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PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Thomas Bailey, Chair

FROM: Ryan Howser, AICP, Planner III
Charlene Durham, PE, Engineer III
Meggan Herington, AICP, Executive Director

RE: Project File Number: MS231
Project Name: Murr Subdivision
Parcel Number: 43330-00-016

OWNER:	REPRESENTATIVE:
Erik and Sharon Murr 14090 Davis Road Peyton, CO 80831	Oliver E. Watts Consulting Engineer, Inc. 614 Elkton Drive Colorado Springs, CO 80907

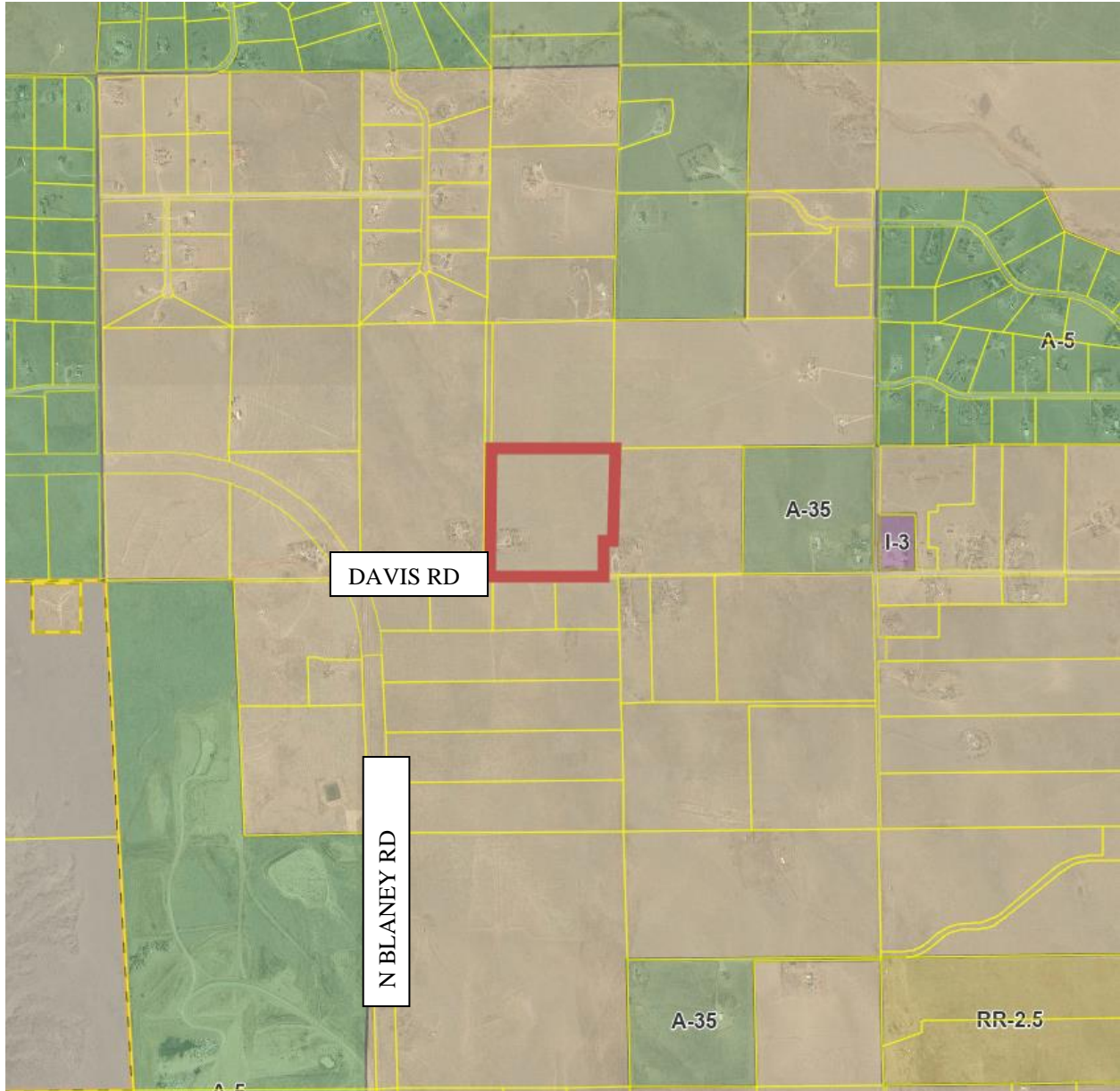
Commissioner District: 2

Planning Commission Hearing Date:	12/7/2023
Board of County Commissioners Hearing Date:	1/11/2024

EXECUTIVE SUMMARY

A request by Erik and Sharon Murr for approval of a Minor Subdivision to create four (4) single-family residential lots. The 37.4-acre property is zoned RR-5 (Residential Rural), and is located on the north side of Davis Road, approximately one-half of a mile west of Curtis Road.





VICINITY MAP

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A. WAIVERS/DEVIATIONS/AUTHORIZATION

Waiver(s)/Deviation(s): The applicants are requesting a waiver to Section 8.4.3.B. of the El Paso County Land Development Code (as amended) to allow for three (3) of the proposed lots to be created without having access and 30 feet of frontage along a public road.

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

The applicant is proposing to create four (4) lots. One (1) of the lots is proposed to have direct access to Davis Road, an existing private road. The other three (3) lots are proposed to have access to Davis Road via an existing access easement and a proposed access easement, as depicted on the proposed plat. Adequate access can be provided to all the proposed lots via the existing and proposed access easements. The applicant has depicted a layout that accommodates lot access to Davis Road, an existing public road.

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 (as amended):

- 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 ("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.

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- 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.
- 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 therefor, 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.

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- 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)	Vacant
South:	RR-5 (Residential Rural)	Vacant
East:	RR-5 (Residential Rural)	Residential
West:	RR-5 (Residential Rural)	Residential

D. BACKGROUND

The property was zoned A-4 (Agricultural) on April 13, 1983, when zoning was first initiated for this portion of El Paso County. Due to changes in the nomenclature of the Land Development Code, the A-4 zoning district was renamed as the RR-5 (Residential Rural) zoning district.

The property is a 37.4-acre unplatted parcel. The existing dwelling was constructed in 1976. Additionally, the property has two (2) accessory structures which were constructed in 1997. All the existing structures are proposed to remain on proposed Lot 4. The existing dwelling and accessory structures comply with all setback, lot coverage, and height standards of the RR-5 (Rural Residential) district for proposed Lot 4 of the subdivision.

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 (as amended).

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2. Zoning Compliance

The subject parcel is zoned RR-5 (Rural Residential). The RR-5 zoning district is intended to accommodate low-density, rural, single family residential development. The density and dimensional standards for the RR-5 zoning district are as follows:

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

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

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

The existing structures meet the 25-foot setback from all property lines and are under 30 feet in height. The applicant is not proposing any setback encroachments or Dimensional Variances. The applicant is not proposing construction of any new structures at this time. The existing structures are proposed to meet all the applicable Dimensional Standards after the property has been platted.

Lots 1, 2, and 3 are each proposed to be 5.00 acres and Lot 4 is proposed to be 21.32 acres. In order to initiate any new residential uses on the property, the applicant will need to obtain site plan approval. Any proposed additional structures will require site plan review and will include confirmation that all site improvements (existing and proposed) will comply with the Dimensional Standards included in Chapter 5 as well as the Development Standards of Chapter 6 of the Code.

F. MASTER PLAN COMPLIANCE

1. Your El Paso County Master Plan

a. **Placetype:** Suburban Residential

Placetype Character:

Suburban Residential is characterized by predominantly residential areas with mostly single-family detached housing. This placetype can also include limited single-family

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attached and multifamily housing, provided such development is not the dominant development type and is supportive of and compatible with the overall single-family character of the area. The Suburban Residential placetype generally supports accessory dwelling units. This placetype often deviates from the traditional grid pattern of streets and contains a more curvilinear pattern.

Although primarily a residential area, this placetype includes limited retail and service uses, typically located at major intersections or along perimeter streets. Utilities, such as water and wastewater services are consolidated and shared by clusters of developments, dependent on the subdivision or area of the County.

Some County suburban areas may be difficult to distinguish from suburban development within city limits. Examples of the Suburban Residential placetype in El Paso County are Security, Widefield, Woodmen Hills, and similar areas in Falcon.

Recommended Land Uses:

Primary

- *Single-Family Detached Residential with lots sizes smaller than 2.5 acres per lot, up to 5 units per acre*

Supporting

- *Single-family Attached*
- *Multifamily Residential*
- *Parks/Open Space*
- *Commercial Retail*
- *Commercial Service*
- *Institutional*

Analysis:

The Suburban Residential placetype comprises the County's traditional residential neighborhoods with supporting commercial uses at key intersections.

Relevant goals and objectives are as follows:

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Objective LU1-1 – *Some areas of the County should be planned for new development, while other areas should be preserved, protected, or see little new development.*

Goal HC2 – *Preserve the character of rural and environmentally sensitive areas.*

Objective HC2-6 – *Continue to carefully analyze each development proposal for their location, compatibility with the natural environment, and cohesion with the existing character.*

The proposed Minor Subdivision is not consistent with the Suburban Residential placetype as designated in the Your El Paso County Master Plan; however, at this time there is little to no suburban residential development in the vicinity of the subject property. The proposed Minor Subdivision is likely to be compatible with the existing character of the area.

b. Area of Change Designation: New Development

These areas will be significantly transformed as new development takes place on lands currently largely designated as undeveloped or agricultural areas. Undeveloped portions of the County that are adjacent to a built out area will be developed to match the character of that adjacent development or to a different supporting or otherwise complementary one such as an employment hub or business park adjacent to an urban neighborhood.

Analysis:

The New Development placetype encourages underutilized lots and agricultural lands to be transformed as new development takes place. While the proposed Minor Subdivision by itself does not propose a significant level of change at this time and therefore does not meet the intent of designated area of change as noted in the Master Plan, if more of the surrounding properties proposed similar Minor Subdivisions, this area may experience a significant change in character in the future.

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

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

The property is located within the Highway 94 Suburban Residential Priority Development Area.

Similar to the Suburban Residential area along Woodmen Road, proximity to Colorado Springs also helps designate this section of unincorporated County for the same placetype. Availability of land, need to accommodate a growing population, and general adjacency to compatible uses support the identification of this area for suburban style development. Additionally, a significant portion of land directly west of this area, as well as land within this area, has the potential to be annexed by the City of Colorado Springs.

2. Water Master Plan Analysis

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

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

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

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

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 4c of the Plan but is not located in an area anticipated to experience growth by 2040.

Water sufficiency has been analyzed with the review of the proposed subdivision. The applicant has shown a sufficient water supply for the required 300-year period. The State Engineer and the County Attorney’s Office have recommended that the

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proposed subdivision has an adequate water supply in terms of quantity and dependability. El Paso County Public Health has recommended that there is an adequate water supply in terms of quality. Please see the Water section below for a summary of the water findings and recommendations for the proposed subdivision.

3. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential.

The Master Plan for Mineral Extraction (1996) identifies upland deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

Geologic hazards were identified during the review of the Minor Subdivision. The geologic hazard areas are depicted as no-build areas on the plat. The Colorado Geological Survey was sent a referral and has no outstanding comments.

2. Floodplain

The property is not located within a defined floodplain as determined by FEMA Flood insurance Rate Map panel number 08041C0780G, dated December 7, 2018.

3. Drainage and Erosion

The property is located in the Livestock Company Drainage Basin (CHWS0400) which is included in the El Paso County Drainage Basin Fee program. Drainage fees will be due at the plat recording.

Water quality and detention is not required for this subdivision. Public improvements are also not required.

4. Transportation

The subdivision receives access off Davis Road, which is owned and maintained by El Paso County. A traffic study was not required as the proposed subdivision is not expected to generate 100 daily vehicle trips. Lots 1-3 will be accessed by a private

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driveway via a proposed easement along the northern boundary of site. Lot 4 will maintain access off an existing access easement along the western edge of the property. A waiver has been requested, as access to the property is via an existing private road.

The El Paso County 2016 Major Transportation Corridors Plan Update does not depict roadway improvements in the immediate vicinity.

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471, as amended)..

H. SERVICES

1. Water

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

2. Sanitation

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

3. Emergency Services

The property is within the Falcon Fire Protection District. The District was sent a referral and has no outstanding comments.

4. Utilities

Mountain View Electric Association (MVEA) will provide electrical service and Black Hills Energy (BHE) will provide natural gas service to the area included within the Final Plat. Both utility providers were sent referrals for the final plat; MVEA has no outstanding comments and BHE did not provide a response.

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5. Metropolitan Districts

The property is not located within the boundaries of a Metropolitan District.

6. Parks/Trails

Fees in lieu of park land dedication in the amount of \$1,840.00 for regional park fees (Area 4) will be due at the time of recording the Final Plat. Urban Park fees are not applicable to this application.

7. Schools

Fees in lieu of school land dedication in the amount of \$960.00 shall be paid to El Paso County for the benefit of Falcon School District No. 49 at the time of plat recording.

I. APPLICABLE RESOLUTIONS

See attached resolution.

J. STATUS OF MAJOR ISSUES

There are no major issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (as amended) 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

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the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.

3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at Final Plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated September 6, 2023, as provided by the County Attorney's Office.

NOTATIONS

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

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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.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified seven (7) adjoining property owners on November 21, 2023, for the Planning Commission meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map

Letter of Intent

Plat Drawing

State Engineer's Letter

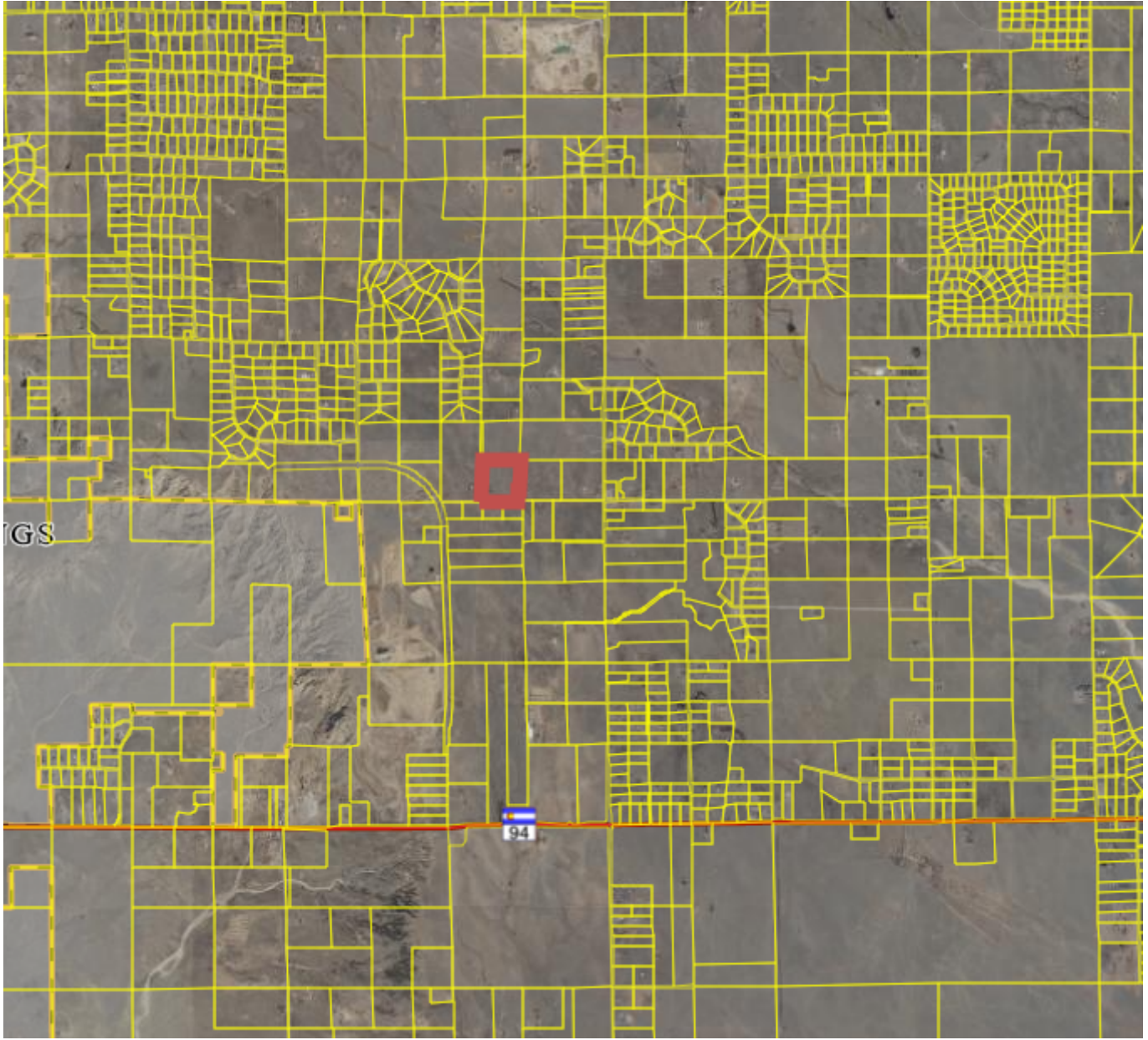
County Attorney's Letter

El Paso County Public Health Recommendation Letter

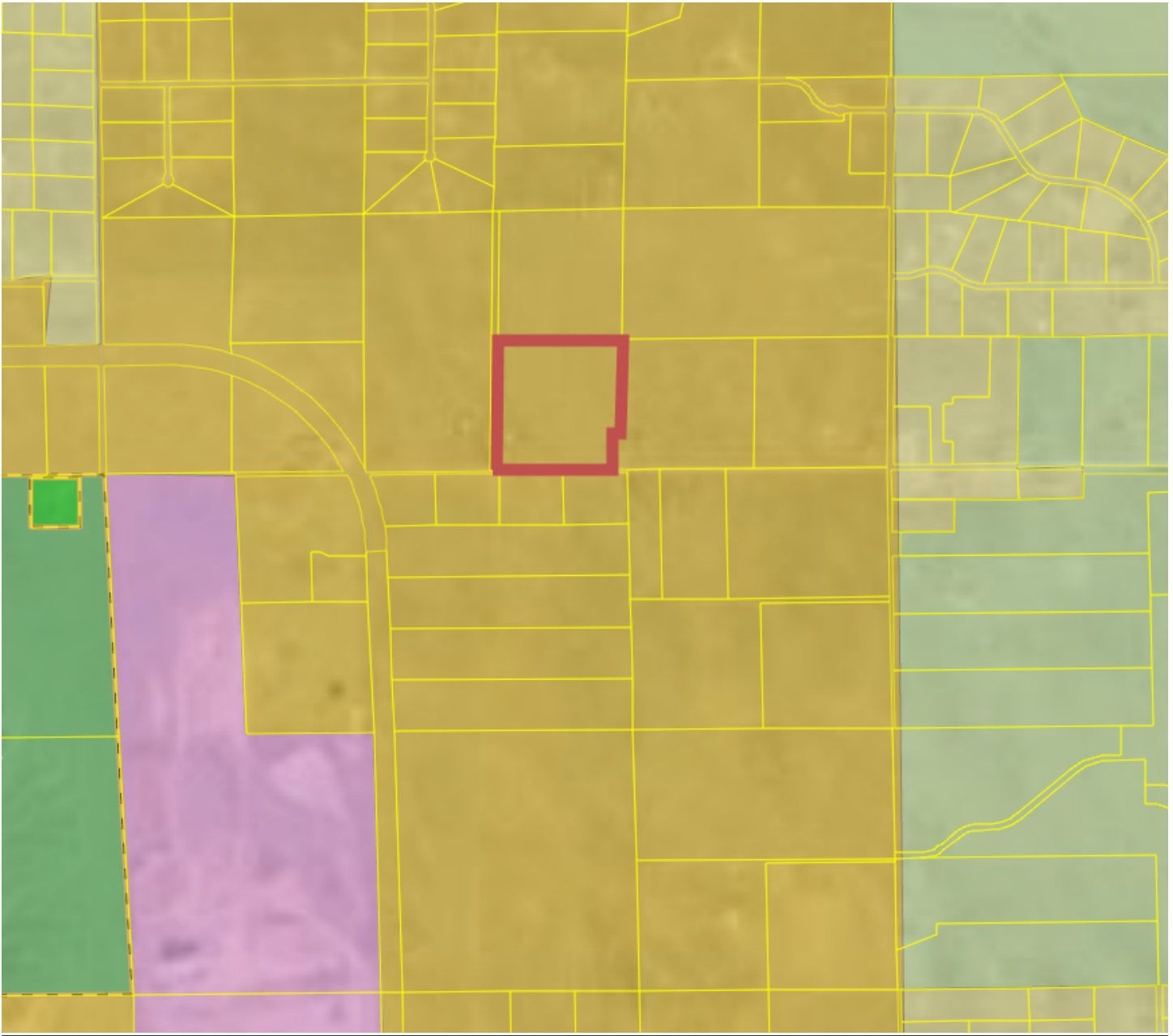
Draft Resolution



Map Exhibit #1: Context



Map Exhibit #2: Placetype

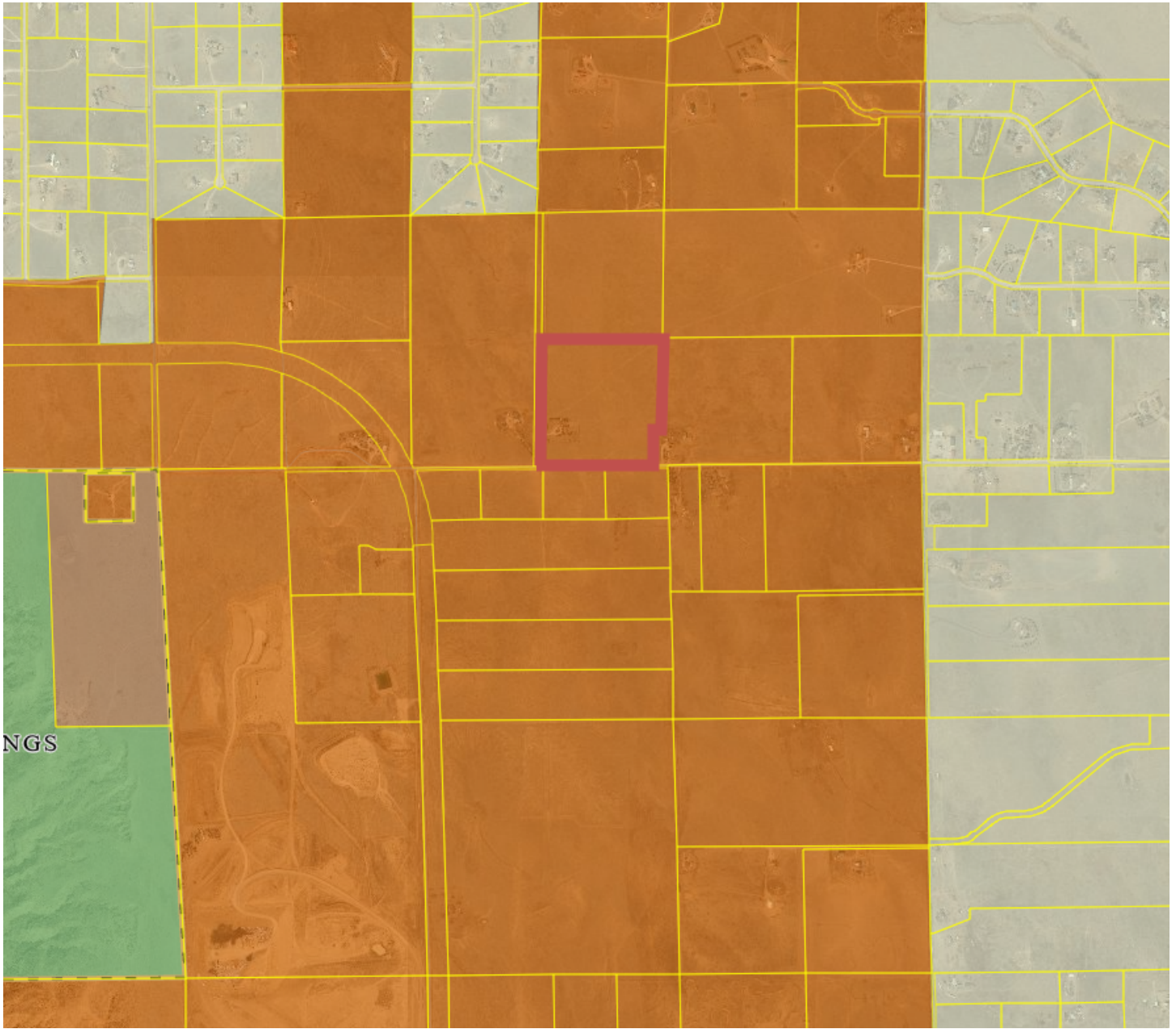


Legend






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



Map Exhibit #3: Area of Change



Legend

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

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Celebrating over 44 years in business

June 19, 2023

El Paso County Development Services
2880 International Circle
Suite 110
Colorado Springs, CO 80910

SUBJECT: Subdivision Plat of the Murr Subdivision located at 14090 Davis Rd, Peyton, CO 80831

14090 Davis Rd is located East of Blaney Rd and West of Curtis Road, on the North side of Davis Rd.

Owner information:

Erik and Sharon Murr
14090 Davis Rd.
Peyton, CO 80831
(719) 290-7665
smurr@contourmtg.com
Assessor's Parcel No.: 4333000016
Existing zone: RR-5

Placetype:

Rural.

Land Uses:

The site will be used primarily for residential purposes with potential for farming.

History:

This site is an unplatted section of land in eastern El Paso County.

There is currently a single family home and several out buildings on the southwest portion of the site (what will be proposed lot 4) with a drive that runs east from a private road running north from Davis Rd. The remainder of the property is agricultural land.

The site is surrounded on all sides by other plots of land also labeled as rural-residential. These sites are used much in the same way as this, as agricultural land or farmettes.

Request and Justification:

Our intent is to subdivide this existing property into 4 single family lots. The proposed subdivision is compatible with the surrounding properties. The lots will be consistent with the RR-5 zoning with respect to lot layout, land use, lot size, minimum building setbacks, water supply and wastewater disposal.

Water and Sewer:

A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code. Water service is to be provided by individual on site wells operated under a State approved Water Augmentation Plan. According to the State Division of Water Resources, this site sits in Water Division 2, Water District 10. Water for the existing house is provided via the existing well, Permit 87143-F. The other lots will apply for well permits. Water usage will not exceed the statutory allocated amounts for the site.

An individual on-site sewage disposal system has been established for the existing residents and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. §30-28- 133(6)(b)] and the requirements of Chapter 8 of this Code. Waste water is intended to be treated via individual on-site septic systems designed, constructed and operated under State and County Health Department rules and regulations and in accordance with the Water Decree. When Lots 1-3 develop they will have an (individual) on-site, septic system with leach field. This is in line with the water master plan for the area. A listing of some of the policies of the Water Master Plan that are supported by the proposed development follow: Policy 4.1.3 – Support enhanced monitoring of sources of surface and tributary groundwater in the County. The referenced decree requires use of metering for the wells to insure compliance with the terms of the permit; Policy 6.2.1.2 – Encourage re-use of treated wastewater for irrigation and other acceptable uses when feasible. Both the existing residence and the three, new single-family residential lots will utilize onsite wastewater treatment systems which will provide “Return Flows” the environment as a condition of the groundwater findings and order and the well permit.

Electric:

Electric will be provided by Mountain View Electrical Association per their commitment letter on June 23rd, 2022. Said letter has been submitted with the subdivision packet.

Traffic Generation:

The development is expected to generate a total of 28 trips per day (Average weekday trips ends) and 3 trips in the peak hour based on 9.44 trips per unit for Single Family Detached Housing (according to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers). This number of trips is below the County threshold of 100 trips per day or 10 trips during the peak hour. Therefore, a Transportation Impact Study (TIS) is not required for the project. This development is subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 19- 471. Traffic Impact Fees will be paid at time of building permit.

FEMA Floodplain:

Per FEMA Panel 08041CO780G, this site is not within the limits of a 100yr floodplain.

Request of Subdivision Applicability per LDC Chapters 7&8:

This proposed subdivision will be dividing the current 1 lot into 4 single family lots compatible with zoning RR-5. The lots will be given by the owners to their kids so that they can build single family residences of their choosing.

▪ CH 7:

- A Preliminary plan is not required as this is a “minor subdivision”.
- The subdivision is consistent with all design standards and regulations.
- The existing lot and house (Lot 4) will use the existing well. Lots 1, 2 and 3 will apply for permits and once granted drill new wells and will install (new) septic systems of their own when residences are built on the new lots. Lot 4 will use their existing septic system.
- There are geological hazards present on the site: Potentially Seasonally High Groundwater: In the southeast corner of Lot 4 and Hydro Compaction on Lots 1, 2 and 3
- There are no drainage improvements required for the lots.
- The site already falls under the jurisdiction of EPSO and is within the Falcon Fire Protection District.
- The site complies with methods of fire protection as outlined in Chapter 6. A Letter will be included to show evidence of this.
- There will be no offsite impacts as a result of this subdivision.
- There are no required public facilities for this subdivision.

▪ CH 8:

- The land is suitable for development as there is a residence on the southwest corner of the existing site. There are no physical constraints that would deem this unsuitable for development. Entech’s geohazard report (that accompanies this submittal) does list a couple of items; potential high ground water in the southeast corner of proposed lot 4 and a Hydrocompaction constraint. The report lists mitigations for both of these.
- The land is safe for the intended purposes of single family housing. There are no major geological hazards that affect this site.
- There are no slopes over 30% on the proposed lots or any other extreme geological hazards affecting this site.
- Regarding roads and access, there is a planned private road to be installed along the south end of the three north lots to allow access to those lots.
- There are no major plans to alter the landscape of the new lots with the exceptions of installing the private driveway and the residences themselves.
- As far as we are aware, there are no structures or other areas located on the site that would qualify as archeological or historical.
- As far as we are aware, there are no plans for differing land use on these lots.
- As far as we are aware, these lots are not in the way of any major airways or airports and thus should not affect them.
- As far as we are aware, there are no endangered species affected by these proposed changes.
- As stated previously, this site is not within the limits of a 100yr floodplain per FEMA Panel 08041CO780G.
- The current lot and proposed lots do not sit alongside any major arterial, thus do not need to worry about noise mitigation.
- The current and proposed lots are not situated anywhere near a railroad.

- This site is not located near enough to any major military outpost or installation and thus does not fall under any constraints detailed in LDC chapter 8.

The area does not fall within or near any area designated for park use, trails, or any other park related activity.

Pg 143 of the El Paso County Master Plan:

- *Is the proposed use located within a Key Area? If so, how will the proposed use affect the unique identity or character of the Key Area?*
 - The Site is not located within a Key Area.
- *Does the proposed use promote the level of change identified in the Areas of Change map?*
 - According to the Areas of Change Map, the site falls within the Minimal Change: Undeveloped area. Per page 21 of the El Paso County Master Plan, this site would be classified as “Minimal Change: Undeveloped”. The area is still overwhelmingly natural and the proposed subdivision would only build adjacent or near to the existing structure, and maintain the rural nature of the site.
- *Does the use fall within the primary or supporting land uses within the identified Placetype? Is the proposed use consistent with the character and objectives of the Placetype?*
 - According to the chart on page 23, the site, both proposed and existing fall within the primary land use for a rural place type. The proposed use is consistent with the character and objectives of the rural placetype because the proposed use is residential housing.
- *Is the use located within a Priority Annexation Area? If so, how does the nearby municipality plan for or otherwise address the subject property and does the proposed use align with the municipality’s plan(s)?*
 - The site is in the Peyton area, therefore it is not within a Priority Annexation area.
- *Is the use located within a Housing Priority Development Area? If so, is the proposed use one of the identified housing types for the area?*
 - The use is not located within a Housing Priority Development Area.
- *Is the use located within a Commercial Priority Development Area? If so, is the proposed use one of the identified commercial uses for the area?*
 - The use is not located within a Commercial Priority Development Area.
- *Is the use located within an Employment Priority Development Area? If so, is the proposed use one of the identified employment-focused uses for the area?*
 - The use is not located within an Employment Priority Development Area.
- *Is there existing infrastructure to which the proposed development can connect? If so, is connection proposed and how will it be accomplished? If not, is there a plan for future extension of infrastructure to the property?*
 - A proposed private drive is to be put in place for the proposed lots to connect to the existing private road. The existing lot already has access to said road. Commitment letters for Gas and Electricity have been submitted

to the County for the proposed lots. The proposed sites will have septic systems and wells installed once they have been built.

- *Does the development trigger the need for pedestrian or multimodal connections and are such connections being proposed?*
 - No. The development does not trigger the need for pedestrian or multimodal connections.
- *Does the proposed use/development incorporate appropriate conservation design principles as identified in the Master Plan?*
 - The proposed use will allow for three additional houses to be built on the three new lots. There will be no major development requiring any form of conservation.
- *Will the proposed use/development further the County's objective of meeting the Vision, Principles, Goals, and Objectives of the Master Plan?*
 - Yes.
- *Does the proposed use/development support the Implementation Objectives and Specific Strategies of the Master Plan?*
 - Yes it does. It provides affordable housing to family members of the existing land owners.

Constraint's/Hazards:

As far as we are aware, there are no special features to this site that would result in constraints or hazards preventing development of the proposed new 4 lots.

Proposed Improvements:

The overall goal of this subdivision is to split the existing site into 4 lots. The owners will keep 1 lot and grant the remaining 3 to their children so they may build houses on them. There is a proposed private driveway that will be built along the south edge of the new three lots that will grant them access to these lots. Maintenance and repair of this driveway and any new residences will be the responsibility of the owners. A maintenance agreement accompanies this submittal.

We ask that El Paso County grant the subdivision request.

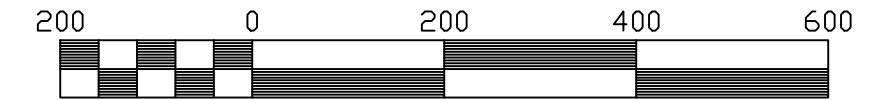
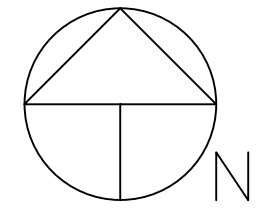
Please contact our office with any questions, thank you

Oliver E. Watts, Consulting Engineer, Inc.

By: _____
Erik Watts, Authorized Representative

MURR SUBDIVISION

A SUBDIVISION OF THE SE1/4 SW1/4 SECTION 33, T.13S., R.64W. OF THE 6TH P.M.
EL PASO COUNTY, COLORADO



Scale 1" = 200'

LEGEND:

- SET YELLOW #9853 CAP DN #4 REBAR
- FOUND 2-1/2" AL. CAP, #28658 PER MONUMENT RECORD
- ⊗ FOUND 3" AL. CAP, #18465 PER MONUMENT RECORD
- FOUND YELLOW LDC CAP DN #4 REBAR
- ⊕ FOUND #4 REBAR
- < > ADDRESS

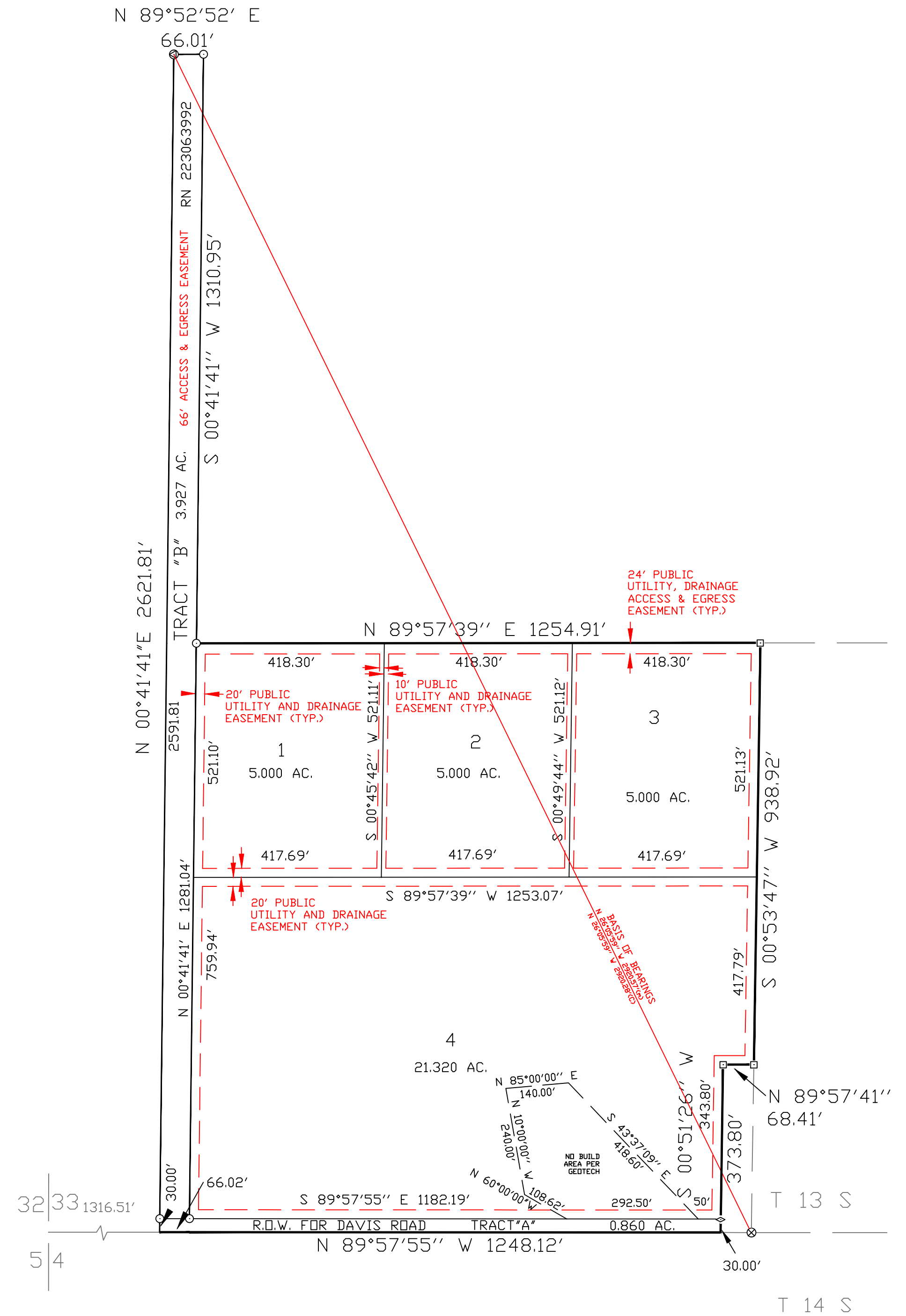


VICINITY MAP

1"=2000'

NOTES:

1. Bearings are based on the computed bearing of N26°05'59"W, monumented on the northwest by a 2-1/2" aluminum cap on a # 6 rebar, marked LWA W 1/16 S 33 1997 PLS 28658 at ground level, and on the southeast by a 3" aluminum cap on a # 6 rebar marked LDC T13S R64W W S33 S4 T14S 1994 PLS 18465 buried 12" deep in Davis Road, as shown on the plat.
2. Survey monuments found or set are at ground level unless otherwise noted on the plat.
3. Title information was provided by the client as follows:
Title Company: Stewart Title Guaranty Company
File No: 86832ECS
Effective date: July 27, 2021, 7:30 am
This survey does not constitute a title search or opinion.
4. Notice: according to Colorado law, you must commence any legal action based upon any defect in the survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.
5. Flood plain:
According to the current effective Federal Emergency Management Agency Flood Insurance Rate Map, the subject property is located outside the boundary of the 100 Year Floodplain, as identified on FEMA Mapping Panel No. 08041C0580 G, dated December 7, 2018.
6. Units of measurement: US Survey Feet
7. The following reports have been submitted in association with the Preliminary Plan or Final Plat for this subdivision and are on file at the County Planning and Community Development Department: Drainage Report; Water Resources Report; Geology and Soils Report; Fire Protection Report; DWTS Report.
8. All property owners are responsible for maintaining proper storm water 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.
9. Easements: Unless otherwise indicated, all side, front, and rear lot lines are hereby platted on either side with a 10 foot public utility and drainage easement unless otherwise indicated. All exterior subdivision boundaries are hereby platted with a 20 foot public utility and drainage easement. The sole responsibility for maintenance of these easements is hereby vested with the individual property owners.
10. Environmental: Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the listed species (e.g., Preble's Meadow Jumping Mouse).
11. Addresses: The addresses exhibited on this plat are for informational purposes only. They are not the legal description and are subject to change.
12. Mailboxes: Mailboxes shall be installed in accordance with all El Paso County and United States Postal Service regulations.
13. Driveway Note: Individual lot purchasers are responsible for constructing driveways, including necessary drainage culverts from the private road per Land Development Code Section 6.3.3.C.2 and 6.3.3.C.3. No driveway shall be established unless an access permit has been granted by El Paso County Planning and Community Development Department. Maintenance responsibilities for the shared access on Tract B shall be as set forth in the Private Driveway and Maintenance Agreement recorded at Reception No. _____ of the public records of El Paso County, Colorado.
14. Private Roads: The private roads as shown on this plat will not be maintained by El Paso County until and unless the streets are constructed in conformance with El Paso County standards in effect at the date of the request for dedication and maintenance.
15. Soil and Geology Conditions: The following lots have been found to be impacted by geologic hazards. Mitigation measures and a map of the hazard area can be found in the report Soil, Geology and Geologic Hazard Study by Entech Engineering, Inc. dated November 10, 2022 in file MS231 available at the El Paso County Planning and Community Development Department:
Potentially Seasonally High Groundwater: In the southeast corner of Lot 4
Hydro Compaction for new construction (Lots 1, 2 and 3)
16. Water Supply: 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 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. Applicants 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.
17. Wastewater: 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.
18. All structural foundations shall be located and designed by a Professional Engineer, currently registered in the State of Colorado.
19. Access to all lots within the subdivision shall be through the shown access easement. The responsibility and maintenance of said access is subject to the maintenance agreement and all covenants and restrictions contained therein, as recorded at Reception No. _____ of the records of El Paso County Clerk and Recorder.
20. Owners, successors and assigns of the property owners association of this subdivisions lots shall be advised of all applicable requirements of decree entered in Case no. 4366-RP, dated 6-21-22, division 2, and their costs of operating the plan for augmentation and responsibility for metering and collecting data regarding water withdrawals from wells.
21. The Subdivider(s) agree(s) on behalf of himself/herself and any developer or builder successor and assignees that Subdivider and/or said successor 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.



Surveyors Certificate

I, Oliver E. Watts, 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 10-20-21, 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.

I attest the above on this _____ day of _____, 20____.

Oliver E. Watts, Colorado PE-LS No. 9853
For and On Behalf of: Oliver E. Watts, Consulting Engineer, Inc.

Know all men by these presents
That, Sharon A. Murr and Erik M. Murr being the owner of the following described tract of land, to wit:
The Southeast quarter of the Southwest quarter of Section 33, Township 13 South, Range 64 West, of the 6th P.M., County of El Paso, State of Colorado, together with the west 66 feet of the Northeast quarter of the Southwest quarter and except the East 68.4 feet of the Southerly 373.8 feet, thereof.
And containing 40.266 acres

Owners Certificate
The undersigned, being all the owners, mortgagees, 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, easements and tracts as shown hereon under the name and subdivision of Murr 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 same 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.

Owners/Mortgagee (Signature) _____

By: Sharon A. Murr and Erik M. Murr
Title: owners

STATE OF COLORADO)
COUNTY OF _____)

Acknowledged before me this ____ day of _____, 20____ by _____ as _____.

My commission expires _____

Witness my hand and official seal _____
Notary Public

This plat for Murr Subdivision was approved for filing by the El Paso County, Colorado Board of County Commissioners on the _____ day of _____, 202____, subject to any notes specified hereon and any conditions included in the resolution of approval. The dedications of land to the public 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.

Chair, Board of County Commissioners _____ Date _____

STATE OF COLORADO
COUNTY OF EL PASO
I hereby certify that this instrument was filed in my office on this ____ day of _____, 200____, and was recorded at Reception Number _____ of the records of El Paso County

El Paso County Clerk and Recorder
Fee: _____
Surcharge: _____
School fees: _____ Park fees: _____
Drainage fees: _____ Bridge Fees: _____

Prepared by the office of:
Oliver E. Watts, Consulting Engineer, Inc.
614 Elkton Drive
Colorado Springs, CO 80907
(719) 593-0173 office
(719) 265-9660 fax
Oliewatts@aol.com
Celebrating over 43 years in business



May 25, 2023

Ryan Howser, El Paso County Development Services Department
2880 International Circle, Suite 110
Colorado Springs, CO 80910-3127

Sent via online portal at: <https://epcdevplanreview.com/Agencies/Home>

RE: Murr Subdivision
SE ¼, SW ¼, Sec. 33, Twp. 13S, Rng. 64W, 6th P.M.
Water Division 2, Water District 10
Upper Black Squirrel Creek Designated Basin
CDWR Assigned Subdivision No. 30646

Dear Ryan Howser:

We have received a referral regarding the above-referenced proposal to subdivide a 37.13± acre tract of land into 4 single-family lots. The proposed supply of water is to be served by individual on-lot wells that will operate under Determination of Water Right No. 4366-BD and wastewater is to be disposed of through individual septic disposal systems.

Water Supply Demand

According to a report from Monson, Cummins & Shoheit, LLC dated March 20, 2023 (“Water Resources Report”) provided with the submittal, the estimated water requirements total 1.88 acre-feet annually. Each of lots 1, 2, and 4 are estimated to use 0.50 acre-feet/year (0.26 acre-feet/year for a single-family dwelling; 0.196 acre-feet/year for irrigation of 2,100 square-feet of home lawn/garden; and 0.044 acre-feet/year for watering of 4 head of livestock). Lot 3 is estimated to use 0.38 acre-feet/year (0.26 acre-feet/year for a single-family dwelling; 0.109 acre-feet/year for irrigation of 1,100 square-feet of home lawn/garden; and 0.011 acre-feet/year for watering of 1 head of livestock).

Source of Water Supply

The proposed source of water is individual on-lot wells producing from the not-nontributary Denver aquifer that will operate pursuant to Determination of Water Right no. 4366-BD.

Determination of Water Right No. 4366-BD was issued June 8, 2022 pursuant to section 37-90-107(7), and the Designated Basin Rules, 2 CCR 410-1 (“Rules”). Determination of Water Right No. 4366-BD allocates 548 acre-feet (5.48 acre-feet per year based on a 100 year allocation approach) of water from the not-nontributary (4% replacement) portion of the Denver aquifer and 125 acre-feet (1.25 acre-feet per year based on a 100 year allocation approach) of water from the not-nontributary (actual impact replacement) portion of the Denver aquifer underlying the 37.4 acres. The subdivision lies within the allowed place of use of Determination of Water Right no. 4366-BD, and the proposed uses are allowed by that Determination.



In order to meet the return flow requirements of Determination of Water Right 4366-BD, the return flow from the in-house use of water must be through an individual waste water disposal system of a non-evaporative type.

Proposed Lot 3 overlays the not-nontributary actual replacement portion of the property, and wells constructed on this property must operate under a Commission approved Replacement Plan. On June 21, 2022 the Commission approved a Replacement Plan for Determination of Water Right no. 4366-BD. The Replacement Plan allows for the withdrawal of 0.38 acre-feet per year of groundwater from the Denver aquifer for 300 years, through one well to be located on a residential lot on a 6.7 acre portion of the property of this referral. The allowed uses are consistent with the proposed uses specified in the Water Supply Report.

Well permit no. 87436-F was issued pursuant to C.R.S. 37-90-107(7) and the Replacement Plan for Determination of Water Right no. 4366-BD for the withdrawal of 0.38 acre-feet/year of groundwater from the Denver aquifer for in-house use, accessory uses of lawn and garden irrigation, and for the watering of domestic animals and livestock. The total amount of groundwater that may be withdrawn by this well may not exceed a volume of 114 are-feet. The place of use is restricted to a 5 acre land area which corresponds to Lot 3 of the subject proposed subdivision. This office has not received information that a well under permit no. 87436-F has been constructed. Well permit no. 87436-F will expire on September 8, 2023 unless this office receives information that the well was constructed and a pump was installed before the permit expired or the applicant applies for a one time one year expiration extension. Since the uses, annual amount of withdrawal and water source of permit no. 87436-F, are those proposed for the subdivision, should a well be constructed under permit no. 87436-F, the well may be used within the proposed subdivision.

Records from our office indicate that well permit no. 87143-F is located on the property on proposed Lot 4. Permit no. 87143-F was issued on June 27, 2022 pursuant to C.R.S. 37-90-107(7). Records indicate that the well was constructed on July 11, 1996 under Permit no. 196038. The well is permitted for the withdrawal of 0.38 acre-feet/year of groundwater from the Denver aquifer for in-house use, accessory uses of lawn and garden irrigation, and for the watering of domestic animals and livestock. The total amount of groundwater that may be withdrawn by this well may not exceed a volume of 114 are-feet. If the applicant intends to withdraw 0.50 acre-feet/year from this well, they must apply for and receive a new permit.

The remaining two lots will be serviced by individual on-lot wells producing from the not-nontributary Denver aquifer that will operate pursuant to the Determination of Water Right No. 4366-BD. These wells will have an average diversion of 0.50 acre-feet annually for a maximum of 300 years. The subdivision lies within the allowed place of use of Determination of water Right no. 4366-BD and the proposed uses are uses allowed under that Determination. The 4% replacement water will be replaced using return flows from the two residences.

Applications for on-lot well permits, submitted by an entity other than the current water right holder, Erik M Murr and Sharon A Murr, must include evidence that the applicant has acquired the right to the portion of water being requested on the application.

The proposed sources of water for this subdivision are bedrock aquifers in the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which this source will be physically and economically viable source of water. According to 37-90-107(7)(a), C.R.S., "Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years." Based on this allocation approach, the annual amounts of water determined in the above-mentioned Determination is equal to one percent of the total amount, as determined by rule 5.3.2.1 of the Designated Basin Rules, 2 CCR 410-1. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

In the *El Paso County Land Development Code*, effective November, 1986, Chapter 5, Section 49.5, (D), (2) states:

"-Finding of Sufficient Quantity - The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of three hundred (300) years."

The State Engineer's Office does not have evidence regarding the length of time for which these sources 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 allowed average annual amount of withdrawal of 5.48 acre-feet/year from the not-nontributary (4% replacement) Denver aquifer would be reduced to one third of that amount, or 1.82 acre-feet/year, and the allowed average annual amount of withdrawal of 1.25 acre-feet/year from the not-nontributary (actual replacement) Denver aquifer would be reduced to 0.41 acre-feet/year. As a result, the water may be withdrawn in those annual amounts for a maximum of 300 years.

Additional Comments

Should the development include construction and/or modification of any storm water structure(s), the Applicant should be aware that, unless the structure can meet the requirements of a "storm water detention and infiltration facility" as defined in Designated Basin Rule 5.11, the structure may be subject to administration by this office. The Applicant should review Rule 5.11 to determine whether the structure meets the requirements of the Rule and ensure any notification requirement is met.

State Engineer's Office Opinion

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(l), that the anticipated water supply can be provided without causing material injury to decreed waters.

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 the demands of the proposed subdivision.

DC Report Packet identified by the following:

The Ground Water Commission 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 aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100-year aquifer life. 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 100 years (or 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 questions regarding any of the above, please feel free to contact me directly.

Sincerely,



Kate Fuller, P.E.
Water Resource Engineer
kathleen.fuller@state.co.us
303-866-3581 ext. 8245

Ec: Referral No. 30646
Upper Black Squirrel Creek GWMD
Well Permit File no. 87143-F
Well Permit File no. 87436-F

County Attorney

Kenneth R. Hodges, County Attorney
719-520-6485
Centennial Hall
200 S. Cascade, Suite 150
Colorado Springs, CO 80903
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Board of County Commissioners
Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

September 6, 2023

MS-23-1 Murr Subdivision

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

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a proposal for approval of the Murr Subdivision, an application by Sharon and Erik Murr (“Applicant”) for a 4-lot subdivision on a parcel of 37.13 acres of land (the “property”). The property is zoned RR-5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the *Water Supply Information Summary* (“WSIS”), the water demand for the subdivision of 37.13 acres into 4 residential lots. Lots 1, 2 and 4 are estimated to use 0.50 acre-feet/year (0.26 acre-feet/year for a single-family dwelling, 0.196 acre-feet per year for irrigation of 2,100 square-feet of home lawn/garden and 0.044 acre-feet per year for watering of 4 head of livestock). Lot 3 is estimated to use 0.38 acre-feet per year (0.26 acre-feet/year for a single-family dwelling, 0.109 acre-feet per year for irrigation of 1,100 square-feet of home lawn/garden, and 0.011 acre-feet per year for watering of 1 head of livestock). The total estimated demand is 1.88 acre-feet per year for the 4 lots. Based on this total demand, Applicant must be able to provide a supply of 564 acre-feet of water (1.88 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement.

Proposed Water Supply

The Applicant has provided for the source of water to derive from one or more individual on-lot wells withdrawing from the not-nontributary Denver aquifer as provided in Determination of Water

ASSISTANT COUNTY ATTORNEYS

NATHAN J. WHITNEY
CHRISTOPHER M. STRIDER

STEVEN A. KLAFFKY
TERRY A. SAMPLE

LORI L. SEAGO
DOREY L. SPOTTS

BRYAN E. SCHMID
STEVEN W. MARTYN

Right No. 4366-BD (“Determination”) and Replacement Plan No. 4366-BD (“Replacement Plan”). The replacement water requirements effectively divide the property into two areas (Lots 1, 2, and 4 as 4% replacement and Lot 3 subject to actual impact replacement). The maximum annual amount of water available for allocation will be determined specifically for the portion of the aquifer underlying each of the two areas. The Replacement Plan applies only to the actual impact replacement portion of the Denver aquifer (Lot 3).

The Determination allocates 548 acre-feet of water from the not-nontributary (4% replacement) portion of the Denver aquifer and 125 acre-feet of water from the not-nontributary (actual impact replacement) portion of the Denver aquifer underlying the property, for a total decreed amount of 673 acre-feet. Further, as El Paso County requires a 300-year supply, 548 acre-feet and 125 acre-feet are divided by 300, leaving 1.82 acre-feet per year available to 3 lots from the Denver aquifer (4% replacement) and .41 acre-feet per year available to 1 lot from the Denver aquifer (actual impact replacement) portion of the aquifer. Available Denver aquifer withdrawals available for this subdivision are to be used for the following: domestic, irrigation of lawn, garden, and greenhouse; domestic animal and stock watering; commercial; firefighting; piscatorial; and replacement, either directly or after storage.

State Engineer’s Office Opinion

4. In a letter dated May 25, 2023, the State Engineer stated that “[t]he proposed source of water is individual on-lot wells producing from the not-nontributary Denver aquifer that will operate pursuant to the Determination of Water Right no. 4366-BD.” “Each of lots 1, 2, and 4 are estimated to use .50 acre-feet/year (0.26 acre-feet/year for single-family dwelling; 0.196 acre-feet/year for irrigation of 2,100 square-feet of home lawn/garden; and 0.044 acre-feet/year for watering of 4 head of livestock). Lot 3 is estimated to use 0.38 acre-feet/year (0.26 acre-feet/year for a single-family dwelling; 0.109 acre-feet/year for irrigation of 1,100 square-feet of home lawn/garden; and 0.011 acre-feet/year for watering of 1 head of livestock).”

Lot 3 is located above the not-nontributary actual replacement portion of the property, and wells constructed on this property must comply with the Determination and Replacement Plan. Well Permit No. 87436-F was issued and corresponds with Lot 3. It is permitted for the withdrawal of 0.38 acre-feet per year, up to a maximum of 114 acre-feet.

Proposed Lot 4 has been issued Well Permit No. 87143-F and has been constructed. The well is permitted to withdraw 0.38 acre-feet/year from the Denver aquifer. If the applicant intends to withdraw the 0.50 acre-feet/year allowed from the Determination, a new permit must be applied for and granted.

Lot 1 and 2 are to be serviced by individual on-lot wells, not yet permitted or constructed, operating pursuant to the Determination. These wells may draw a maximum of 0.50 acre-feet per year for 300 years.

Finally, the State Engineer provided their opinion, “. . . pursuant to CRS 30-28-136(1)(h)(l), that the anticipated water supply can be provided without causing material injury to decreed waters.”

Recommended Findings

5. Quantity and Dependability. Applicant’s water demand for Murr Subdivision is 1.50 acre-feet per year for Lots 1, 2, and 4 (0.50 acre-feet per lot per year) and .38 acre-feet per year for Lot 3, for a total demand of 1.88 acre-feet per year. This results in a demand of 564 acre-feet for the subdivision for 300 years. Under the Determination, Applicant owns the right to withdraw up to 673 acre-feet of water from the Denver aquifer, comprised of 548 acre-feet or 1.82 acre-feet per year (4% replacement) and up to 125 acre-feet or 0.41 acre-feet per year (actual impact replacement) from the Denver aquifer based on a 300-year allocation for use within the subdivision.

Based on the water demand of 564 acre-feet total or 1.88 acre-feet/year (1.50 acre-feet for Lots 1, 2, and 4; 0.38 acre-feet per year for Lot 3) for Murr Subdivision and the right to withdraw up to 673 acre-feet total or 2.23 combined acre-feet per year (1.82 acre-feet per year (4% replacement) and up to 0.41 acre-feet per year (actual impact replacement), the County Attorney’s Office recommends a finding of sufficient water quantity and dependability for the Murr 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: a *Water Resources Report* dated March 20, 2023, the Water Supply Information Summary, the State Engineer’s Office Opinion dated May 25, 2023, Determination of Water Right No. 4366-BD entered on June 15, 2022, and Replacement Plan No. 4366-RP entered on June 21, 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 Colorado Ground Water Commission Determination of Water Right No. 4366-BD (“Determination”) and Replacement Plan No. 4366-RP (“Replacement Plan”), including that water withdrawn from the Denver aquifer shall not exceed 2.23 combined acre-feet per year (1.82 acre-feet per year (4% replacement) and up to 0.41 acre-feet per year (actual impact replacement)). Pursuant to the Replacement Plan, the allowed annual amount of groundwater

to be withdrawn from wells on Lots 1, 2 and 4 is 0.50 acre-feet per year, and 0.38 acre-feet from the well on Lot 3 (1.88 acre-feet total).

B. Applicant may create a homeowners' association ("HOA") for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water determinations and replacement plans for the property. For minor subdivisions such as this, however, Applicant may elect to solely rely on 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 Determination of Water Right No. 4366-BD and Replacement Plan No. 4366-RP.

Covenants shall specifically address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 564 acre-feet of not-nontributary Denver aquifer water pursuant to Determination of Water Right No. 4366-BD to satisfy El Paso County's 300-year water supply requirement for the 4 lots of the Murr Subdivision. The Covenants shall further identify that 150 acre-feet (0.50 acre-feet/year) of Denver aquifer water is allocated to each of Lots 1, 2 and 4, and 114 acre-feet (0.38 acre-feet/year) is allocated to Lot 3.

2) Advise of responsibility for costs. The Covenants shall advise the lot owners and their successors and assigns of their obligations regarding the costs of operating the plan for replacement, which include the installation and/or maintenance of totalizing flow meters.

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

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 Determination of Water Right No. 4366-BD and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

5) Advise of monitoring requirements. The Covenants shall advise the future lot owners of this subdivision and their successors and assigns of their responsibility for any metering, data collecting, and reporting that may be required regarding water withdrawals from existing and future wells in the Denver aquifer.

6) 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 Murr Subdivision pursuant to Determination of Water Right No. 4366-BD and Replacement Plan No. 4366-BD. Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney’s Office. Any amendments must be pursuant to the Colorado Ground Water Commission approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such determination.”

7) 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 Determination of Water Right No. 4366-BD and Replacement Plan No. 4366-BD are also terminated by the Colorado Ground Water Commission 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 Denver aquifer water in the decreed amount of 150 acre-feet (0.50 acre-feet/year) for each of Lots 1, 2, and 4 and 114 acre-feet (0.38 acre-feet/year) for Lot 3. Said reservation shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply.

E. Applicant and its successors and assigns shall convey by recorded warranty deed these reserved Denver aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Denver aquifer underlying the respective lots to satisfy El Paso County's 300-year water supply requirement. Sufficient water rights are 150 acre-feet (0.50 acre-feet/year x 300 years) of Denver aquifer water for Lots 1, 2, and 4 and 114 acre-feet (0.38 acre-feet/year x 300 years) of Denver aquifer water for Lot 3.

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary supply (Denver 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 Murr 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 Determination of Water Right No. 4366-BD and Replacement Plan No. 4366-RP 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 Determination of Water Rights No. 4366-BD and Replacement Plan No. 4366-RP, 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. Applications for well permits submitted by persons other than the Applicant must include evidence that the permittee has acquired the right to the portion of the water being requested.

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

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

J. Prior to recording the final plat:

1) Upload into eDARP a Water Supply Information Summary correcting the name of the subdivision and removing Water Court Decree Case Numbers 4365-BD and 4364-BD as they do not pertain to this subdivision.

cc: Ryan Howser, Project Manager, Planner



Prevent • Promote • Protect

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

14090 Davis Road, MS-23-1

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

- The proposed 4-lot residential development 37.4-acre site will be served water by an individual private well and wastewater through onsite wastewater treatment systems (OWTS).
- There is a finding for sufficiency in terms of water quality based on the sample results reviewed from both the 18July2022 Colorado Analytical Laboratory and the 12August2023 Hazen Research, Inc sample results. All parameters sampled were within the standards established by the Colorado Department of Public Health and Environment (CDPHE), Primary Drinking Water Regulations, with the exception of fluoride and pH. The pH is a non-regulated standard; however, the fluoride result of 4.36 ppm, exceeds the maximum contaminate level (MCL) of 4.00 ppm of the Colorado Department of Public Health and Environment, Primary Drinking Water Standards. It is recommended by El Paso County Public Health that future homeowners install residential water treatment systems capable of lowering the fluoride level below the MCL. Such systems can normally be installed under the counter. The water quality fluoride exceedance should be recorded as a plat note with the subdivision approval.
- The Geoquest LLC., Profile Pit Evaluation dated 27August2022 was reviewed for site suitability for the use of onsite wastewater treatment systems for wastewater service. Based on the findings of the two soil test pits performed, the use of onsite wastewater treatment systems is acceptable.

Mike McCarthy
El Paso County Public Health
719-332-5771
mikemccarthy@elpasoco.com
04March2023

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. MS231

MURR SUBDIVISION

WHEREAS, Erik and Sharon Murr did file an application with the El Paso County Planning and Community Development Department for approval of a final plat for the Murr 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 December 7, 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 (2022):

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 Land Development Code ("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 Land Development Code.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Erik and Sharon Murr for a minor subdivision final plat of the Murr 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. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at Final Plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated September 6, 2023, as provided by the County Attorney's Office.

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
Jim Byers	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 Schuettepelz	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 Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 7th day of December 2023 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
Thomas Bailey, Chair

DATED: December 7, 2023

EXHIBIT A

LEGAL DESCRIPTION

DATE: December 7, 2022

JOB NO.: 21-5660

CLIENT: Murr

The Southeast quarter of the Southwest quarter of Section 33, Township 13 South, Range 64 West, of the 6th P.M., County of El Paso, State of Colorado, Except the West 66 feet and Except the East 68.4 feet of the Southerly 373.8 feet, thereof.

And containing 37.134 acres