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PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
 Thomas Bailey, Chair

FROM: Kylie Bagley, Planner III
 Edward Schoenheit, Engineer I
 Meggan Herington, AICP, Executive Director

RE: Project File Number: MS228
 Project Name: Ivilo Minor Subdivision
 Parcel Number: 52060-00-065

OWNER:	REPRESENTATIVE:
Pawel Posorski 9533 Newport Court Colorado Springs, CO 80920	SMH Consultants Brett Louk 411 S Tejon St., Suite I Colorado Springs, CO 80903

Commissioner District: 1

Planning Commission Hearing Date:	7/6/2023
Board of County Commissioners Hearing Date:	8/1/2023

EXECUTIVE SUMMARY

A request by Pawel Posorski for approval of a 14-acre Minor Subdivision illustrating three single-family lots. The property is zoned RR-2.5 (Residential Rural) and is located 0.37 miles west of the intersection of Vessey Road and Black Forest Road and 0.15 miles south of the intersection of Vessey Road and Pine Crest Drive.

A. WAIVERS/DEVIATIONS/AUTHORIZATION

Waiver(s)/Deviation(s): The applicant is requesting a waiver from Section 8.4.4.E of the Land Development Code. Lots shall have a minimum of 30 feet of frontage on and

have access from a public road, except where private roads are approved by the BoCC pursuant to waiver granted under Section 8.4.4 (E).

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

B. APPROVAL CRITERIA

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

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
- The subdivision is consistent with the purposes of the Land Development Code.
- The subdivision is in conformance with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analysis, studies, reports, plans, designs, documents, and other supporting materials.
- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code.
- A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of the Code.
- All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)].
- Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual (“ECM”) are provided by the design.
- The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development.

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- Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County and in compliance with the Code and the ECM.
- The proposed subdivision has established an adequate level of compatibility by
 - (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision;
 - (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost-effective delivery of other services consistent with adopted plans, policies and regulations of the County;
 - (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses;
 - (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and
 - (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.
- Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.
- The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.
- The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.
- Off-site impacts were evaluated, and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code.
- Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.
- The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. § 34-1-302(1), et seq.].



C. LOCATION

North:	RR-5 (Residential Rural)	Single Dwelling Residential
South:	RR-5 (Residential Rural)	Single Dwelling Residential
East:	RR-5 (Residential Rural)	Single Dwelling Residential
West:	RR-5 (Residential Rural)	Single Dwelling Residential

D. BACKGROUND

The subject property was initially zoned A-1 (Garden Home District) on September 20, 1965, when zoning was first initiated in this part of the County. Due to nomenclature changes, the zoning district was renamed RR-5 (Residential Rural).

The applicant is proposing a three-lot subdivision with each lot being 4 acres or greater. The subject property was rezoned by the Board of County Commissioners on June 20, 2023, from RR-5 to RR-2.5 with a condition that any further subdivision of the subject property have a minimum lot size of 4 acres.

E. ANALYSIS

1. Land Development Code Compliance

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

2. Zoning Compliance

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

- Minimum lot size: 2.5 acres
- Minimum width at the front setback line: 200 feet
- Minimum setback requirement: front 25 feet, rear 25 feet, side 15 feet³
- Maximum lot coverage: None
- Maximum height: 30 feet

³ *Agricultural stands shall be setback a minimum of 35 feet from all property lines.*



In order to initiate any new residential uses on the property, the subdivision will need to be approved and the applicant will need to obtain site plan approval for each future building site.

F. MASTER PLAN COMPLIANCE

The proposed Final Plat is consistent with the Master Plan analysis which was provided with the Map Amendment (rezone) application P-22-018 and approved by the BoCC on June 20, 2023.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

The Colorado Geologic Survey stated that the site does not contain any geologic hazards or unusual geotechnical constraints that would preclude the proposed 3-lot residential subdivision.

Colorado State Forest Service recommends that all forested acres be mitigated to reduce the risk of wildfire and that defensible space be created for each dwelling using the standards in the CSFS "Home Ignition Zone Guide" and that all wildfire mitigation be completed before or during dwelling construction.

2. Floodplain: The property is not located in a FEMA floodplain as determined by review of the Federal Insurance Rate Map. The parcel is located in Zone X, considered to be outside the 500-year floodplain and an area of minimal flood hazard.

3. Drainage and Erosion: The property is located within the Kettle Creek (FOMO3000) drainage basin, which is included in the El Paso County Drainage Basin Fee program. Drainage fees in the amount of \$8116.35 shall be paid at the time of plat recordation. No bridge fees apply in the Kettle Creek basin. A drainage report was submitted with the minor subdivision request. No adverse drainage impacts to downstream lots are expected with the proposed subdivision. No public improvements are required for this project. Water quality and detention facilities are not required due to the nature and size of the lots.

4. Transportation: Access to Lots 1-3 will be provided through a shared access easement and shared driveway that connects to Vessey Road which is classified as



a rural local road maintained by the County. Vessey Road is planned to be upgraded by 2040 to a Collector Road as detailed in the 2016 El Paso County Major Transportation Corridor Plan Update (MTCP).

The applicant will be required to obtain a new driveway access permit with the new shared driveway. A traffic memo was provided as part of the submittal. The proposed site will generate approximately 40 daily trips which will have a negligible impact on the surrounding road network. One (1) waiver is requested for Section 8.4.3.C.2.E of the LDC to allow lots that do not meet the required minimum lot frontage to a public roadway.

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471, as amended). Road impact fees shall be paid in full at the time of subsequent building permits if not paid at the time of final plat recordation.

H. SERVICES

1. Water

Sufficiency:

Quality: Sufficient

Quantity: Sufficient

Dependability: Sufficient

Attorney's summary:

Water will be provided by onsite wells. Based on the water demand of 3.0 acre-feet/year for the Ivilo Minor Subdivision and Augmentation Plan in Case No. 21CW3048 permitting withdrawals in that amount, the County's Attorney's Office recommends a finding of sufficient water quantity and dependability for the Ivilo Minor Subdivision.

2. Sanitation

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

3. Emergency Services

The property is within the Black Forest Fire Protection District. The District was sent a referral and has no comments regarding the proposed rezone.

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4. Utilities

Mountain View Electric Association (MVEA) will provide electrical service and Black Hills Energy will provide natural gas service. MVEA and Black Hills Energy were sent a referral for the rezone; MVEA and Black Hills Energy have no outstanding comments.

5. Metropolitan Districts

The subject property is not located within a metropolitan district.

6. Parks/Trails

The Park Advisory Board recommends that the Planning Commission and the Board of County Commissioners include the following conditions when considering and/or approving the Ivilo Minor Subdivision and Rezone:

- designate and provide to El Paso County a 25-foot-wide public trail easement along the south side of the dedicated right of way for Vessey Road that allows for the construction and maintenance by El Paso County of the Palmer Divide Regional Trail, and
- dedicate the easement to El Paso County prior to the recording of the final plat.

The requested easement is depicted on the subdivision plat and will be dedicated as part of the plat recordation thus fulfilling the conditions of the Park Advisory Board.

Fees in lieu of park land dedication in the amount of \$1,380 for regional fees will be due at the time of recording the final plat.

7. Schools

Fees in lieu of school land dedication in the amount of \$918 shall be paid to El Paso County for the benefit of Academy School District No. 20 at the time of plat recording.

I. APPLICABLE RESOLUTIONS

See attached resolution.

J. STATUS OF MAJOR ISSUES

There are no major issues associated with this request.



K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2021) staff recommends the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
5. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
6. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be

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required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

7. Drainage fees in the amount of \$8,116.35 shall be paid for the Kettle Creek (FOMO3000) drainage basin at the time of plat recording.
8. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations as provided by the County Attorney's Office on September 27, 2022.

L. NOTATIONS

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

M. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified seventeen (17) adjoining property owners on June 13, 2023, for the Planning Commission and Board of County Commissioners meetings. Responses will be provided at the hearing.

N. ATTACHMENTS

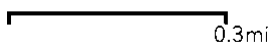
Map Series
Vicinity Map
Letter of Intent
Plat Drawing
State Engineer's Letter
County Attorney's Letter
Draft Resolution

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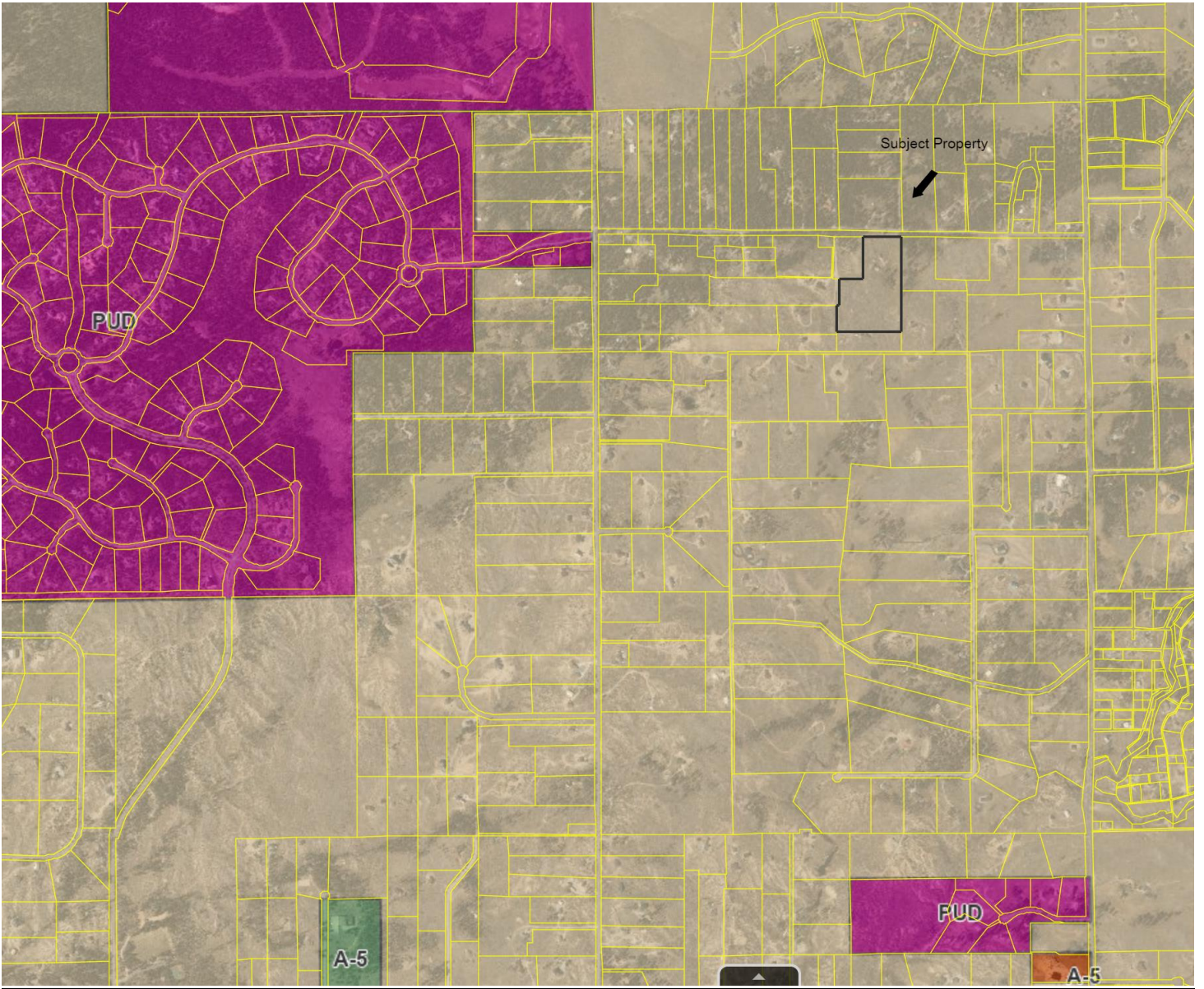


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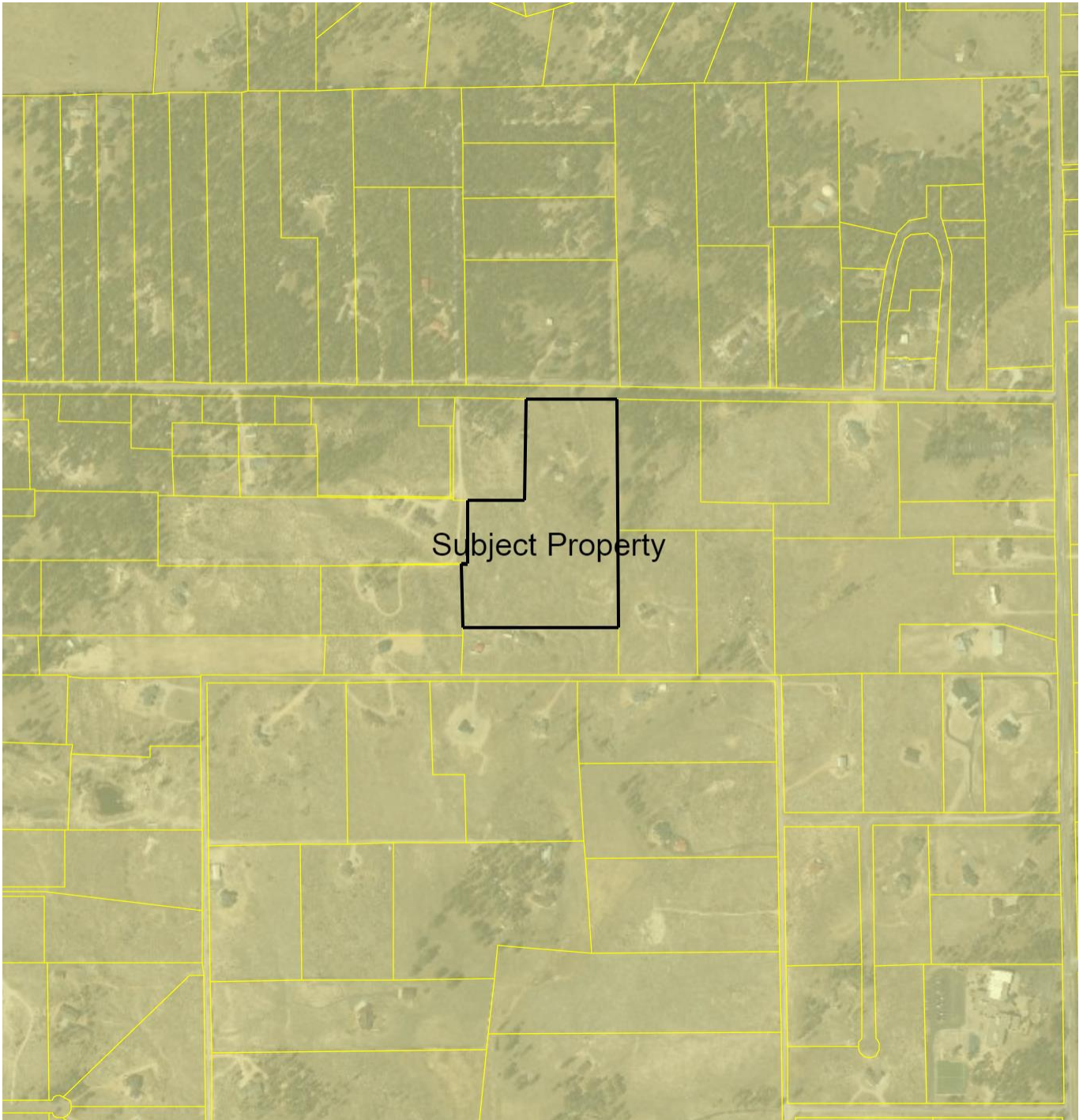
Map Exhibit #1: Aerial



Map Exhibit #2: Zoning















Map Exhibit #3: Placetype

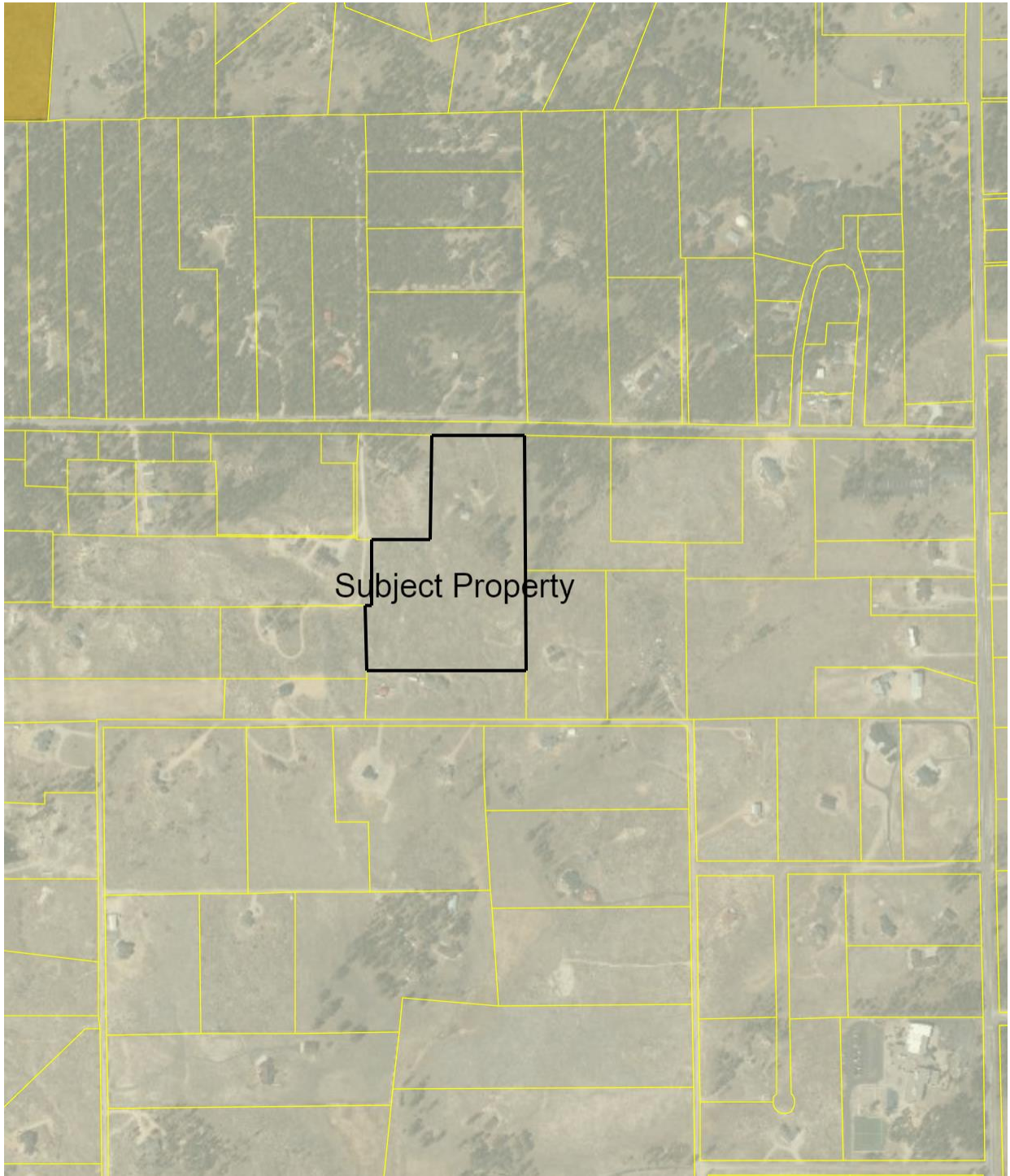


0.3mi






Legend

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

Map Exhibit #4: Area of Change



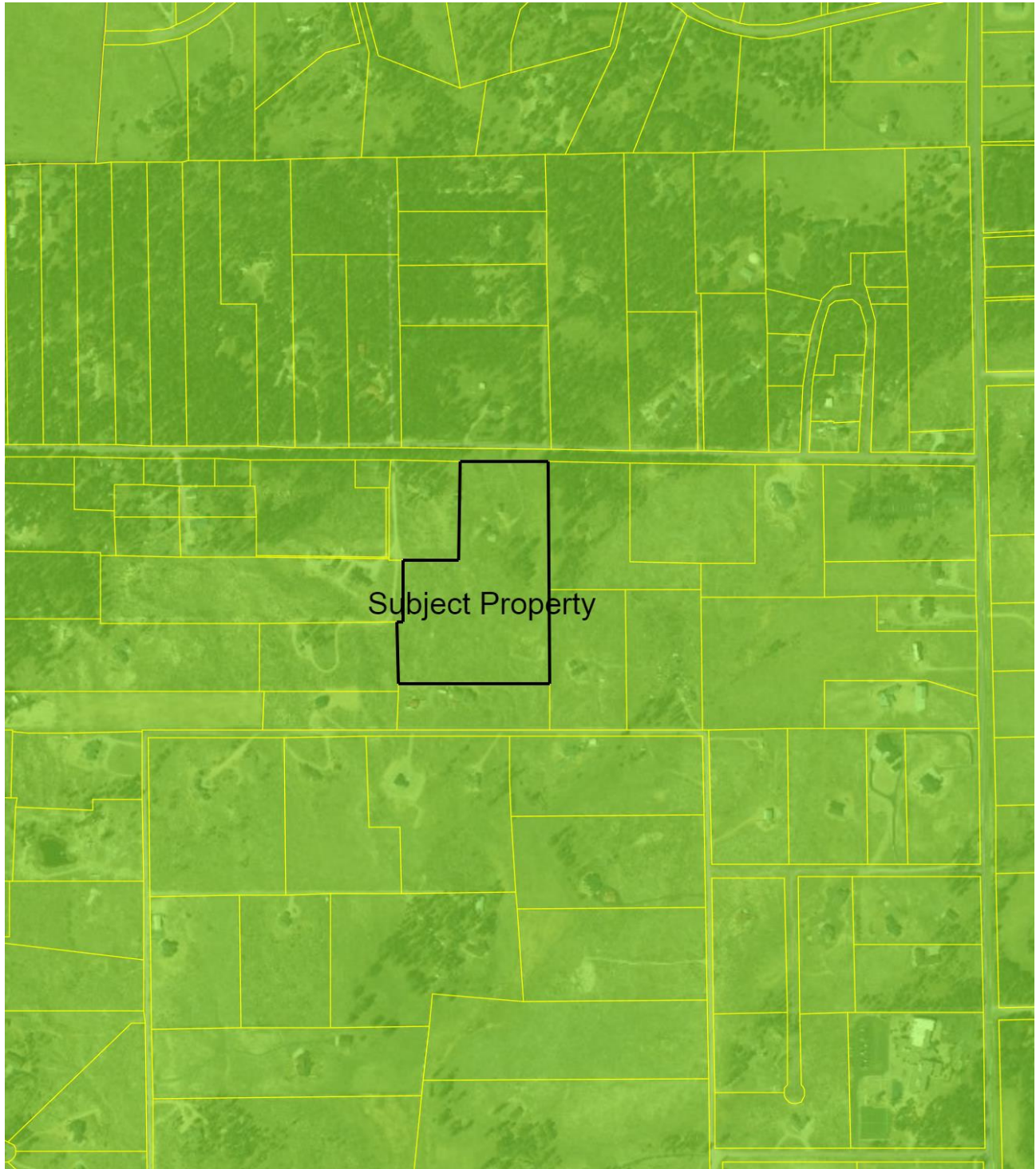
Legend

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













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Map Exhibit #4: Key Areas



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Legend

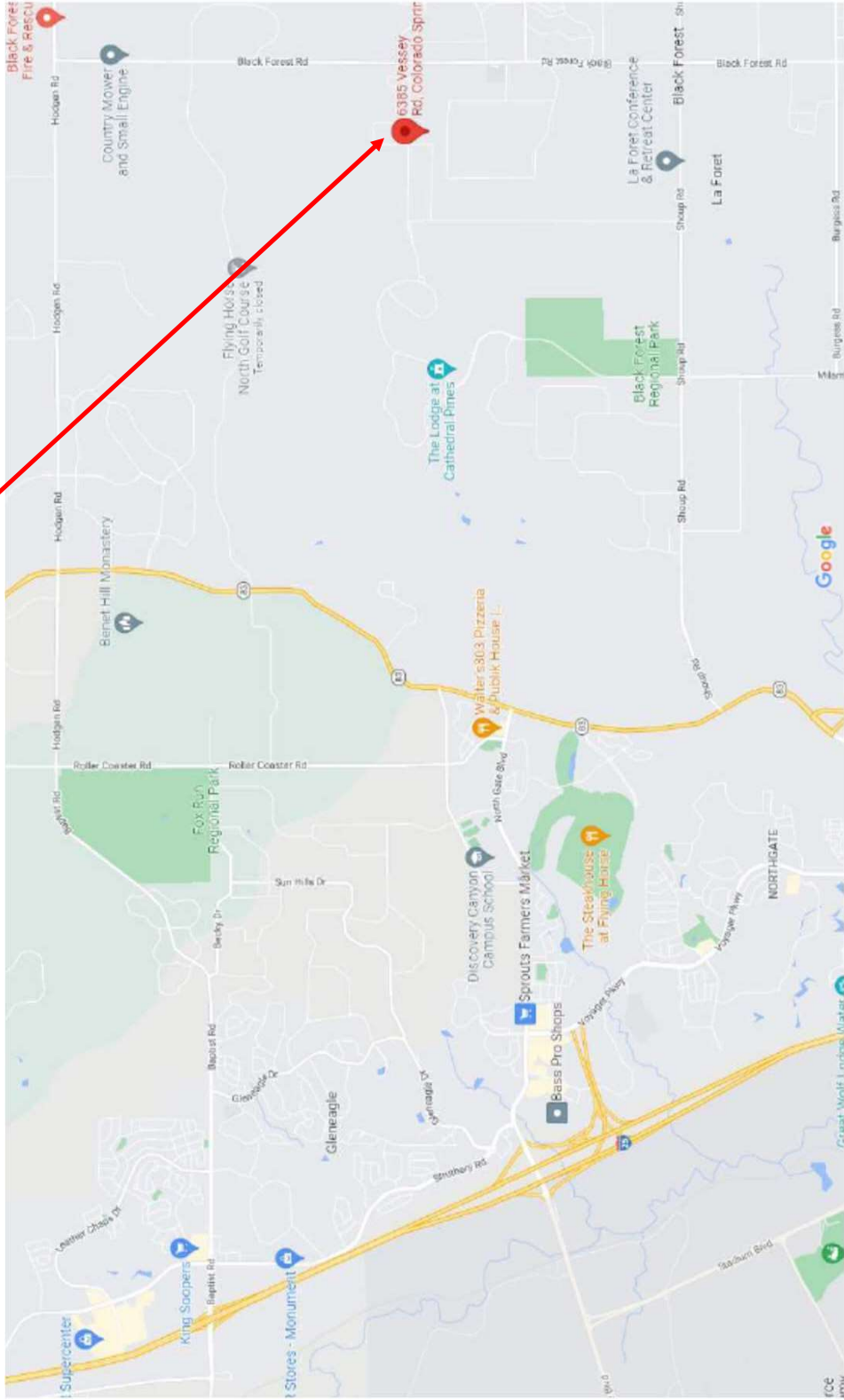
- | | |
|--|---|
|  Military Installations |  Forested Area |
|  Potential Areas for Annexation |  Pikes Peak Influence Area |
|  Enclaves or Near Enclaves |  Tri-Lakes Area |
|  Small Towns & Rural Communities |  Colorado Springs Airport/Peterson Field |
|  Fountain Creek Watershed Flood Control & Greenway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

Vicinity Map

Not to Scale



Project Site
Parcel ID#: 5206000065
6385 Vessey Rd Colorado Springs, CO 80908





February 8, 2023

Ryan Howser, Planner III
El Paso County Planning & Community Development
2880 International Circle, Suite 110
Colorado Springs, CO 80910

Re: PCD File #MS-22-08 Ivilo Minor Subdivision Letter of Intent

Dear Mr. Howser:

The property owner would like to request approval of a minor subdivision for 6385 Vessey Road, Colorado Springs, CO 80908. The parcel number is 5206000065. The site is currently zoned RR-5, but an application to rezone to RR-2.5 has been submitted to the County. Approval of the minor subdivision would allow the property to be subdivided into 3 single-family residential lots.

The approved minor subdivision would consist of three single family residential lots of the following sizes: Lot 1: 5.33 acres, Lot 2: 4.05 acres, and Lot 3: 4.53 acres. The proposed subdivision layout shown on the final plat meets the following criteria for approval of a final plat, as outlined in the El Paso County Land Development Code.

- This area is shown as Large-lot Residential Placetype in the El Paso County Master Plan adopted in 2021. Large-Lot Residential Placetype is defined in the Master Plan as single-family detached typically 2.5-acres or larger. The subdivision is proposing lots greater than 2.5-acres. The proposed subdivision is located in the Forested Key Area and an area of minimal change in the Areas of Change Section. Development in the Forested Key Area and Area of Minimal change allows for development of undeveloped land with minimal change to the prioritized rural and natural environments. The proposed subdivision meets this by proposing large-lot residential and maintaining large areas of undisturbed property to maintain the rural and natural environment. The proposed development fits within the 2040 Major Transportation Corridor Plan. Vessey Road is shown as being upgraded to a collector road by 2040. Sufficient right-of-way has been provided along the north property line of the proposed subdivision to accommodate the future improvements of Vessey Road. The proposed subdivision also fits within the Water Master Plan. The proposed subdivision will be served by individual wells. This is an acceptable method of providing water to a subdivision per the Water Master Plan.
- Minor subdivision is a process for smaller subdivisions in lieu of preliminary/final plat process.
- The proposed subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and survey requirements of the

County.

- The water rights and augmentation plan in place for the existing parcel are adequate to meet the needs of three (3) lots proposed for the subdivision on a 300-year basis. According to Water Court Decree Case Number 18CW3077, the property has water rights adjudicated in the Dawson Aquifer, the Denver Aquifer, the Arapahoe Aquifer, and the Laramie-Fox Hills Aquifer. The proposed water source for the development would be the Dawson Aquifer, for which the replacement plan contained in Water Court Decree Case Number 21CW3048 was prepared for (thus revising an existing plan for augmentation originally contained in Decree No. 18CW3035) allowing the property to set aside sufficient amounts from the Laramie-Fox Hills and Arapahoe groundwater to replace post-pumping depletions. Results from the water quality test have been submitted with the final plat application. These items satisfy the requirements outlined in Chapter 8 of the El Paso County Land Development Code.
- Individual lots within the proposed subdivision will be served by Onsite Wastewater Treatment Systems (OWTS), which complies with the requirements outlined in Chapter 8 of the El Paso County Land Development Code.
- A soils and geology report has been provided for the site and has been submitted with the final plat. Soil types found on the site include a mix of Type A, Type B and Type C materials as defined by OSHA. Geologic hazards found to be present at this site include faults/seismicity, radon, and ponding water, all of which can be mitigated through proper engineering, design, and construction practices. It was concluded that the proposed development is feasible.
- No drainage improvements have been proposed for the property. The proposed development is not anticipated to produce any adverse stormwater impacts to the surrounding properties.
- Access to the proposed subdivision will be via a new shared driveway off of Vessey Rd. The existing driveway off of Vessey Rd. will be relocated to the east. This new shared driveway will provide access to all three lots. Maintenance and use responsibilities for the shared driveway have been outlined in the Access Maintenance Agreement that has been submitted with the minor subdivision application.
- The proposed subdivision will generate approximately 9 trips in the A.M. peak hour, 4 trips in the P.M. peak hour and 40 daily trips. Per the El Paso Engineering Criteria Manual, a Traffic Impact Study is not required if daily vehicle trip is less than 100 or the peak hour trip generation is less than 10. A traffic memo has been provided.
- Necessary services including police and fire protection, recreation, utilities, and transportation systems are available to serve the proposed subdivision.
- A fire protection and wildfire mitigation report has been submitted with the final plat. The report outlines steps to be taken for fire protection and mitigation.
- There are no off-site improvements anticipated with the proposed subdivision.
- There are no public improvements proposed with this subdivision.
- There are no adverse impacts to public facilities or infrastructure from the proposed subdivision.
- The proposed subdivision meets all other applicable sections of Chapter 6 and 8

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Colorado Springs, CO 80903

PC Report Packet
Page 17 of 29

DODGE CITY

707 3rd Avenue, Suite A
Dodge City, KS 67801
P: 620-255-1952

MANHATTAN - HQ

2017 Vanesta Place, Suite 110
Manhattan, KS 66503
P: 785-776-0541

KANSAS CITY

5201 Johnson Dr., Suite 405
Mission, KS 66205
P: 913-444-9615

- of the El Paso County Land Development Code.
- The extraction of any known commercial mining deposit shall not be impeded by this subdivision.
 - The County's Road Impact Fee will be paid at the time of building permit for each individual lot.
 - On April 8, 2022 the applicant mailed notification letters to all adjacent property owners describing the proposed development.

Questions regarding the proposed minor subdivision can be directed to the following individuals:

Consultant

Brett Louk, P.E.
SMH Consultants
411 S. Tejon Street, Suite I
Colorado Springs, CO 80903
719-465-2145
blouk@smhconsultants.com

Owner

Pawel Posorski
6385 Vessey Road
Colorado Springs, CO 80908
630-302-7308
posorski@sbcglobal.net

The property owner would greatly appreciate your consideration of this request.

Sincerely,



Brett Louk, PE
SMH Consultants

Final Plat IVILO SUBDIVISION

PART OF THE NORTH 1/2, SECTION 6, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF
THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, Pawel Posorski, being the owner of the following described tract of land:

TO WIT (DEED DESCRIPTION):

That portion of the North Half of Section 6 in Township 12 South, Range 65 West of the 6th P.M., described as follows:

Commencing at the Northeast corner of said Section 6; thence South 0°27'18" East 1400.36 feet on the East line of said Section 6; thence West 2035.80 feet to the Point of Beginning of the tract to be described hereby; thence South 0°27'18" East 1095.03 feet to the Northeast corner of the tract secondly described in deed recorded in Book 1792 at Page 599 of the records of El Paso County, Colorado under Reception No. 145357; thence West 710.39 feet on the North line of said tract to the Northwest corner thereof; thence North 0°07'30" East to intersect the Southerly line of the tract described in deed to Blanche L. Hardesty recorded in Book 1792 at Page 597 of said records under Reception No. 145356; thence Easterly on the South line of said Hardesty tract 304 feet, more or less to the Southeast corner thereof; thence North 495 feet on the East line of said Hardesty tract to intersect a line drawn North 88°18' West from the Point of Beginning; thence South 88°18' East to the Point of Beginning, EXCEPT a right of way for road purposes over the most Northerly 30 feet and the Easterly 15 feet thereof and the extreme West 15 feet, County of El Paso, State of Colorado.

Subject to easements and restrictions of record.

TO WIT (SURVEYED DESCRIPTION):

That portion of the North Half of Section 6 in Township 12 South, Range 65 West of the 6th Principal Meridian, El Paso County, Colorado described as follows:

Beginning at a point that is S 00°27'18" E 1400.36 feet and N 89°55'58" W 2038.83 feet from the Northeast Corner of the North Half of said Section 6; thence S 00°26'10" E 1086.04 feet to a found 5/8" rebar; thence N 89°50'38" W 697.38 feet to a found 1/2" rebar; thence N 01°09'00" W 307.34 feet to a found 1/2" rebar with Surveyor's Cap, P.L.S. #37631; thence N 03°25'41" E 318.10 feet to the South Line of the Eric F. and Carol A. Morrow tract recorded in the El Paso County Clerk and Recorder's Office, Reception No. 20112554, and a found 1/2" iron pipe; thence S 88°40'09" E 303.22 feet to the Southeast Corner of the said Morrow tract and a found 3/4" pipe; thence N 02°10'23" W 467.62 feet to the Northeast Corner of the said Morrow tract and a found 1/2" pipe; thence S 89°51'34" E 390.85 feet to the point of beginning, containing 14.0 acres.

Subject to easements and restrictions of record.

DEDICATION:

The undersigned, being all the Owners, Mortgages, Beneficiaries of Deeds of Trust and holders of other interests in the land described herein, have laid out, subdivided, and platted said lands into lots, tracts, streets, and easements as shown hereon under the name and subdivision of "IVILO SUBDIVISION". All public improvements so platted are hereby dedicated to public use and said Owner does hereby covenant and agree that the public improvements will be constructed to El Paso County standards and that proper drainage and erosion control for some will be provided at said Owner's expense, all to the satisfaction of the Board of County Commissioners of El Paso County, Colorado. Upon acceptance by resolution, all public improvements so dedicated will become matters of maintenance by El Paso County, Colorado. The utility easements shown hereon are hereby dedicated for public utilities and communication systems and other purposes as shown hereon. The entities responsible for providing the services for which the easements are established are hereby granted the perpetual right of ingress and egress from and to adjacent properties for installation, maintenance, and replacement of utility lines and related facilities.

IN WITNESS WHEREOF:

The aforementioned PAWEL POSORSKI, has executed this instrument this _____ day of _____, 2022 A.D.

PAWEL POSORSKI

NOTARIAL:

STATE OF COLORADO)
COUNTY OF EL PASO) SS

The foregoing instrument was acknowledged before me this _____ day of _____, 2022 A.D. by PAWEL POSORSKI

Witness my hand and seal _____
Address _____

My Commission expires _____

BOARD OF COUNTY COMMISSIONERS CERTIFICATE:

This Plat IVILO SUBDIVISION was approved for filing by the El Paso County, Colorado Board of County Commissioners on the _____ day of _____, 2022, subject to any notes specified hereon and any conditions included in the resolution of approval. The dedications of land to the public streets and easements are accepted, but public improvements thereon will not become the maintenance responsibility of El Paso County until preliminary acceptance of the public improvements in accordance with the requirements of the Land Development Code and Engineering Criteria Manual, and the Subdivision Improvements Agreement.

Chair, Board of County Commissioners _____ Date _____

Director, Planning and Community Development Department _____ Date _____

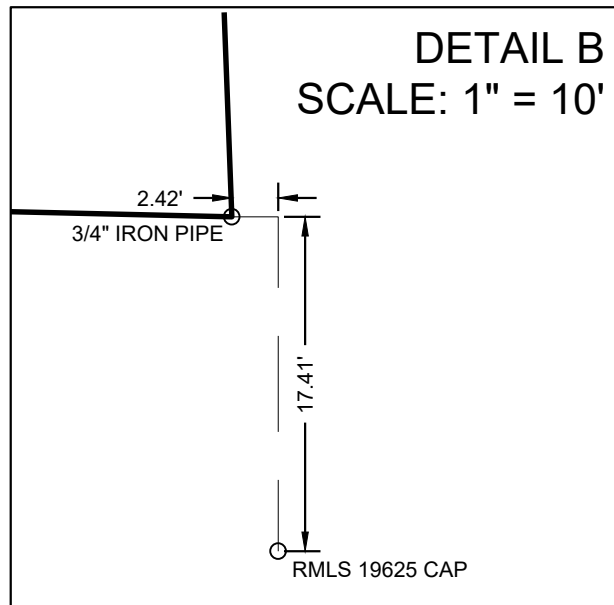
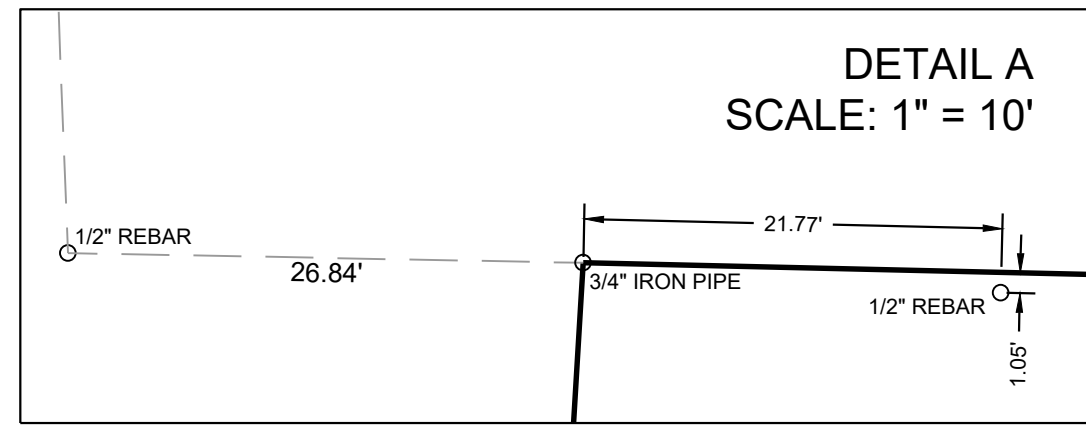
El Paso County Assessor _____ Date _____

RECORDINGS:

STATE OF COLORADO)
COUNTY OF EL PASO) SS

I hereby certify that this instrument was filed for record in my office at _____ o'clock _____ M. this _____ day of _____, 2022 A.D., and is duly recorded under Reception Number _____ of the records of El Paso County, State of Colorado.

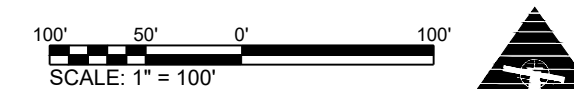
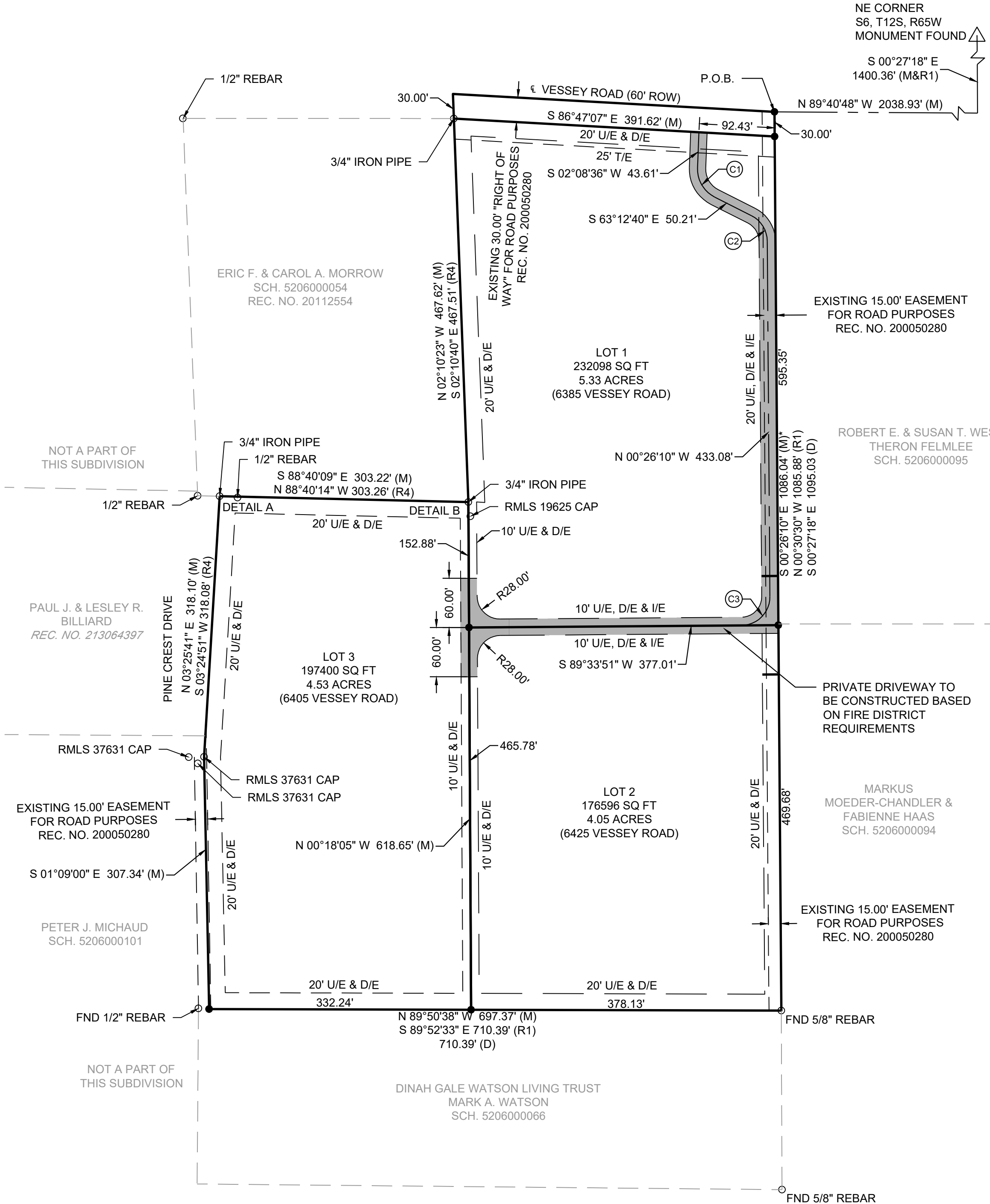
By: _____ Date _____
El Paso County Clerk and Recorder



ZONING DISTRICT	AREA	WIDTH (AT FRONT SETBACK LINE)	FRONT	REAR	SIDE	MAXIMUM LOT COVERAGE	MAXIMUM HEIGHT
RR-2.5	2.5 ACRES	200 FT	25 FT	25 FT	15 FT	NONE	30 FT

CENTERLINE CURVE DATA						
CURVE #	RADIUS	LENGTH	CHORD	DELTA	TANGENT	BEARING
C1	38.00	43.34	41.03	65°21'17"	24.37	S 30°32'02" E
C2	35.00	38.35	36.46	62°46'31"	21.35	N 31°49'25" W
C3	35.00	54.98	49.50	90°00'00"	35.00	N 44°33'51" E

- LEGEND**
- Monument Found (1/2" Rebar).
 - Origin unknown unless otherwise noted
 - ▲ Section Corner, NOTE: All section corner monument origins are unknown unless otherwise noted.
 - * Assumed Bearing
 - (C) Calculated Dimension
 - (M) Measured Dimension
 - (R1) Recorded Dimension - Land Survey Plat by Rocky Mountain Land Services dated December 14, 2015
 - (R4) Recorded Dimension - Land Survey Plat by Crossed Paths Surveying Services dated June 28, 2022
 - IE Ingress/Egress Easement
 - Ingress/Egress Easement Hatch
 - U/E Utility Easement
 - D/E Drainage Easement
 - T/E Trail Easement



DATE SUBMITTED: 11/28/2022
REVISIONS:

TOTAL ACRES:
LOT 1 = 5.33 ACRES
LOT 2 = 4.05 ACRES
LOT 3 = 4.53 ACRES
VESSEY ROW = 0.27 ACRES
TOTAL = 14.18 ACRES

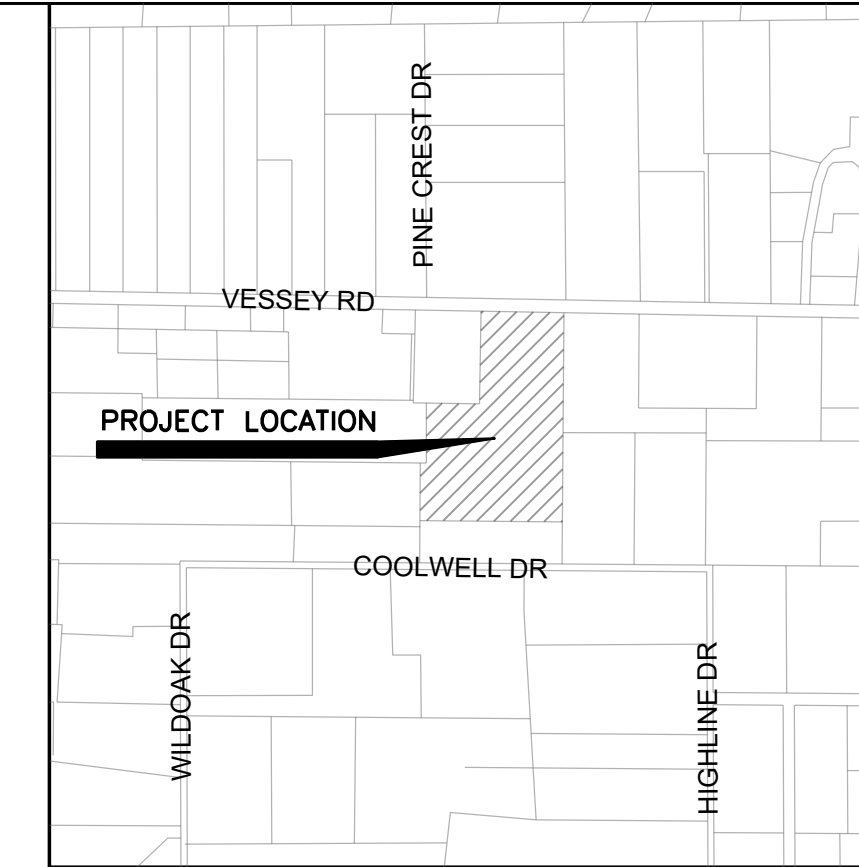
SERVICE PROVIDERS:
BLACK FOREST FIRE PROTECTION DISTRICT
MOUNTAIN VIEW ELECTRIC ASSOC.
BLACK HILLS ENERGY
DOMESTIC WELLS
INDIVIDUAL SEWAGE DISPOSAL SYSTEMS

FEES:
PARK FEE: \$1380.00
SCHOOL FEE: \$612.00
SURCHARGE: _____
FEE: _____
DRAINAGE FEE: _____

OWNER:
PAWEL POSORSKI
6385 VESSEY ROAD
COLORADO SPRINGS, CO 80908
630-302-7308

SURVEYOR:
TIM SLOAN, VICE-PRESIDENT
SMH CONSULTANTS, P.A.
411 SOUTH TEJON STREET, SUITE 1
COLORADO SPRINGS, CO 80903
719-465-2145

ENGINEER:
BRETT LOUK
SMH CONSULTANTS, P.A.
411 SOUTH TEJON STREET, SUITE 1
COLORADO SPRINGS, CO 80903
719-465-2145



VICINITY MAP (NOT TO SCALE)

NOTES:

- NO GAPS OR OVERLAPS EXIST.
- THERE ARE NO LINES OF POSSESSION THAT AFFECT THIS SURVEY.
- PARENT TRACT IS RECORDED AS INSTRUMENT #219139271, CLERK & RECORDER'S OFFICE, EL PASO COUNTY, COLORADO.
- ALL BUILDING SETBACK REQUIREMENTS SHALL BE DETERMINED BY THE ZONING DISTRICT, UNLESS OTHERWISE NOTED.
- THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY SMH CONSULTANTS, TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD FOR INFORMATION REGARDING EASEMENTS, AND RIGHT OF WAY, SMH CONSULTANTS RELIED UPON THE TITLE POLICY PREPARED BY STEWART TITLE COMPANY DBA LEGACY TITLE, DATED AUGUST 19, 2022.
- BASIS OF BEARINGS IS THE EAST LINE OF SECTION 6, TOWNSHIP 12 SOUTH, RANGE 65 WEST, MONUMENTED AS SHOWN AND ASSUMED TO BEAR SOUTH 00 DEGREES 27 MINUTES 18 SECONDS EAST, 1400.36 FEET.
- SEWAGE TREATMENT IS THE RESPONSIBILITY OF EACH INDIVIDUAL PROPERTY OWNER. THE EL PASO COUNTY PUBLIC HEALTH DEPARTMENT MUST APPROVE EACH SYSTEM AND, IN SOME CASES, THE DEPARTMENT MAY REQUIRE AN ENGINEER-DESIGNED SYSTEM PRIOR TO PERMITTING APPROVAL.
- INDIVIDUAL WELLS ARE THE RESPONSIBILITY OF EACH PROPERTY OWNER. PERMITS FOR INDIVIDUAL WELLS MUST BE OBTAINED FROM THE STATE ENGINEER WHO BY LAW HAS THE AUTHORITY TO SET CONDITIONS FOR THE ISSUANCE OF THESE PERMITS.
- WATER IN THE DENVER WATER BASIN AQUIFERS IS ALLOCATED BASED ON A 100-YEAR AQUIFER LIFE; HOWEVER, FOR EL PASO COUNTY PLANNING PURPOSES, WATER IN THE DENVER BASIN AQUIFERS IS ELEVATED BASED ON A 30-YEAR AQUIFER LIFE. APPLICANTS, THE HOME OWNERS ASSOCIATION, AND ALL FUTURE OWNERS IN THE SUBDIVISION SHOULD BE AWARE THAT THE ECONOMIC LIFE OF A WATER SUPPLY BASED ON WELLS IN A GIVEN DENVER BASIN AQUIFER MAY BE LESS THAN EITHER THE 100 YEARS OR 300 YEARS INDICATED DUE TO ANTICIPATED WATER LEVEL DECLINES. FURTHERMORE, THE WATER SUPPLY PLAN SHOULD NOT RELY SOLELY UPON NON-RENEWABLE AQUIFERS. ALTERNATIVE RENEWABLE WATER RESOURCES SHOULD BE ACQUIRED AND INCORPORATED IN A PERMANENT WATER SUPPLY PLAN THAT PROVIDES FUTURE GENERATIONS WITH A WATER SUPPLY.
- THE OWNER, ITS SUCCESSORS AND ASSIGNS SHALL ADVISE THE FUTURE OWNERS OF THESE LOTS OF ALL APPLICABLE REQUIREMENTS OF THE DETERMINATION OF WATER RIGHT 21CW3048 RECORDED AT RECEPTION NO. 222037346.
- ALL PROPERTY OWNERS ARE RESPONSIBLE FOR MAINTAINING PROPER STORMWATER DRAINAGE IN AND THROUGH THEIR PROPERTY. PUBLIC DRAINAGE EASEMENTS AS SPECIFICALLY NOTED ON THE PLAT SHALL BE MAINTAINED BY THE INDIVIDUAL LOT OWNERS UNLESS OTHERWISE INDICATED. STRUCTURES, FENCES, MATERIALS OR LANDSCAPING THAT COULD IMPEDE THE FLOW OF RUNOFF SHALL NOT BE PLACED IN DRAINAGE EASEMENTS.
- DUE TO WILDFIRE CONCERNS, THE PROPERTY OWNER IS ENCOURAGED TO INCORPORATE WILDFIRE FUEL BREAK PROVISIONS AS RECOMMENDED BY THE COLORADO STATE FOREST SERVICE AND ILLUSTRATED THROUGH PUBLICATIONS AVAILABLE THROUGH THE STATE FOREST SERVICE.
- ACCESS TO LOTS 1, 2 & 3 SHALL BE THROUGH THE SHOWN INGRESS/EGRESS EASEMENT. THE RESPONSIBILITY AND MAINTENANCE OF SAID EASEMENT IS SUBJECT TO THE MAINTENANCE AGREEMENT AND ALL COVENANTS AND RESTRICTIONS CONTAINED THEREIN, RECORDED AT RECEPTION NO. _____ OF THE RECORDS OF EL PASO COUNTY CLERK AND RECORDER.
- NO DRIVEWAY SHALL BE ESTABLISHED UNLESS AN ACCESS PERMIT HAS BEEN GRANTED BY EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT. INDIVIDUAL LOT OWNERS ARE RESPONSIBLE FOR CONSTRUCTING DRIVEWAYS, INCLUDING NECESSARY DRAINAGE CULVERTS FROM VESSEY ROAD PER LAND DEVELOPMENT CODE SECTION 6.3.3.C.2 AND 6.3.3.C.3.
- DUE TO THEIR LENGTH, SOME OF THE DRIVEWAYS WILL NEED TO BE SPECIFICALLY APPROVED BY THE BLACK FOREST FIRE PROTECTION DISTRICT.
- NO STRUCTURES OR MAJOR MATERIAL STORAGE ACTIVITIES ARE PERMITTED WITHIN THE DESIGNATED DRAINAGE EASEMENTS, EXCEPT FENCES. FENCES SHALL NOT IMPEDE RUNOFF FROM REACHING DRAINAGE SWALES.
- THE SUBDIVIDER(S) AGREES ON BEHALF OF HIM/HERSELF AND ANY DEVELOPER OR BUILDER SUCCESSORS AND ASSIGNEES THAT SUBDIVIDER AND/OR SAID SUCCESSORS AND ASSIGNS WILL BE REQUIRED TO PAY TRAFFIC IMPACT FEES IN ACCORDANCE WITH EL PASO COUNTY ROAD IMPACT FEE PROGRAM RESOLUTION (RESOLUTION NO. 19-471), OR ANY AMENDMENTS THERETO, AT OR PRIOR TO THE TIME OF BUILDING PERMIT SUBMITTALS. THE FEE OBLIGATION, IF NOT PAID AT FINAL PLAT RECORDING, SHALL BE DOCUMENTED ON ALL SALES DOCUMENTS AND PLAT NOTES TO ENSURE THAT A TITLE SEARCH WOULD FIND THE FEE OBLIGATION BEFORE SALE OF THE PROPERTY.
- MAILBOXES SHALL BE INSTALLED IN ACCORDANCE WITH ALL EL PASO COUNTY DEPARTMENT OF TRANSPORTATION AND THE UNITED STATES POSTAL SERVICE REGULATIONS.
- THE FOLLOWING REPORTS HAVE BEEN SUBMITTED IN ASSOCIATION WITH THE FINAL PLAT FOR THIS SUBDIVISION AND ARE ON FILE AT THE COUNTY DEVELOPMENT SERVICE DEPARTMENT: DRAINAGE REPORT, WATER RESOURCES REPORT, WASTEWATER DISPOSAL REPORT, GEOLOGY AND SOILS REPORT, FIRE PROTECTION REPORT, AND TRAFFIC MEMO.
- THE ADDRESSES EXHIBITED ON THIS PLAT ARE FOR INFORMATIONAL PURPOSES ONLY. THEY ARE NOT THE LEGAL DESCRIPTION AND ARE SUBJECT TO CHANGE.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACTS ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO C.R.S. § 18-4-508.
- SEWAGE TREATMENT IS THE RESPONSIBILITY OF EACH INDIVIDUAL PROPERTY OWNER. THE EL PASO COUNTY DEPARTMENT OF HEALTH AND ENVIRONMENT MUST APPROVE EACH SYSTEM, AND IN SOME CASES, THE DEPARTMENT MAY REQUIRE AN ENGINEER-DESIGNED SYSTEM PRIOR TO PERMIT APPROVAL. THESE SYSTEMS MAY COST MORE TO DESIGN, INSTALL, AND MAINTAIN.
- A LOT-SPECIFIC SUBSURFACE SOIL INVESTIGATION WILL BE REQUIRED FOR ALL PROPOSED STRUCTURES INCLUDING (BUT NOT LIMITED TO) RESIDENCES, RETAINING WALLS ETC. NO BASEMENTS OR INHABITABLE BELOW-GRADE AREAS ARE ALLOWED UNLESS GROUNDWATER MONITORING (THROUGH THE ANNUAL SEASONAL FLUCTUATIONS) BEFORE CONSTRUCTION DEMONSTRATES THAT BELOW-GRADE AREAS CAN MAINTAIN 3-5 FEET BETWEEN THE BOTTOM OF THE FOUNDATION AND THE GROUNDWATER, OR SITE GRADING INDICATES THAT IT WILL MITIGATE THE DEPTH TO GROUNDWATER.
- ALL LOTS ARE SUBJECT TO DECLARATION OF COVENANTS AND WATER COVENANTS AS RECORDED AT RECEPTION NO. _____ OF THE RECORDS OF EL PASO COUNTY CLERK AND RECORDER.
- FUTURE OWNERS OF LOTS 2 AND 3 SHALL SUBMIT AN ENGINEERED SITE PLAN AT TIME OF BUILDING PERMIT. ENGINEERED SITE PLAN SHALL DEPICT LOCATION OF PROPOSED HOUSE, DRIVEWAY, AND ANY CULVERTS NECESSARY BASED ON HOUSE AND DRIVEWAY LOCATION.
- FUTURE OWNERS OF LOTS 1, 2, AND 3 ARE RESPONSIBLE FOR OBTAINING A WETLANDS DETERMINATION, AND 404 PERMIT IF REQUIRED FROM THE U.S. CORPS OF ENGINEERS AT TIME OF BUILDING PERMIT.



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Overland Park, KS P: (913) 444-9615 • Colorado Springs, CO P: (719) 465-2145
Survey Prepared September 15, 2021

Drawn By: JTH Project #2107-0301 DD #1DS86 PCD File #MS-22-08

MARCH 2023



September 21, 2022

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

RE: Ivilo Minor Subdivision
 Part of the SW ¼ of the NE ¼ and the SE ¼ of the NW ¼, Section 6, T12S, R65W, 6th P.M.
 Water Division 1, Water District 8

Dear Matthew Fitzsimmons,

We have reviewed the submittal documents related to Ivilo Minor Subdivision, concerning the above referenced proposal to subdivide a 13.84 acre parcel into three single-family residential lots of 5.4 acres (Lot 1), 4.1 acres (Lot 2), and 4.6 acres (Lot 3). This office previously provided comments to a proposed subdivision for the same 13.84 acre property by our letter dated August 27, 2019, when the proposal was to subdivide the 13.84 acre parcel into two lots.

Water Supply Demand

Based on the water supply information summary and the March 2022 Water Resource Report from JDS-Hydro Consultants Inc. (“Report”) the estimated annual water requirements totals 0.78 acre-feet for in-house use (0.26 acre-feet/lot), 1.868 acre-feet for irrigation of up to 11,000 square-feet per lot (0.0566 acre-feet/1,000 square-feet) and 0.33 acre-feet for the watering of 30 horses (10 horses/lot assuming 0.011 acre-feet/horse). The total annual demand for the subdivision would be 3.0 acre-feet.

Source of Water Supply

The proposed water source is individual on lot wells constructed in the Dawson aquifer operating pursuant to the decreed augmentation plan in consolidated case nos. 2018CW3077 (Division 1) and 2018CW3035 (Division 2) amended by case no. 21CW3048 (Division 2). The decree consolidated case nos. 2018CW3077 (Division 1) and 2018CW3035 (Division 2) quantified the amount of water underlying the subject 13.84 acre parcel. The following amounts of water were determined to be available underlying the 13.84-acre parcel:

Aquifer	Annual amount available for 13.84 acre parcel (acre-feet)		Type
	Based on 100 year allocation approach	Based on 300 year allocation approach	
Dawson	11.6	3.87	Not-Nontributary
Denver	11.6	3.87	Not-Nontributary 4%
Arapahoe	5.53	1.84	Nontributary
Laramie-Fox Hills	3.84	1.28	Nontributary



The decreed augmentation plan in the amended case no. 21CW3048 allows for the total annual withdrawal of 3.0 acre-feet (1 acre-foot/year/lot) from the not nontributary Dawson aquifer, based on a 300 year allocation approach. The augmentation plan states that indoor use will utilize an estimated 0.26 acre-feet of water per year per residence, with remaining 0.74 acre-feet per year pumping entitlement available for other uses, including, irrigation of lawn and garden, and the watering of horses or equivalent livestock.

There is an existing well on the property operating under permit no. 82898-F. This well is constructed in the not nontributary Dawson aquifer and operates pursuant to the decreed augmentation plan in Division 2 Water Court case no. 18CW3035 as Woodard Well No. 1 and is permitted to withdraw 1.2 acre-foot per year for household use, irrigation of lawn and garden, greenhouse irrigation, equipment and structure washing and the watering of horses, chickens or equivalent livestock. Well permit no. 82898-F is required to be re-permitted pursuant to the amended augmentation plan in case no. 21CW3048. Our records show that the applicant submitted a new application (receipt no. 10024002) to re-permit the existing well for the uses and amount described in 21CW3048 and this application is pending evaluation.

The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to 37-90-137(4)(b)(I), C.R.S., "Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years." Based on this allocation approach, the annual amounts of water decreed in consolidated case nos. 18CW3035 and 18CW3077 are equal to one percent of the total amount, as determined by rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

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

“(7) Finding of Sufficient Quantity

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

The State Engineer's Office does not have evidence regarding the length of time for which this source will “meet the average annual demand of the proposed subdivision.” However, treating El Paso County's requirement as an allocation approach based on three hundred years, the proposed annual water demand equals the allowed average annual amount of withdrawal of 3 acre-feet per year, allowed by the augmentation plan in the amended case no. 21CW3048. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

Applications for on lot well permits, submitted by entities other than the water court Applicant in case no. 21CW3048 (Pawel Posorski) must include evidence that the Applicant has acquired the right to the portion of the water being requested on the application.

State Engineer's Office Opinion

Based upon the above and pursuant to Section 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights, provided well permit no. 82898-F is re-permitted to operate pursuant to the amended augmentation plan in case no. 21CW3048.

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

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

Our opinion is qualified by the following:

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

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

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

Sincerely,



Ioana Comanicu, P.E.
Water Resource Engineer

Ec: Subdivision file: 30478
File permit no. 82898-F
Pending application receipt no. 10024002

EL PASO COUNTY



OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

Kenneth R. Hodges, County Attorney

Assistant County Attorneys

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

September 27, 2022

Ivilo Minor Subdivision
MS-22-8

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

FINDINGS AND CONCLUSIONS:

1. This is a subdivision proposal by Pawel Posorski ("Applicant") for a 3-lot subdivision on a parcel of approximately 14 acres of land (the "property"). The property is currently zoned RR-5 (Rural Residential); however, there is a concurrent zoning request under File No. P-22-19 to rezone the property to RR-2.5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the Water Supply Information Summary ("WSIS"), the water demand for the subdivision is 3.0 acre-feet/year, reflecting 0.26 acre-feet/lot for household use (0.78 acre-feet total), plus 1.868 acre-feet/year for irrigation and 0.33 acre-feet/year for stock watering.¹ The water demand for each lot is 1.0 acre-feet/year. Based on this demand, Applicant must be able to provide a total supply of 900 acre-feet of water (3.0 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement.

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from individual on-lot wells in the not nontributary Dawson aquifer as provided in Division 2 Water Court Case No. 2018CW3035 (hereinafter referred to as "Case No. 18CW3035" or "Decree"). The Decree was granted to Janice

¹ Note: the total sum of the household, irrigation, and stock watering use equates to 2.978 acre-feet. The balance of this review will indicate the "rounded-up" sum of 3.0 acre-feet for the water demand.

Woodard on November 19, 2018 and adjudicated the following water rights under the 13.84-acre property²:

Aquifer	Total Decreed Water (acre-feet)	Annual Acre-Feet Allocation (300 years)
Dawson NNT	1,160 AF	3.87
Denver NT	1,160 AF	3.87
Arapahoe NT	553 AF	1.84
Laramie-Fox Hills NT	384 AF	1.28
Total Legal Supply		10.86

An augmentation plan was also entered on November 19, 2018 under Case No. 18CW3035, but was later amended on March 15, 2022 under Case No. 21CW3048 (hereinafter “Augmentation Plan”). The Augmentation Plan provides that the “Posorski Wells Nos. 1 through 3 may each pump up to 1.0 acre-feet of water per year from the Dawson aquifer under the revised plan for augmentation decreed herein.” And further, “[i]ndoor use will utilize an estimated 0.26 acre-feet of water per year per residence, with remaining 0.74 acre-feet per year pumping entitlement available for other uses on the Applicant’s Property, including, irrigation of lawn and garden, and the watering of horses or equivalent livestock”. The Augmentation Plan provides that depletions during pumping will be replaced by residential return flows from non-evaporative septic systems. Post-pumping depletions will be replaced by reserved water in the Laramie-Fox Hills and Arapahoe aquifers.

State Engineer’s Office Opinion

4. In a letter dated September 21, 2022, the State Engineer stated the estimated water requirements are 3.0 acre-feet/year, which reflects “0.78 acre-feet for in-house use (0.26 acre-feet/lot), 1.868 acre-feet for irrigation of up to 11,000 square-feet per lot (0.0566 acre-feet/1,000 square-feet) and 0.33 acre-feet for the watering of 30 horses (10 horses/lot assuming 0.011 acre-feet/horse). The total annual demand for the subdivision would be 3.0 acre-feet.” The State Engineer noted that the “decreed augmentation plan in the amended case no. 21CW3048 allows for the total annual withdrawal of 3.0 acre-feet (1 acre-foot/year lot) from the not nontributary Dawson aquifer, based on a 300 year allocation approach.” The State Engineer

² On November 6, 2019, the property, including appurtenances, was conveyed from Janice Woodard to MCU Family Living Trust under Reception No. 219139272. On August 17, 2020, the property, including appurtenances, was conveyed from MCU Family Living Trust to Pawel Posorski under Reception No. 220123315.

also advised that the existing well on the property (permit no. 82898-F) needs to be re-permitted pursuant to the amended augmentation plan.

Finally, the State Engineer provided their opinion that “pursuant to 30-28-136(1)(h)(l), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights, provided well permit no. 82898-F is re-permitted to operate pursuant to the amended augmentation plan in case no. 21CW3048. Our opinion that the water supply is adequate is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.”

Recommended Findings

5. Quantity and Dependability. Applicant’s water demand for the Ivilo Minor Subdivision is 3.0 acre-feet per year for a total demand of 900 acre-feet for the subdivision for 300 years. The Augmentation Plan in Case No. 21CW3048 permits withdrawal of 3.0 acre-feet/year (900 acre-feet total) of Dawson-aquifer water for a period of 300 years.

Based on the water demand of 3.0 acre-feet/year for the Ivilo Minor Subdivision and Augmentation Plan in Case No. 21CW3048 permitting withdrawals in that amount, the County Attorney’s Office recommends a finding of sufficient water quantity and dependability for the Ivilo Minor Subdivision.

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

7. Basis. The County Attorney’s Office reviewed the following documents in preparing this review: The Water Supply Information Summary provided on September 8, 2022, a Water Resources Report prepared by JDS-Hydro dated March 2022, the State Engineer’s Office Opinion dated September 21, 2022, the Decree and Augmentation Plan in Case No. 18CW3035 dated November 19, 2018, and the Amended Augmentation Plan in Case No. 21CW3048 filed on March 15, 2022. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. **Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney’s Office reserves the right to amend or withdraw its recommendations.**

REQUIREMENTS:

A. Applicant and its successors and assigns shall comply with all requirements of the Augmentation Plan in Case No. 21CW3048. Water use shall not exceed 3.0 acre-feet annually for the 3-lot subdivision for a period of 300 years. Stream depletions shall be replaced with non-evaporative septic system return flows for a period of 300 years pursuant to the Court’s approved

augmentation plan.

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

C. Applicant shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of the Augmentation Plan in Case No. 21CW3048.

Covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 900 acre-feet of not nontributary Dawson aquifer water, 384 acre-feet of nontributary Laramie-Fox Hills aquifer water, and 433 acre-feet of nontributary Arapahoe aquifer water pursuant to Case No. 21CW3048. The Covenants shall further identify that 300 acre-feet (1.0 AF/year) of Dawson aquifer water and how the combined total of 817 acre-feet of Laramie-Fox Hills and/or Arapahoe aquifer water shall be allocated to each residential lot. Said reservation shall recite that this water shall not be separated from transfer of title to the property and shall be used exclusively for primary or replacement water supply pursuant to Case No. 21CW3048.

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

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

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

“The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not Case No. 21CW3048 and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

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

6) Require well permits. The Covenants shall require that well permits be obtained pursuant to the requirements of Case No. 21CW3048 and C.R.S. § 37-90-137(4), and specifically, that Well Permit No. 82898-F shall be re-permitted.

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

“Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Ivilo Minor Subdivision pursuant to Case No. 21CW3048. Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney’s Office. Any amendments must be pursuant to the Division 2 Water Court approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such adjudication.”

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

“These Covenants shall not terminate unless the requirements of Case No. 21CW3048 are also terminated by the Division 2 Water Court and a change of

water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

D. Applicant and its successors and assigns shall reserve in any deeds of the property, Dawson aquifer water in the decreed amount of 300 acre-feet (1.0 AF/year for 300 years) for the primary water supply and a specifically identified one-third portion of combined total of Laramie-Fox Hills and/or Arapahoe aquifer water in the decreed amount of 817 acre-feet per lot for replacement of post-pumping depletions. Said reservation shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply.

E. Applicant and its successors and assigns shall convey by recorded warranty deed those reserved Dawson, Laramie-Fox Hills, and Arapahoe aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Dawson, Laramie-Fox Hills, and/or Arapahoe aquifers to satisfy El Paso County’s 300-year water supply requirement.

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary supply (Dawson aquifer): “These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during pumping, for each of the lots of the Ivilo Minor Subdivision. The water rights so conveyed and the return flows therefrom shall be appurtenant to each of the respective lots with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

F. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions, and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney’s Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney’s Office prior to recording the final plat. Said Declaration shall cross-reference Case No. 21CW3048 and shall identify the obligations of the individual lot owners thereunder.

G. Applicant and its successors and assigns shall record all applicable documents, including, but not limited to, Case No. 21CW3048, Case No. 18CW3035, Case No. 18CW3077, agreements, assignments, and warranty deeds regarding the water rights, and Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

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

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

cc: Matthew Fitzsimmons, Senior Planner

FINAL PLAT (RECOMMEND APPROVAL)

_____ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. MS-22-008

IVILO MINOR SUBDIVISION

WHEREAS, SMH Consultants did file an application with the El Paso County Planning and Community Development Department for approval of a final plat for the Ivilo Minor Subdivision for the property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on July 6, 2023; and

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

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

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

WHEREAS, when approving a minor subdivision, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2021) ("Code"):

1. The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
2. The subdivision is consistent with the purposes of the Code;
3. The subdivision is in conformance with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analysis, studies, reports, plans, designs, documents, and other supporting materials.
4. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of the Code.
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. § 30-28-133(6) (b)] and the requirements of Chapter 8 of the Code.
6. All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)].
7. Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the Engineering Criteria Manual ("ECM") are provided by the design.
8. The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development.
9. Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County and in compliance with the Code and the ECM.

10. The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefor, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities.
11. Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision.
12. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code.
13. The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code.
14. Off-site impacts were evaluated, and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code.
15. Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated.
16. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

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

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of SMH Consultants for a minor subdivision final plat of the Ivilo subdivision be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
5. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
6. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
7. Drainage fees in the amount of \$8,116.35 shall be paid for the Kettle Creek (FOMO3000) drainage basin at the time of plat recording.
8. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations as provided by the County Attorney's Office on September 27, 2022.

NOTATIONS

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

- 2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

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

_____ seconded the adoption of the foregoing Resolution.

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

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

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

DONE THIS 6th day of July 2023 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
Thomas Bailey, Chair

EXHIBIT A

Deed Description

That portion of the North Half of Section 6 in Township 12 South, Range 65 West of the 6th P.M., described as follows;

Commencing at the Northeast corner of said Section 6; thence South 0°27'18" East 1400.36 on the East line of said Section 6; thence West 2035.80 feet to the Point of Beginning of the tract to be described hereby; thence South 0°27'18" East 1095.03 feet to the Northeast corner of the tract secondly described in deed recorded in Book 1792 at Page 599 of the records of El Paso County, Colorado under Reception No. 145357; thence West 710.39 feet on the North line of said tract to the Northwest corner thereof; thence North 0°07'30" East to intersect the Southerly line of the tract described in deed to Blanche L. Hardesty recorded in Book 1792 at Page 597 of said records under Reception No. 145356; thence Easterly on the South line of said Hardesty tract 304 feet, more or less to the Southeast corner thereof; thence North 495 feet on the East line of said Hardesty tract to intersect a line drawn North 88°18' West from the Point of Beginning; thence South 88°18' East to the Point of Beginning, EXCEPT a right of way for road purposes over the most Northerly 30 feet and the Easterly 15 feet thereof and the extreme West 15 feet, County of El Paso, State of Colorado.

Subject to easements and restrictions of record.

Surveyed Description

A tract of land in the North Half of Section 6, Township 12 South, Range 65 West of the Sixth Principal Meridian, El Paso County, Colorado described as follows:

Beginning at a point that is S 00° 27'18" E 1400.36 feet and N 89° 55'58" W 2038.83 feet from the Northeast Corner of the North Half of said Section 6; thence

S 00° 26'10" E 1086.04 feet to a found 5/8" rebar; thence

N 89° 50'38" W 697.38 feet to a found 1/2" rebar; thence

N 01° 09'00" W 307.34 feet to a found 1/2" rebar with Surveyor's Cap, P.L.S. #37631; thence

N 03° 25'41" E 318.10 feet to the South Line of the Eric F. and Carol A. Morrow tract recorded in the El Paso County Clerk and Recorder's Office, Reception No. 20112554, and a found 3/4" iron pipe; thence

S 88° 40'09" E 303.22 feet to the Southeast Corner of the said Morrow tract and a found 3/4" pipe; thence

N 02° 10'23" W 467.62 feet to the Northeast Corner of the said Morrow tract and a found 3/4" pipe; thence

S 89° 51'34" E 390.85 feet to the point of beginning, containing 14.0 acres.

Subject to easements and restrictions of record.