black Forest Road	40,000 sf	2250
13435 Black Forest Road	1.84 acres	2250
14395 Black Forest Road	1.22 acres	2500
6150 Coolwell Drive	2.64 acres	2500
6285 Vessey Road	21,450 sf	2750
6360 Coolwell Drive	3.51 acres	3000
14160 Neva Lane	1.29 acres	3250
14165 Neva Lane	1.51 acres	3250
14175 Neva Lane	1.19 acres	3250
14180 Neva Lane	1.01 acres	3250
6085 Vessey Road	42,689 sf	3250
6145 Vessey Road	21,450 sf	3250

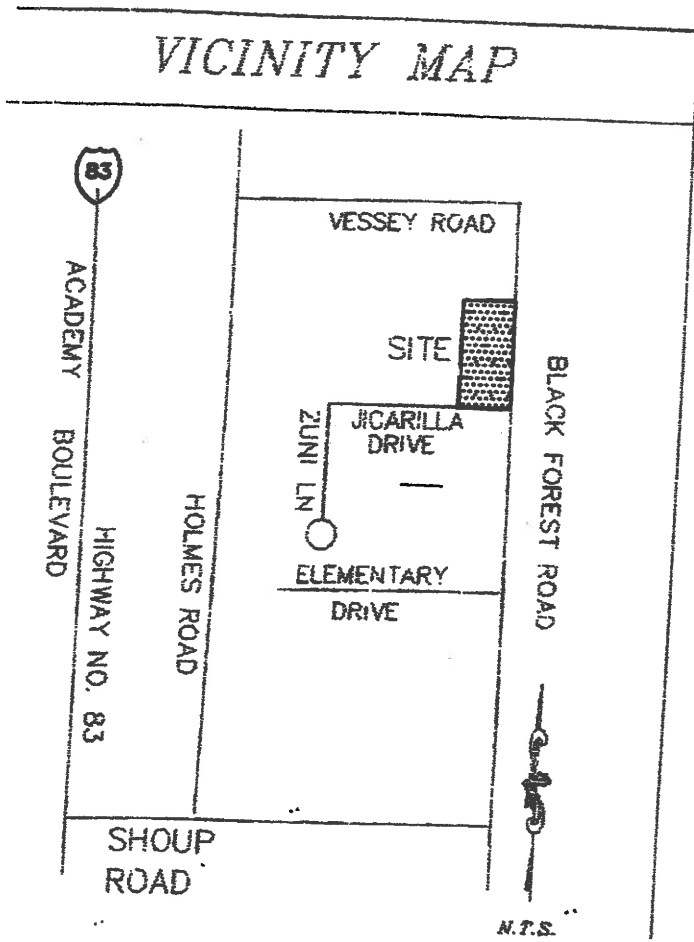
6015 Vessey Road	42,900 sf	3500
6055 Vessey Road	42,698 sf	3500
5910 Holmes Lane	38,478 sf	4500
14025 Holmes Rd	1.88 acres	4750
5915 Vessey Road	20,227 sf	5000
5835 Vessey Road	33,590 sf	5250
5875 Vessey Road	20,227 sf	5250

Brentwood Country Club starting approx 2000 feet from the property away with over 100 small lots. For example:

13235 Black Forest Road	20,000 sf
13265 Black Forest Road	21,501 sf
13280 Pine Drive	10,800 sf
Lola Mae Street	11,336 sf
6850 Beulah	20,000 sf
6870 Beulah	20,000 sf
6875 Juanita Street	22,263 sf
Gladys Street	10,000 sf
Gladys Street	10,921 sf

EA 18248

Letter of Intent for Board of Adjustment Application concerning 13980 Black Forest Road



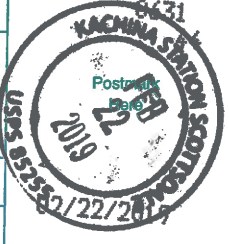
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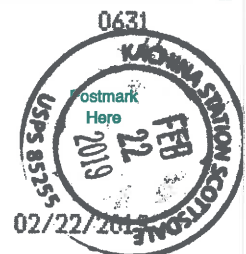
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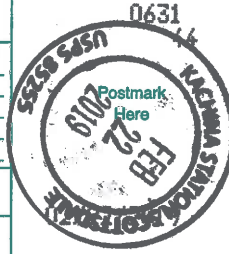
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