

Minor Subdivision Responses to Comments

- Colorado Department of Transportation – Pueblo Office: CDOT has no comments. This development will not impact CDOT infrastructure. **Ok**
- Colorado Division of Water Resources: 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. **Ok**
- County Attorney – Development Review:
 - Please provide the “Maintenance Agreement” in Word for ease of editing. **Word document has been provided.**
 - Please provide a copy of the document recorded at Reception No. 200050280 referenced on the plat as existing ROW. **Document has been provided as requested.**
- 911 Authority – El Paso/Teller County: No new street names requested on this submittal. No action for E911. **Ok**
- EPC Parks Department: 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: (1) 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 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 (2) require fees in lieu of land dedication for regional park purposes in the amount of \$1,380.00. **25’ trail easement has been added to final plat along with the park fees of \$1380.00.**
- County Attorney – Water Comments:
 - 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. **Ok**
 - 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. **Ok. Applicant chooses to use water covenants in place of an HOA.**
 - 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: **The following items have been addressed in the water covenants submitted with this submittal.**

- 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.
- 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.
- 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.”
- 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.”

- 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.
- 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.
- 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 the 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 written notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such adjudication”.
- 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”.
- 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. **Ok**

- Applicant and its successors and assigns shall convey by recorded warranty deed those reserved Dawson, Larami-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 or 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". **Ok**
- 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. **Covenants and Declaration of Use Restrictions submitted with this submittal.**
- 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. **Ok**
- 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 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”. **Note added to plat**

- **Upper Black Squirrel GWMD: The Upper Black Squirrel Creek GWMD does not have any comments on this application as it is not in our basin. Ok**
- **EPC Environmental Services: A completed U.S. Army Corps of Engineers (USCOE) permit shall be provided to the Planning and Community Development Department prior to project commencement if ground-disturbing activities will occur in wetland areas. Alternatively, a letter from a qualified wetland scientist indicating why such a permit is not required for this project will be acceptable. The applicant is hereby on notice that the USCOE has regulatory jurisdiction over wetlands. It is the applicant’s responsibility, and not El Paso County’s, to ensure compliance with all applicable laws and regulations, including, but not limited to, the Clean Water Act. Coordination is occurring with the USCOE to get a wetlands determination to see if a USCOE permit is required.**
- **Pikes Peak Regional Building Department:**
 - **The address for lot 1 can use the previous address of 6385 Vessey Rd., there is a finalized wrecking/demo permit (180362). Address has been added to the final plat.**
 - **Access to lots 2 and 3 will be via a shared driveway off of Vessey Road. Address assignments for these lots are Lot 2 6425 Vessey Road and Lot 3 6405 Vessey Road. Please add these addresses to the final plat. Addresses have been added to the final plat.**
 - **Standard final plat comments apply:**
 - **Enumerations will review the mylar prior to plat for address placement, street names, and title block. Ok**
 - **A \$10.00 per lot and tract platting fee will be due at the time of the review of the mylar, (two addresses per lot and tract). If an address is not needed on a tract then no fee applies. Ok**
 - **A copy of the final recorded plat is required prior to plan submittal for residential. Ok**
 - **Mylar reviews can be reviewed via “pdf”. The mylar will be stamped by Enumerations for accuracy and returned to the applicant and the planner. Ok**
- **Colorado Geological Survey: CGS previously reviewed this property on September 3, 2019. The site does not contain any geologic hazards or unusual geotechnical constraints that would preclude the proposed 3-lot residential subdivision. CGS, therefore, has no objection to approval. The available referral documents include a Soil, Geology, and Wastewater Study. This report contains a general description of site geology based on available mapping and NRCS soil survey data, which is typically valid for only the uppermost five feet below the ground surface. Once building locations have been identified and prior to building permit application, lot-specific geotechnical investigation consisting of drilling, sampling, lab testing, and analysis will be needed to characterize soil and bedrock engineering properties such as density, strength, water content, and swell/consolidation potential; determine the depth and expected seasonal fluctuations of groundwater, depth to bedrock and; verify the feasibility of below-grade (basement) construction, if planned; and**

provide earthwork, foundation, floor system, surface, and subsurface drainage, and pavement recommendations for design. **Noted**

- **Final Plat:**
 - Add ROW width 60 ft. **Label has been updated.**
 - Review and verify if these were intended to be easements or ROW dedicated to El Paso County. If these were intended as ROW then subdivision/lot property line should be adjusted to not include these areas. If these are easements then revise the label. **Updated on plat**
 - Correct to reception #200050280. **Label has been revised.**
 - The 15 ft. ROW widths should be reflected as easements not ROW. **Updated**
 - The I/E width does not meet the international fire code criteria and should be widened (see below). However, coordinate with the fire district regarding their requirements for the access driveway width and turnarounds. See Land Development Code Section 6.3.3.C.3 for additional criteria. **I/E width updated on plat.**
 - Adjust corner of I/E to accommodate driveway design criteria noted in LDC 6.3.3.C.3 (see below). **Updated on plat**
 - Update plat to show R². **R² callout removed from legend.**
 - Place the pond in a drainage easement if it's remaining in place. If this is a stock pond then add the following note: "Notice: Future property owners are advised that El Paso County's approval of this plat does not include certification of water rights or the structural stability of the existing pond located on the subject property. The State of Colorado has jurisdiction regarding modification or elimination of the pond". **State of Colorado DWR was contacted regarding the existing stock pond. DWR found no record of this being an approved structure under their jurisdiction and recommends removal of the structure. Applicant will coordinate with the Colorado Dam Safety Engineer for what is required to remove the structure. Notice has been added to plat.**
 - Add note: "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. **Note has been added.**
 - Please check all lot sizes against sq. ft. indicated 4.5 ac is 198,020 sq. ft. **Lot square footages and acres have been updated accordingly.**
 - Add a blank space to write the reception number. **Space has been added.**
 - Remove "Traffic Memo" or submit the referenced document. **Traffic Memo has been submitted**
 - Add note: "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". **Note has been added.**

- Add PCD file #MS-22-08. PCD File Number has been added.
- Show the above easements on plat drawing and label. **Added to plat**
- Private drives and streets shall be labeled as such and shall include assignment of maintenance responsibility. **Private driveway labeled. Maintenance responsibility outlined in the access maintenance agreement submitted with this application. Note referencing this document is also included on the final plat.**
- The address of each lot as provided by the Pikes Peak Regional Building Department (added prior to recording). **Addresses have been added.**
- Surveyors Certificate: I, surveyor's name, a duly registered Professional Land Surveyor in the State of Colorado, do hereby certify that this plat truly and correctly represents the results of a survey made on, date of survey, by me or under my direct supervision and that all monuments exist as shown hereon; that mathematical closure errors are less than 1:10,000; and that said plat has been prepared in full compliance with all applicable laws of the State of Colorado dealing with monuments, subdivision, or surveying of land and all applicable provisions of the El Paso County Land Development Code. **Certificate has been updated.**
- El Paso County Clerk and Recorder. **Recordings signature block updated.**
- Add the following: name, address and telephone number of the owner of record located in the lower right hand corner; date of preparation, date of survey (if applicable), north arrow, written and graphic scale located in the lower right hand corner of each sheet; date of submission with provisions for dating revisions located in the lower right hand corner. **Requested information has been relocated on the drawing.**
- Is this lot 2? **Yes. Whomever placed the image of the stock pond on the comment on final plat covered up the lot label.**
- Letter of intent:
 - Please add PCD file #MS-22-08. PCD File number has been added.
 - Submit a scaled down drainage report as noted during the Early Assistance Meeting (EA2196). Report to calculate the required drainage fee. **A Drainage Report was submitted with the original application. The report included the drainage fee calculation. An updated report has been resubmitted.**
 - Coordinate with the State Dam Engineer regarding what appears to be a stock pond in the property and provide a summary of the coordination in the drainage report. **Discussion added to report under the discussion for existing drainage area 1.**
 - Delete last sentence or upload a copy of the referenced traffic memo for review. **Traffic Memo has been submitted**
 - Please add the following: Owner name, contact telephone number and email; Applicant name, contact telephone number and email. **This information has been provided on page 3 of the letter of intent. Owner is the applicant.**
 - A discussion detailing all proposed public and private improvements, including onsite and offsite improvements, and the plan for ongoing ownership and maintenance of each improvement. **Added.**

- **Soils & Geology Report:**
 - Add PCD file #MS-22-08. **Added to revised Soils & Geology Report.**
 - No seasonal monitoring program was discussed. **Added to revised Soils & Geology Report.**
 - Groundwater section should discuss: distributions and occurrence; hydraulic gradients; relation to topography; relations to geologic features; and seasonal variations. **Added to revised Soils & Geology Report.**
 - No monitoring program was discussed. **Added to revised Soils & Geology Report.**
- **EPC Code Enforcement: No Comment. Ok.**