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

SUMMARY MEMORANDUM

TO: El Paso County Board of County Commissioners
FROM: Planning & Community Development
DATE: 9/26/2024
RE: SP217; Peerless Farms Preliminary Plan

Project Description

A request by Robert and Wendy Williams for approval of a 40.01-acre Preliminary Plan depicting 7 single-family residential lots. The item was heard on the consent agenda at the September 5, 2024, Planning Commission meeting, and was recommended for approval with a vote of 8-0. The property is zoned RR-5 (Residential Rural) and is located at 16975 Falcon Highway. (Parcel No. 4313000001) (Commissioner District No. 2)

Notation

Please see the Planning Commission Minutes for a complete discussion of the topic and the project manager's staff report for staff analysis and conditions.

Planning Commission Recommendation and Vote

Markewich moved / Smith seconded for approval of the Preliminary Plan utilizing the resolution attached to the staff report with 5 conditions, 3 notations, 1 waiver, and a finding of water sufficiency with regards to quality, quantity, and dependability that this item be forwarded to the Board of County Commissioners for their consideration. The motion was **approved (8-0)**. The item was heard as a consent agenda item.

Discussion

The item was heard as a consent agenda item and as such, there was no discussion.

Attachments

1. Planning Commission Minutes from 9/5/2024.
2. Signed Planning Commission Resolution.
3. Planning Commission Staff Report.
4. Draft BOCC Resolution.

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EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting
Thursday, September 5th, 2024
El Paso County Planning and Community Development Department
2880 International Circle – Second Floor Hearing Room
Colorado Springs, Colorado

REGULAR HEARING, 9:00 A.M.

PC MEMBERS PRESENT AND VOTING: THOMAS BAILEY, SARAH BRITTAIN JACK, JAY CARLSON, JEFFREY MARKEWICH, BRYCE SCHUETTEL, WAYNE SMITH, TIM TROWBRIDGE, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: NONE.

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: JIM BYERS AND BECKY FULLER.

STAFF PRESENT: MEGGAN HERINGTON, JUSTIN KILGORE, MINDY SCHULZ, KARI PARSONS, RYAN HOWSER, ASHLYN MATHY, SCOTT WEEKS, ED SCHOENHEIT, CHARLENE DURHAM, ERIKA KEECH, AND LORI SEAGO.

OTHERS PRESENT AND SPEAKING: CLEMENT 'BUD' SILVERS JR, CHARLES MANLY JR, PAELEIGH REED, DAVE ELLIOTT, DANIEL JACQUOT, AND MICHAEL BARR.

1. REPORT ITEMS

Ms. Herington advised the board that there would be a non-action item at the end of the hearing. This is a presentation regarding the Your El Paso Master Plan's 3-year implementation report. Additionally, she mentioned that the Land Development Code (LDC) Update's website is now live. There is a link to the that webpage, which includes the consultant's LDC assessment, on the County's Planning and Community Development (PCD) homepage. Commission members and the public are all welcome to submit comments on that LDC Update website. The next PC Hearing is Thursday, September 19th, at 9:00 A.M.

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

3. CONSENT ITEMS

A. Adoption of Minutes for meeting held August 15th, 2024.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (8-0).

B. MS235

MATHY

**FINAL PLAT
DOUBLE SPUR RANCH FINAL PLAT**

A request by Daniel Kupferer for approval of a 40-acre Final Plat creating 3 single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 12420 North Meridian Road, one-tenth of a mile south of the Latigo Boulevard and North Meridian Road intersection. (Parcel No. 5213000007) (Commissioner District No. 1)

NO PUBLIC COMMENT OR DISCUSSION

PC ACTION: SCHUETTPELZ MOVED / TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3B, FILE NUMBER MS235 FOR A FINAL PLAT, DOUBLE SPUR RANCH FINAL PLAT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TEN (10) CONDITIONS, ONE (1) NOTATION, ONE (1) WAIVER, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

C. VA245

PARSONS

**VARIANCE OF USE
8304 & 8308 CESSNA DRIVE VARIANCE OF USE**

A request by Sund Estate Management Corporation for approval of a Variance of Use to allow a commercial vehicle repair garage in the R-4 (Planned Development) Zoning District. The property is located within Meadow Lake Airport, is within the GA-O (General Aviation Overlay District) and is south of Judge Orr Road and east of Highway 24. (Parcel Nos. 4304002058 and 4304002087) (Commissioner District No. 2)

PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER CITIZEN REQUEST.

D. SP217

HOWSER

**PRELIMINARY PLAN
PEERLESS FARMS**

A request by Robert and Wendy Williams for approval of a 40.01-acre Preliminary Plan depicting 7 single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 16975 Falcon Highway. (Parcel No. 4313000001) (Commissioner District No. 2)

NO PUBLIC COMMENT OR DISCUSSION

PC ACTION: MARKEWICH MOVED / SMITH SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3D, FILE NUMBER SP217 FOR A PRELIMINARY PLAN, PEERLESS FARMS, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH FIVE (5) CONDITIONS, THREE (3) NOTATIONS, ONE (1) WAIVER, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND

DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

E. CS243

HOWSER

**MAP AMENDMENT (REZONING)
UDON**

A request by Thani Holdings, LLC, for approval of a Map Amendment (Rezoning) of 15.75 acres from RR-5 (Residential Rural) to CS (Commercial Service). The property is located at 12150 State Highway 94. (Parcel No. 4400000185) (Commissioner District No. 4)

NO PUBLIC COMMENT OR DISCUSSION.

PC ACTION: TROWBRIDGE MOVED / WHITNEY SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3E, FILE NUMBER CS243 FOR A MAP AMENDMENT (REZONING), UDON, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

F. VR2324

HOWSER

**VACATION AND REPLAT
PONDEROSA PINES ESTATES**

A request by Clifford A Joyner for approval of a 3.07-acre Vacation and Replat creating 4 single-family residential lots from 2 single-family residential lots, resulting in a net increase of 2 single-family residential lots. The property is zoned RR-0.5 (Residential Rural), and is located at 18810 Cloven Hoof Drive, Palmer Lake, CO, 80133. (Parcel Nos. 7109002018 & 7109002019) (Commissioner District No. 3)

Mr. Trowbridge mentioned that Mr. Howser had indicated a member of the public wanted to be called in to speak on the item.

Mr. Bailey acknowledged that Mr. Kilgore was speaking with the Audio/Video staff regarding the call-in. While that was taking place, item 3G was discussed. They returned to agenda item 3F afterward. The members of the public were called, but both attempts went to voicemail.

NO PUBLIC COMMENT OR DISCUSSION

PC ACTION: CARLSON MOVED / TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3F, FILE NUMBER VR2324 FOR A VACATION AND REPLAT, PONDEROSA PINES ESTATES, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITION, TWO (2) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND

DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

G. VA243

WEEKS

**VARIANCE OF USE
5935 TEMPLETON GAP ROAD VARIANCE OF USE**

A request by Great West Construction for approval of a Variance of Use to allow an office use in the A-5 (Agricultural) and CAD-O (Commercial Airport Overlay) Zoning Districts. The property is located south of Templeton Gap Road, northeast of the intersection of Templeton Gap Road and Corinth Drive. (Parcel No. 631300009) (Commissioner District No. 2)

NO PUBLIC COMMENTS

DISCUSSION

Mr. Carlson suggested adding a condition of approval that stipulates the owner of the property must reside on the property, which he acknowledged is the current situation. He further believes that it would be best to have the approval tied to ownership instead of running with the land.

Mr. Bailey remarked that he had a similar concern regarding duration of approval for a later agenda item.

Mr. Trowbridge expressed his understanding that approval for a Variance of Use application typically runs with the land.

Ms. Herington confirmed. A standard Variance of Use approval does not include either a condition that approval is tied to current ownership or for a specific amount of time. A condition of approval could be added to include information detailed in the applicant's Letter of Intent. The applicant has declared their intention to reside on the property. She suggested the applicant could address whether they would be agreeable to adding that condition.

Mr. Trowbridge asked if the first condition, *"Approval is limited to the use of a contractor's equipment yard, as discussed and depicted in the applicant's Letter of Intent, and Variance of Use Site Plan. Any subsequent addition or modification to the use beyond that described in the applicant's Letter of Intent shall be subject to approval of a new Variance of Use request."*, would be sufficient to tie approval to the current owner or owner occupation.

Mr. Bailey asked if adding a condition of occupation by the owner strays from the intent of the rules as they're written.

Ms. Herington added that it would be very difficult for future County planning staff to review the Letter of Intent 10 years post approval to interpret conditions of approval. It would be much easier for future to staff to reference a clearly written condition of approval on the adopted resolution.

Ms. Seago asked Mr. Carlson if his intent for adding a condition of approval was to require the *property owner* or the *business owner* to reside on the property.

Mr. Carlson clarified that he meant for it to apply to the property owner.

Ms. Seago clarified that if the property owner lives on the property, it wouldn't matter to Mr. Carlson that a different entity operated the contractor's equipment yard.

Mr. Carlson confirmed. He explained that he wants to avoid the residence being demolished in the future and the only remaining use of the land being a contractor's equipment yard.

Ms. Seago then asked if it would be acceptable that the residence be occupied by anyone so long as it continues to exist. The occupant of the house may not be the property owner in that scenario.

Mr. Carlson stated he would prefer that the property owner be the occupant.

Ms. Seago proposed that she could assist with crafting a condition of approval to meet that request. She suggested that instead of crafting the condition to require that the property owner live on the property, phrasing it in a way that approval of the variance would expire upon the residence no longer being occupied by the property owner.

Mr. Bailey asked if that would be restricted to the current owner or apply to any future owner.

Ms. Seago clarified that it could applied either way.

Mr. Carlson stated that he agreed with her suggestion.

Mr. Whitney clarified his understanding that if the property owner moved away, approval of the variance would lapse. (This was confirmed.)

PC ACTION: THIS ITEM WAS THEN PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER MR. BAILEY.

H. MS239

LETKE

MINOR SUBDIVISION

3275 CENTER ICE VIEW – MINOR SUBDIVISION TO LEGALIZE LOT

A request by Andrew C Alm for approval of a Minor Subdivision creating two (2) single-family residential lots. The 12.72-acre property is zoned RR-5 (Residential Rural) and is one-quarter of a mile north of Hay Creek Road. (Parcel No. 7133007024) (Commissioner District No. 3)

PUBLIC COMMENT

Mr. Charles Manly Jr. spoke in opposition. He expressed a concern about adding a well in the location. He discussed his current rate of water flow.

Mr. Bailey stated that the water report was included in the packet, and he did not believe pulling the item to hear a full presentation would be necessary.

Mr. Trowbridge explained that all water in Colorado is owned and managed by the State Engineer. Property owners have the right to access the water via well, but ownership remains with the State. He mentioned that the County Attorney's Office also reviews water rights, which is provided in the full water report for each applicable project. If the State Engineer says that someone has the right to sufficient water, the Planning Commission cannot naysay them. He further mentioned that El Paso County has a more stringent, 300-year water requirement, where the state mandates a 100-year finding.

NO FURTHER DISCUSSION

PC ACTION: SCHUETTELZ MOVED / BRITAIN JACK SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3H, FILE NUMBER MS239 FOR A MINOR SUBDIVISION, 3275 CENTER ICE VIEW - MINOR SUBDIVISION TO LEGALIZE LOT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWELVE (12) CONDITIONS, TWO (2) NOTATIONS, ONE (1) WAIVER, AND A RECOMMENDED CONDITIONAL FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

4. CALLED-UP CONSENT ITEMS

3C. VA245

PARSONS

VARIANCE OF USE 8304 & 8308 CESSNA DRIVE VARIANCE OF USE

A request by Sund Estate Management Corporation for approval of a Variance of Use to allow a commercial vehicle repair garage in the R-4 (Planned Development) Zoning District. The property is located within Meadow Lake Airport, is within the GA-O (General Aviation Overlay District) and is south of Judge Orr Road and east of Highway 24. (Parcel Nos. 4304002058 and 4304002087) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

Mr. Carlson asked if the underlying R-4 zoning would have allowed for the current request.

Ms. Parsons stated that information would be included later in the presentation. She then resumed.

Mr. Trowbridge asked if the roadway and taxiway were clearly separated (i.e., berm).

Ms. Parsons answered that there is no berm because planes and cars travel across both.

Mr. Trowbridge clarified that he is asking if they are identified as being separate from each other so that drivers are aware when they are crossing the taxiway.

Ms. Parsons stated that County staff was able to determine where roadways were different from taxiways, but she doesn't know if the public would be able to make that determination. She stated

she would defer to airport officials regarding an accident log. The applicant may also provide clarification. Her presentation then continued.

Mr. Carlson asked if the repair garage would also work on aircraft.

Ms. Parsons stated the applicant would be able to answer that question.

Mr. Markewich asked what property the Variance would include.

Ms. Parsons explained that the Variance of Use would apply to Lots 7 and 9 as depicted in the Site Development Plan. She reiterated that approval would be tied to the Site Development Plan instead of a Letter of Intent.

Mr. Markewich asked if approval would run with the land, regardless of current owner.

Ms. Parsons confirmed.

Mr. Markewich verified that the restricted uses in the subject approval would apply regardless of a change in business owner.

Ms. Parsons confirmed. The allowed uses are depicted in the Site Development Plan. Her presentation concluded and the applicant's representative began their presentation.

Ms. Nina Ruiz, with Vertex Consulting Services, presented for the applicant.

Ms. Esther Sund, the owner and applicant, addressed Mr. Carlson's earlier question regarding whether the repair shop would work on aircraft. Their company does and will provide services to aircraft when requested and when they are capable. They have worked on airplanes in the past and have done custom painting on airplane parts. There is a current project being delivered to the site which includes custom work on an experimental aircraft being brought in piece-by-piece. She stated that they have also assisted Springs Aviation with tool loans. Overall, she stated that her business does not exclude aviation.

Mr. Smith asked for a visual explanation of the road versus taxiway on an aerial image.

Ms. Sund explained that there are taxi easements on the property. Easements are typically utilized by the hangars that store aircraft, like the buildings south of the subject property. She used the image to point out what that taxiway would look like if it existed. There are no taxiways paved on her property because there are no planes stored there or anywhere on her block. She stated that aircraft is not driven within the easement in front of her property, but the easement does still exist.

Mr. Markewich clarified that there is a taxi easement.

Ms. Sund confirmed and stated it is not utilized.

Mr. Markewich asked if the easement was marked.

Ms. Sund answered that it is not marked.

Mr. Markewich asked if taxiways within easements that are in front of hangars (like the property south of the subject area) are marked.

Ms. Sund replied that those *are* marked. The identification of a taxiway dead-ends at her property line.

Mr. Markewich asked if the taxiway identification began again on the other side of her property.

Ms. Sund referred to the aerial image to identify a property 3 lots north of hers that likely has an identified taxiway. The 3 lots north of her property are vacant and there is no taxiway.

Mr. Markewich asked which direction the airplanes would taxi once they are on Cessna Drive.

Ms. Sund replied that it would depend on where the planes enter. The property located 3 lots north does not have direct access onto Cessna Drive, so once the aircraft uses the taxiway easement on that property, they enter the road perpendicular to Cessna Drive. Those airplanes do not cross in front of her property. Regarding the hangars south of her property, the aircraft will use the taxi easement to enter Cessna Drive and will then taxi along Cessna Drive in front of her property. They do not use the taxi easement on her property.

Mr. Bailey asked for explanation of how vehicles access her property.

Ms. Sund used the aerial image on the screen to indicate that vehicles on Judge Orr Road will turn south onto Cessna Drive, proceed south, and then turn west directly into the subject property. Cessna Drive is the same shared taxiway/road used by any vehicle that enters Meadow Lake Airport ("MLA") to access any hangar. She mentioned that members of the public attending an airport event would also use the same road.

Mr. Bailey asked for clarification of the private road ownership.

Ms. Sund replied that she knows MLA owns most of the road, but she's unsure of the entirety. She suggested that Dave [Elliott] may have more information.

Mr. Bailey clarified that the application is for the subject parcels only and the applicant does not have ownership or maintenance responsibility for the roads leading up to her property.

Ms. Sund confirmed.

Ms. Ruiz added that the applicant has the legal right to access.

Mr. Bailey then compared the situation to anyone leaving their private property and entering a public roadway. Any traffic concerns become the burden of the right-of-way owner, in this case, MLA. He asked if that would be a fair assessment.

Ms. Ruiz stated the property owners pay associate dues to MLA, which provides the maintenance.

Mr. Bailey further stated that the private property owners do not have the authority to implement signage warning vehicle drivers to watch out for aircraft. (The presentation resumed.)

Mr. Whitney asked if there was anything restricting the applicant from providing general services such as oil changes. (In response to Ms. Ruiz' description of the custom work provided by Sund.) The presentation has described the average customer as a Governmental entity, but could that change?

Ms. Ruiz stated that nothing precludes that type of use in the application as it has been presented. She stated that County staff recommended applying for a Variance to allow for vehicle repair, which is what has been requested. She further stated that the applicant would be agreeable to adding a condition of approval to restrict the type of use to reflect that identified in the letter of intent.

Mr. Markewich discussed the various other commercial businesses listed on the presentation slideshow. He mentioned that there are several that don't appear to be aviation-related but are in the immediate area. He asked if those business owners would need to apply for Variance of Use approval as well.

Ms. Ruiz replied that Ms. Parsons addressed that subject in her staff report. She identified that it is possible some of the existing uses may not have gone through the proper application process.

Ms. Herington added that there are 23-27 open Code Enforcement complaints/violations in the vicinity. How each will be resolved is uncertain.

Mr. Markewich clarified that before the current owner purchased the property, it was being used as a diesel mechanic shop and battery shop. He asked if it had been non-conforming for 20 years.

Ms. Ruiz stated that the property had not been used as an airplane hangar for 20 years.

Mr. Markewich asked if the current owner was aware of the restrictions when purchasing. He asked if they assumed a vehicle repair shop was okay because of the past uses.

Ms. Sund confirmed and further stated the building no longer has hangar doors, but garage doors. The financier of their business loan didn't have any questions due to the R-4 zoning and because the building is no longer considered a hangar. It was her assumption that she could do what she wanted on her private property since the land is not owned by the airport. She further mentioned that she rented the property for her business for 2 years before buying the land. The previous owner who rented and sold the property to her was an aviation-related individual.

Mr. Bailey asked if Ms. Sund was required to be a member of the airport's association.

Ms. Sund replied that she is not required to be a member and there are no covenants on her property. She does, however, pay dues to MLA.

Mr. Bailey compared the situation to that of an HOA. If covenants applied to the subject parcel, that information should have been disclosed to the buyer at the time of the sale.

Mr. Carlson pointed out that the application is a request for approval of a vehicle repair shop, but it appears that the current business operates more like a customization shop.

Ms. Ruiz agreed. Typically, when requesting a Variance of Use, County staff will advise an applicant to choose a closely related use. The definition for vehicle repair shop includes a broader list than

what the applicant is providing, but that was deemed to be the closest related option. The applicant's Letter of Intent details the exact use, which is mainly customization of emergency response vehicle. She reiterated that they would work on aircraft when necessary or requested. The applicant is not opposed to adding a condition of approval that limits the uses to those identified in the Letter of Intent.

Ms. Parsons explained that the LDC does not define a use for aircraft maintenance. It does, however, define a repair garage. She pulled up the LDC.

Mr. Trowbridge noted that what the applicant has experienced in this situation is a result of broad language that references separate documentation. There are flaws in attempting to interpret what the intention was from the early 1980's. This is the scenario that Ms. Herington mentioned preferring to avoid. He pointed out that the more specific the board can be in the resolution, the better.

Mr. Bailey brought up that leaving things open to interpretation also causes issues when enforcing the terms of approval. He stated he is concerned that non-conforming uses have been occurring for so long and that there are now a significant number of Code Enforcement complaints.

Ms. Parsons presented the LDC definition for a vehicle repair garage. County staff did not recommend limiting the uses within the definition because the applicant had mentioned in a preliminary meeting that they have provided a variety of those related services in the past. Staff did not want to take that ability away. Perhaps that has changed and they are now willing to limit those allowed uses. A restriction was placed on the site plan that identified heavy trucks, recreational vehicles, and trailers are repaired only for governmental contracts. This was done to avoid the customization of RVs, etc., for the typical public, and was placed on the site plan to avoid referencing a Letter of Intent for future interpretation. The underlying R-4 zoning did come with a Letter of Intent, but it also included a development plan that described specific allowed uses, which is what led staff to the conclusion that a Variance of Use was the best solution.

Mr. Carlson asked for clarification regarding what notes trump others. The 1980s development plan, Letter of Intent, zoning regulations, etc., all seem to have differing recommendations.

Ms. Parsons explained that staff from Planning, Code Enforcement, and the County Attorney's Office collaborated to determine that the underlying zoning and development guidelines permit commercial uses that support the airport. Regardless of what was highlighted by the applicant in their Letter of Intent, the County staff's interpretation of the 1981 R-4 zoning was that PVP (now CC) zoning uses *if* they support the airport. If the commercial use does not support the airport, a Variance of Use is required. She then reminded the board that Code Enforcement is complaint driven, so County staff was not driving through the airport looking for violations.

Mr. Bailey asked if the "Vehicle Repair Garage, Commercial" definition on the presentation slideshow was pulled directly from the LDC. (It was.) He then asked Ms. Parsons if there was any other definition that may better define the applicant's business of a customization shop.

Ms. Parsons verified there is no other definition that would be more precise to the subject request.

Mr. Markewich asked if anything would prevent the current owner from selling the property after Variance approval, and new owners establishing a Jiffy Lube, for example.

Ms. Parsons requested to consult with Ms. Seago before answering.

Mr. Bailey mentioned during that time that Mr. Markewich's question relates to his concern of the duration of the approval. He mentioned that the MLA letter of support specified that their support only extends to the current use and current owner. He suggested that they could add language in a condition of approval.

Mr. Whitney further stated that it seemed like the applicant would be agreeable to a condition of approval that restricted the Variance to the current use.

Ms. Parsons returned to answer the earlier question regarding limits to the approval after future sale of the property. A condition could be implemented that states approval of the variance expires upon sale of the property. That could be enforced with sales history. There could also be a condition that limits the type of work the business owner is allowed to provide. However, it would be difficult for Code Enforcement to visually identify unmarked government vehicles.

Ms. Herington confirmed that the business operates as a body shop, which is not defined in the LDC. She suggested that a condition of approval could specify that major/minor work such as paint, body, and fender work be allowed. They would exclude most engine/transmission work, preventing the possibility of a Jiffy Lube-type business. She confirmed that Ms. Ruiz gave a thumbs up to that suggestion from the audience.

Mr. Markewich stated defining allowed uses would probably be a better solution than restricting approval to the current owner. For example, the current owner could one day decide they wanted to establish their own Jiffy Lube.

Ms. Parsons stated she would present the applicant's site plan. She suggested modifying the notes on that item to be more specific. That way, when the Variance of Use approval resolution refers to the site plan, there is no room for interpretation.

Ms. Herington suggested having the public speak while County staff works on recommended language for conditions of approval.

Mr. Markewich expressed concerns over "opening a can of worms". If the current application is allowed, he wonders how that will impact the surrounding non-compliant uses.

Ms. Herington stated that there would not be a way to prevent that from happening. She stated that every variance is evaluated independently to determine if they meet the criteria. Each variance could be proposing a completely different use in a unique location. Approving one does not necessarily set a precedent.

Mr. Carlson expressed a desire to condition approval of the variance to the current owner as well as the types of allowed uses.

PUBLIC COMMENTS

Mr. Clement 'Bud' Silvers Jr spoke in opposition (before the item was pulled to the called-up agenda). He is a longtime pilot. He and his wife own a hangar in the Meadow Lake Airport. He advised that Cessna Drive is not a road, but a taxiway [for aircraft]. Airplanes have the right of way. He discussed different types of airplanes and how one type, the taildragger, has a blocked view of the road ahead. This type of plane can only be safely taxied by making s-turns. As the general public does not understand that necessity, they could drive their car into a blind spot and be hit by a taxiing plane. His concern is for the general safety of the public driving on Cessna Drive.

Mr. Whitney mentioned that the subject parcel is involved in a Code Enforcement case in which they have been operating the vehicle repair shop in the existing hangar. He asked Mr. Silvers Jr if he had observed any issues with vehicle drivers on Cessna Drive. (This was answered later by Mr. Elliott.)

Ms. Paeleigh Reed spoke in opposition (before the applicant's presentation). She owns and operates Metal Bird Hangars at Meadow Lake Airport. She stated that the location is within the airport. She does not agree with a variance for something that does not support the airport. She stated there are several businesses that are operating under the guise of supporting the airport, but it needs to be brought under control. She stated that there are 76 aircraft on a waitlist for hangar space. While on the waitlist, the aircraft is left outside or stored elsewhere. She asked the Planning Commission to support restricting uses to aircraft related uses only.

Mr. Dave Elliott serves as President of the Board for the Meadow Lake Airport Association serves as the Airport Manager. He acknowledged the letter of no objection he wrote on behalf of the MLA Association. He stated the Sunds are great members and are in good standing with the Association. The deeds for the properties within MLA make no mention of the MLA Association because it did not exist when the airport was established. The bylaws for the Association apply to the individuals, not the private property. It is not an HOA and has no authority over the property. Neither does the FAA. The private hangar complex at MLA is considered a "through the fence" operation. The only authority the Association has in the event an individual does not want to pay the dues is to deny their access to the runway complex.

He acknowledged that there are many non-aeronautical activities taking place at the airport. He discussed three examples. Overall, the Association has taken the stance that as long as the activities occurring inside the private hangar are legal, the Association will not submit complaints. If those activities have a negative impact on airport operations, however, then the Association will get involved. He reiterated that there is an extensive aircraft waitlist for hangar space. While he does not condone using hangar space for non-airplane uses, the Sunds have been good members of the Association and have assisted with airport security. They also assist when people are building airplanes, painting parts, lending tools, etc.

He stated that Cessna Drive is technically a roadway. There are taxiway easements platted on both sides of Cessna Drive, but they have not been improved contiguously. Therefore, Cessna Drive is used for both vehicles and aircraft. The road is maintained by the Association. The Association owns half of the runway and owns the pavement on the taxiway easements.

Mr. Markewich asked for a description of the signage or delineation between roadway and taxiway.

Mr. Elliott answered that when a person leaves Judge Orr Road and travels south on Cessna Drive, there is immediately a fence. During the day, the gate is lifted. It remains open from 7:00 a.m. – 7:00 p.m. but after that time, a code is required. Most people will see the open gate, realize there is an airport on the other side, and turn around. He further explained that there is a sign by the gate that identifies aircraft have the right-of-way. Beyond that point, there are speed limit signs. There are three taxiways that cross Cessna Drive. At the end of Cessna Drive, there is a runway. On that runway, there is aeronautical signage that the public would not understand. He acknowledged that there is an issue with speeding on Cessna Drive. When that happens, there would be little reaction time when a vehicle encounters an airplane. He further stated that there has only been one accident he is aware of, which occurred on a taxiway, not Cessna Drive.

Mr. Whitney summarized that portions of Cessna Drive are both road and taxiway.

Mr. Elliott clarified that Cessna Drive is not officially a taxiway, but it is used that way.

Mr. Whitney asked if there was signage to warn drivers that the road is used as a taxiway in addition to the “aircraft has the right-of-way” sign.

Mr. Elliott answered that there is not.

Mr. Whitney concluded that drivers would be surprised to come nose-to-nose with an airplane.

Mr. Elliott replied that they shouldn’t be surprised because it’s an airport.

Mr. Daniel Jacquot spoke in opposition. He is also a board member on the Association. He stated that at their board meeting, he thought it was unusual that the Sunds were in attendance because people might not want to express concerns in front of an applicant. He stated that he voted against supporting the variance at that meeting, but he did not express his reasoning why afterwards. They voted once. He questioned other members’ votes. He stated that if the Sunds (AccuFix) left the airport, there is another paint shop on the airport property that could still provide services. He stated that most existing businesses that opened on their properties didn’t first declare their intentions. He stated that there have been complaints of cars parked in taxiways at a different transmission shop. He detailed conflicts he’s had with another business (not the Sunds). He further stated that he has not observed body shops operating at other airports like COS, APA, or DEN. He concluded by stating that the Sunds are excellent neighbors and that if any variance were granted, he would be okay with keeping them as neighbors, but he generally does not support non-aviation related businesses being allowed to operate at the airport.

Mr. Michael Barr spoke in opposition. He is also a board member on the Association. He also voted against the variance at their board meeting. He stated he is not worried about AccuFix now, but is worried about the use in the future. He stated that non-aviation related uses got out of control. He expressed the hope that if the Planning Commission approves the variance request for the Sunds, that there be a caveat that approval expires upon the sale of the property.

Ms. Parsons stated that someone contact the downtown office requesting to speak on the item. She is attempting to get their contact info so that they can be called in.

Ms. Herington advised the board that the member of the public did not provide their full phone number, so they were not able to be called in. They will be asked to provide their comments for the BOCC hearing which will take place on 9/26/2024.

DISCUSSION

Ms. Parsons pulled up the note on the site plan, *"Repair of vehicles is limited to the following: electrical work, structural work, paint, body and fender work be permitted in association with a governmental contract and Meadowlake Airport Association Members on the site."* She further explained that the applicant would like to maintain the ability to service vehicles for MLA property owners. A second note did not change from how it was previously presented on the site plan.

Mr. Bailey read the condition of approval currently listed on the drafted resolution; *"Additional aviation-related repair is allowed on the subject properties pursuant to the General Aviation Overlay District and the 1982 R-4 (Planned Development) Zoning District."* He noted that the condition doesn't mention approval is tied to a site plan or Letter of Intent. He asked if a condition was missing.

Ms. Parsons explained that the coinciding site plan defines the allowed uses, and the applicant would not be able to expand beyond what is defined on that approved document.

Mr. Bailey mentioned that on past variance approvals, language that tied in the site plan or Letter of Intent was typically present in some way.

Ms. Parsons reminded the board that the County would prefer to identify restrictions on plat notes instead of referring to Letters of Intent that are open to interpretation.

Mr. Bailey asked for Ms. Seago's recommendation.

Ms. Seago replied that the board can add a condition referring to the site plan if they so choose. She referenced the drafted resolution for another Variance of Use application, which does include language that makes that reference.

Ms. Parsons asked that the board not impose a condition that references the applicant's Letter of Intent because that document references the confusing 1981 R-4 language. The condition of approval and the site plan notes do not remove the underlying allowed uses. If a future owner of this property wanted to create an airplane repair shop, they would be allowed to do so by right.

Mr. Whitney clarified that Mr. Bailey would prefer to have a condition of approval that ties to or matches what is found on the site plan.

Mr. Bailey acknowledged that it would be his personal preference for consistency and to draw attention to the additional restrictions.

Ms. Herington suggested that a condition of approval be added to the drafted resolution that refers to the site plan. She further suggested that the board can have a conversation with staff later to discuss moving away from referencing applicants' Letters of Intent. She advised that the board should evaluate the language Ms. Parsons presented on the site plan because that would be the condition that future staff looks at when determining compliance.

Mr. Schuettpelz agreed with the request to add a condition of approval on the resolution. He further requested that approval be tied to ownership of the property rather than running with the land. If there is a new property owner in the future, they should be required to submit a new variance request if their intention is to pursue non-aviation related uses.

Mr. Bailey explained that the site plan note would address the acceptable use issue, but the other topic which they discussed was limiting approval to current ownership. That was requested for the other variance request on the agenda as well.

Mr. Markewich asked if that limitation should be on the site plan or the resolution.

Ms. Seago answered that it should be on the resolution.

Mr. Ruiz provided rebuttal to the public comments and discussion. The applicant is agreeable to the condition/note that was presented on the site plan by Ms. Parsons. The applicant is concerned about adding a condition of approval that ties the variance to current ownership. If the business thrives, she may want to expand to another location. If she were to do that, she wouldn't be able to sell the business she built up at the current location. Adding that condition of approval may cause a financial burden if she is only allowed to market the property as a vacant building. However, any future owner of the business would be restricted by the site plan note.

Mr. Bailey asked if it would be enough that the underlying zoning permits aviation related uses.

Ms. Ruiz mentioned that there is a previous plat note that restricts the uses to airport hangars and does not allow for maintenance. She then addressed the public comments. She reiterated that AccuFix is a good neighbor and is well liked among Association members. Examples of business owners that have contributed to problems are separate from Ms. Sund. She believes that the opposition is more concerned about setting a precedent than in allowing Ms. Sund's business to continue.

Mr. Markewich stated that the note on the site plan seemed reasonable, and he did not see a need to add an additional condition tying approval to the current ownership. He expressed support of the application with the language Ms. Parsons added to the site plan.

Mr. Trowbridge agreed with Mr. Markewich's comments. He agreed with the applicant's remarks that if they were to sell the business, there shouldn't be an issue with the same type of business continuing in that location (under the same site plan restrictions). He further stated that although the property is within the confines of Meadow Lake Airport, it remains private property. He believes the language added to the site plan is sufficient.

Mr. Whitney agreed with both Mr. Markewich and Mr. Trowbridge.

Mr. Carlson agreed with the site plan note but disagreed with dismissing a condition restricting approval to current ownership. He believes there is a problem at the airport and that there is a mess. He stated that conditioning approval to the current owner for this project would help clean up that mess.

Mr. Schuettpelz agreed with Mr. Carlson's remarks. He reiterated that property and hangars were sold in the past without discretion. To attempt now at reeling that back in for airport uses only will be difficult.

Ms. Brittain Jack stated that the Planning Commission's responsibility is to evaluate the request for a variance, not to clean up what has been going on for 20 years.

Mr. Bailey agreed with Ms. Brittain Jack. He doesn't believe cleaning up the mess should fall on the current applicant. He reiterated that the current proposal is one of many. He is concerned about limiting the current applicant (with a conditional approval) when other situations are in existence. He doesn't think they should be looking so broadly outside the subject request. He believes the use is compatible because it's been there for a long time and there are other uses like it. He agreed that the hardship falls within the limitations of the LDC. Fixing the situation with a variance seems appropriate.

Mr. Smith agreed with Mr. Bailey's remarks.

Mr. Trowbridge requested a second condition of approval to tie the resolution to the site plan.

Ms. Parsons read the added second condition into the record: *"Uses are limited to the Site Plan submitted in support of the Variance of Use."*

PC ACTION: TROWBRIDGE MOVED / WHITNEY SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3C, FILE NUMBER VA245 FOR A VARIANCE OF USE, 8304 & 8308 CESSNA DRIVE VARIANCE OF USE, AMMENDING THE RESOLUTION ATTACHED TO THE STAFF REPORT TO REFLECT TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (6-2).

IN FAVOR: BAILEY, BRITTAIN JACK, MARKEWICH, SMITH, TROWBRIDGE, AND WHITNEY.

IN OPPOSITION: CARLSON AND SCHUETTPELZ.

ADDITIONAL COMMENTS

Mr. Carlson disagreed that it's not the Planning Commission's job to clean up the existing mess. Where else would that take place? This application process is where issues happening in the community should be brought.

Mr. Schuettpelz added that when the applicant purchased the property, they should have done their due diligence in researching if their intended use was allowed instead of assuming.

3G. VA243

WEEKS

**VARIANCE OF USE
5935 TEMPLETON GAP ROAD VARIANCE OF USE**

A request by Great West Construction for approval of a Variance of Use to allow an office use in the A-5 (Agricultural) and CAD-O (Commercial Airport Overlay) Zoning Districts. The property is located south of Templeton Gap Road, northeast of the intersection of Templeton Gap Road and Corinth Drive. (Parcel No. 631300009) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

Mr. Weeks presented a fourth condition of approval proposed due to previous discussion. This was drafted by Ms. Seago and has been reviewed and agreed upon by the applicant. He read the condition into the record: *"Approval of the Variance of Use shall remain in effect only so long as the existing or any future property owner resides on the property. If the property owner is not a natural person, the owner or an employee of the entity that owns the property shall reside on the property to fulfill this requirement."*

Mr. Chuck Crum, representing the applicant with M.V.E., Inc., confirmed that the applicant is agreeable to the added condition of approval.

NO PUBLIC COMMENTS

NO FURTHER DISCUSSION

PC ACTION: CARLSON MOVED / SMITH SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3G, FILE NUMBER VA243 FOR A VARIANCE OF USE, 5935 TEMPLETON GAP ROAD VARIANCE OF USE, AMMENDING THE RESOLUTION ATTACHED TO THE STAFF REPORT TO REFLECT FOUR (4) CONDITIONS AND THREE (3) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

5. REGULAR ITEMS

A. ID244

PARSONS

SPECIAL DISTRICT SERVICE PLAN SOUTHERN COLORADO RAIL PARK METROPOLITAN DISTRICT NOS. 1-3

A request from Edw. C. Levy Company, and White Bear Ankele Tanaka and Waldron, for approval of a Colorado Revised Statutes Title 32 Special District Service Plan for the Southern Colorado Rail Park Metropolitan District Nos. 1-3. The 3,108-acre area included within the request is zoned A-5 (Agricultural) and RR-5 (Residential Rural) and is located south of Charter Oak Road and east of the Fort Carson Military Installation. The service plan includes the following: a maximum debt authorization of \$430,000,000.00, a debt service mill levy of 50 mills for commercial, and an operations and maintenance mill levy of 15 mills, for a total maximum combined mill levy of 65 mills. The statutory purposes of the districts include the provision of the following:

- 1) street improvements, transportation, safety protection;
- 2) design, construction, and maintenance of drainage facilities;
- 3) design, land acquisition, construction, and maintenance of recreation facilities;
- 4) mosquito control;
- 5) solid waste disposal;
- 6) design, construction, and maintenance of water systems including fire hydrants;
- 7) sanitation systems; and
- 8) security services.

(Parcel Nos. 6600000030, 6600000040, 6600000041, 6600000046, 6600000047, 6600000048, 6600000004, 6600000008, 6600000009, 6600000010, 6600000011, 6600000012, and 6600000014) (Commissioner District No. 4)

STAFF & APPLICANT PRESENTATIONS

Mr. Markewich reiterate that the City of Colorado Springs finds the application acceptable. He asked for verification that the language about eminent domain is transferable to the City.

Ms. Parsons confirmed and read condition of approval number one: *"If any portion of the land within the Southern Colorado Rail Park Metropolitan District Nos. 1-3 annexes into a municipality, City Council or the appropriate body within the municipality shall be the authorizing entity in regard to: eminent domain powers, increase to the maximum mill levy or debt, and modification of the Service Plan as described in Conditions of Approval Nos. 2-6 of the Southern Colorado Rail Park Board of County Commissioners Resolution approving the subject Service Plan (ID244)."* She confirmed that that City is agreeable to that condition.

Ms. Brittain Jack asked if the Ray Nixon power plant was located in unincorporated County.

Ms. Parsons confirmed but added that it is owned and operated by the City of Colorado Springs. Most of the City's utilities are in the County, including the WSEO's that will come before the Board.

Mr. Steve Mulliken, attorney representing the applicant, introduced the proposal and gave a brief presentation.

Mr. Sean Allen, attorney representing the applicant, explained that there is approximately 5.6 million square feet of commercial space to support the \$430 million maximum debt authorization. The estimated value of that commercial square footage is taken, and that value is extrapolated out to approximately \$410 million in PAR. In the three series of debts, the first will be all new money (first issuance), the second series will occur 5 years later (to refund the first series and issue new money), and the third series will occur 5 years later (to refund again and issue the final phase of new money). At that point, the total project funds, total PAR, will be issued. That is the method used to estimate what money is needed. He then reiterated the points covered by Ms. Parsons regarding mandatory criteria of approval.

Mr. Carlson asked how phase one, specifically the railroad, was paid for.

Mr. Mulliken answered that the Metro District will not pay for the railroad. That will either be paid for privately by the applicant or through grants.

Mr. Carlson expressed his understanding of how the first 3 phases of development would help pay for their own infrastructure, but he asked if any infrastructure would be completed in phase 4 prior to development in that area.

Mr. Mulliken answered that the location of the last phase includes where the mining operation currently exists and is already approximately 70% completed. The bluff will not serve the railroad and will be industrial only. When it comes time to finish development of that area, there will be 2 different Metro Districts providing issuance.

Mr. Trowbridge asked for more information about the repayment plan along with build-out of all phases of development.

Mr. Mulliken explained that the subject proposal differs from the typical residential Metro District in that there are no homeowners. He had considered including a small area of affordable housing within the vicinity, but that was decided against due to proximity to the industrial rail park, Ft. Carson, etc. He stated that when the financial projections were done, they estimated \$225/sq ft for the value of the industrial properties. He stated they are usually estimated at a higher value than that. He believes their estimates produced a conservative number. As the first manufacturer is brought in, the value of the property will increase. Property owners will pay taxes on the current assessed values. He anticipates that after the first property user moves in, the cost of phase 1's development will nearly be paid for.

Mr. Carlson clarified that the estimated value of \$225/sq ft was for the improvements, not the land.

Mr. Mulliken confirmed.

Ms. Brittain Jack asked if annexation to the City of Colorado Springs would result in a flagpole.

Mr. Mulliken replied that the annexation statute states that contiguity cannot be disrupted or prevented due to an intervening governmental or public land, which occurs with Fort Carson in this case. He further stated that they are currently working with the City.

NO PUBLIC COMMENTS

NO FURTHER DISCUSSION

PC ACTION: BRITTAIN JACK MOVED / TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5A, FILE NUMBER ID244 FOR A SPECIAL DISTRICT SERVICE PLAN, SOUTHERN COLORADO RAIL PARK METROPOLITAN DISTRICT NOS. 1-3, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SEVEN (7) CONDITIONS AND ONE (1) NOTATION, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITTAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

6. NON-ACTION ITEMS

A. A Presentation regarding the implementation action matrix in the Master Plan (3-year update).

PC ACTION: THIS ITEM WAS POSTPONED TO THE PLANNING COMMISSION HEARING ON 9/19/2024.

MEETING ADJOURNED at 12:16 p.m.

Minutes Prepared By: Miranda Benson

PRELIMINARY PLAN (RECOMMEND APPROVAL)

MARKIEWICH moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. SP217
PEERLESS FARMS PRELIMINARY PLAN

WHEREAS, Robert and Wendy Williams did file an application with the El Paso County Planning and Community Development Department for approval of a Preliminary Plan for the Peerless Farms Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on September 5, 2024; and

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

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication, and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted, and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. 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

6. For the above-stated and other reasons, the proposed Preliminary Plan 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 Preliminary Plan, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1.D.2.e of the Land Development Code ("Code") (as amended):

1. The proposed Subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
2. The Subdivision is consistent with the purposes of the Code;
3. The Subdivision is in conformance with the subdivision design standards and any approved Sketch Plan;
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 (this finding may not be deferred to Final Plat if the applicant intends to seek Administrative Final Plat approval);
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 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 therefore, 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 systems 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; and
13. The proposed Subdivision meets other applicable sections of Chapter 6 and 8 of the Code.

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

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of Robert and Wendy Williams for approval of a Preliminary Plan for the Peerless Farms Subdivision for property located in the unincorporated area of El Paso County be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. Applicable traffic, drainage and bridge fees shall be paid with each Final Plat.
2. Applicable school and park fees shall be paid with each Final Plat.
3. 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.

4. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assigns that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the Countywide Transportation Improvement Fee Resolution (Resolution 19-471), as amended, 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.
5. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 8/15/2024, as provided by the County Attorney's Office.

NOTATIONS

1. Subsequent Final Plat Filings may be approved administratively by the Planning and Community Development Director.
2. Approval of the Preliminary Plan will expire after twenty-four (24) months unless a Final Plat has been approved and recorded or a time extension has been granted.
3. Preliminary Plans not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed to be withdrawn and will have to be resubmitted in their entirety.

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.

SMITH seconded the adoption of the foregoing Resolution.

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

Thomas Bailey	<u>aye</u> / no / non-voting / recused / absent
Sarah Brittain Jack	<u>aye</u> / no / non-voting / recused / absent
Jim Byers	aye / no / non-voting / recused / <u>absent</u>
Jay Carlson	<u>aye</u> / no / non-voting / recused / absent
Becky Fuller	aye / no / non-voting / recused / <u>absent</u>
Jeffrey Markewich	<u>aye</u> / no / non-voting / recused / absent
Bryce Schuettepelz	<u>aye</u> / no / non-voting / recused / absent
Wayne Smith	<u>aye</u> / no / non-voting / recused / absent
Tim Trowbridge	<u>aye</u> / no / non-voting / recused / absent
Christopher Whitney	<u>aye</u> / no / non-voting / recused / absent

The Resolution was adopted by a vote of 8 to 0 by the El Paso County Planning Commission,
State of Colorado.

DONE THIS 5th day of September 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: 
Chair

EXHIBIT A

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF EL PASO, STATE OF COLORADO, AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 13 IN TOWNSHIP 13 SOUTH, RANGE 64 WEST OF THE 6TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 13;
THENCE SOUTH 00°31'50" WEST ALONG THE WEST SECTION LINE, A DISTANCE OF 60.01 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 89°21'32" EAST ON A LINE PARALLEL TO THE NORTH SECTION LINE A DISTANCE OF 1,779.95 FEET;

THENCE SOUTH 00°38'28" EAST, A DISTANCE OF 992.00 FEET;

THENCE NORTH 89°28'10" WEST A DISTANCE OF 1,799.86 FEET;

THENCE NORTH 00°31'50" EAST 955.39 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF EL PASO, STATE OF COLORADO.

EL PASO COUNTY



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

COLORADO

HOLLY WILLIAMS
STAN VANDERWERF
LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Thomas Bailey, Chair

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

RE: Project File Number: SP217
Project Name: Peerless Farms
Parcel Number: 4313000001

OWNER:	REPRESENTATIVE:
Robert and Wendy Williams 16795 Falcon Highway Peyton, CO, 80831	Kimley-Horn & Associates 2 North Nevada Avenue, Suite 300 Colorado Springs, CO, 80903

Commissioner District: 2

Planning Commission Hearing Date:	9/5/2024
Board of County Commissioners Hearing Date:	9/26/2024

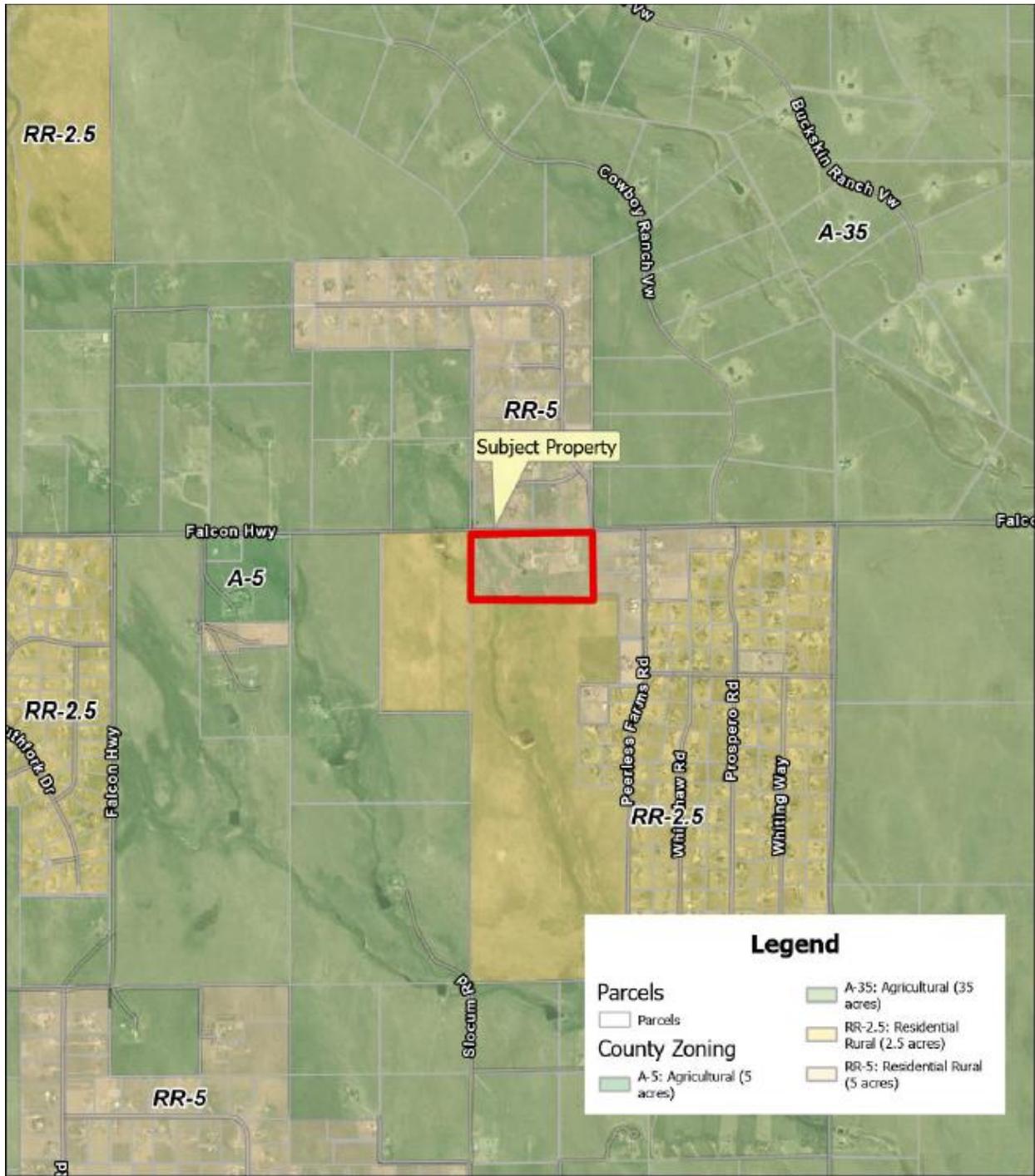
EXECUTIVE SUMMARY

A request by Robert and Wendy Williams for approval of a 40.01-acre Preliminary Plan depicting 7 single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 16975 Falcon Highway, on the south side of Falcon Highway, approximately 2 miles east of the intersection of Falcon Highway and Curtis Road. A finding of water sufficiency with regards to quality, quantity, and dependability is requested with the Preliminary Plan. The applicants are also requesting a Waiver to Section 8.4.3.B.2.e of the El Paso County Land Development Code (as amended) to allow for the proposed lots to be created without having access and 30 feet of frontage along a public road.

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OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910
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Zoning Map

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A. AUTHORIZATION TO SIGN: Approval by the Board of the Preliminary Plan with a finding of sufficiency for water quality, quantity, and dependability, authorizes the Planning and Community Development Department Director to administratively approve all subsequent Final Plat(s) consistent with the Preliminary Plan as well as the associated Subdivision Improvements Agreements, License and Detention Pond Maintenance Agreements, and any other documents necessary to carry out the intent of the Board of County Commissioners.

B. APPROVAL CRITERIA

In approving a Preliminary Plan, Section 7.2.1.D.2 of the El Paso County Land Development Code (as amended) states the BoCC shall find that:

- *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 Code;*
- *The subdivision is in conformance with the subdivision design standards and any approved sketch plan;*
- *A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of the Code;*
- *A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws and regulations, [C.R.S. §30-28-133(6) (b)] and the requirements of Chapter 8 of the Code;*
- *All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. §30-28-133(6)(c)];*
- *Adequate drainage improvements complying with State law [C.R.S. §30-28- 133(3)(c)(VIII)] and the requirements of the Code and the 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 in compliance with the Code and the ECM;*
- *The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning*



techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;

- *Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;*
- *The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code; and*
- *The proposed subdivision meets other applicable sections of Chapter 6 and 8 of the Code.*

C. BACKGROUND

The subject property is over 35 acres in size and is therefore considered a legal division of land. There are currently 2 residential structures, constructed in 1932 and 1947, and 5 agricultural structures, constructed between 1982 and 1985, on the property. The residential structures are proposed to be located on Lot 3; the larger structure, which is approximately 3,451 square feet, is identified on the Preliminary Plan as a residence, and the smaller structure, which is approximately 1,428 square feet, is identified as a guest house on the Preliminary Plan. Prior to approval of a Final Plat, the applicant will be required to record an affidavit to classify the guest house structure as an accessory living quarters for temporary occupancy. The agricultural structures are proposed to be removed.

D. ANALYSIS

1. Land Development Code Analysis

The application has been found to meet the criteria of the Land Development Code for the consideration of a Preliminary Plan, with the exception of the proposed Waiver.

The applicants are requesting a Waiver to Section 8.4.3.B.2.e of the El Paso County Land Development Code (as amended) to allow for 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).*

Lots 1 and 2 are proposed to have frontage along Falcon Highway, and Lots 4 and 7 are proposed to have frontage along Sagecreek Road. However, all lots with the exception of Lot 4 are proposed to obtain access through private driveways. Lot 4 is proposed to obtain direct access to Sagecreek Road. Adequate access can be provided to all the proposed lots via the proposed access easements.

The Land Development Code defines a “Driveway” as follows: *A facility for the passage of vehicles that provides access from a public or private road to no more than 3 lots.*

Lots 1, 2, and 3 are proposed to receive access via a driveway, and Lots 5, 6, and 7 are proposed to receive access via another driveway. Lot 4 is proposed to receive access directly from Sagecreek Road. Therefore, since no more than 3 lots are receiving access from a single driveway, the applicant is not required to construct private or public roads to provide access. A Waiver of Section 8.4.3.B is required because Lots 3, 5, and 6 will not have frontage on a public road.

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

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



2. Zoning Analysis

The property is zoned RR-5 (Rural Residential). The RR-5 zoning district is intended to accommodate low-density, rural, single-family residential development. Final Plat(s) will be required to be approved and recorded prior to approval of any Site Plans on the property. 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. The density and dimensional standards for the RR-5 zoning district are as follows:

- *Minimum lot size: 5 acres²*
- *Minimum width at the front setback line: 200 feet*
- *Minimum setback requirement: front 25 feet, rear 25 feet, side 25 feet³*
- *Maximum lot coverage: 25%*
- *Maximum height: 30 feet*

² *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.*

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

The existing structures which are proposed to remain on the property 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 that are proposed to remain will meet all the applicable Dimensional Standards after the property has been platted.

E. MASTER PLAN COMPLIANCE

1. Your El Paso County Master Plan

a. **Placetype Character:** Large-Lot Residential

The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more, and are generally large and dispersed throughout the area so as to preserve a



rural aesthetic. The Large-Lot Residential placetype generally supports accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote than Rural areas. Large-Lot Residential neighborhoods typically rely on well and septic, but some developments may be served by central water and waste-water utilities. If central water and wastewater can be provided, then lots sized less than 2.5 acres could be allowed if; 1.) the overall density is at least 2.5 acres/lot, 2.) the design for development incorporates conservation of open space, and 3.) it is compatible with the character of existing developed areas.

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

Recommended Land Uses:

Primary

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

Supporting

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

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.



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

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

The property is located within the Highway 24 Large-Lot Residential Priority Development Area.

Highway 24 is a major roadway that connects the northeastern part of the County to Colorado Springs. Significant growth is expected along the corridor between Falcon and Peyton not only to connect the existing subdivisions, but also to capitalize on proximity to the Highway and the Falcon Regional Center.

- *While an overall density of 2.5 acres per lot should be maintained within this area, consistent with the Large-Lot Residential placetype, **denser development should be allowed if compatible with the existing development pattern and central water and sewer are being extended to provide a transition to expanding Suburban Residential development in Falcon and areas to the south.***

e. **Analysis:**

The proposed lot sizes are greater than the recommended minimum lot size in the Large-Lot Residential Placetype. Relevant goals and objectives are as follows:

Goal LU1 – *Ensure compatibility with established character and infrastructure capacity.*

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

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

Goal 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.*



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 property is located within Planning Region 3 of the Plan, which is an area anticipated to experience growth by 2040. 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 and eolian deposits in 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.

F. PHYSICAL SITE CHARACTERISTICS

1. Hazards

A soils & geology report was submitted for review with the Preliminary Plan. Identified geologic conditions on the site include shallow groundwater. Pursuant to Colorado Geological Survey recommendations, the applicant has included the following note on the Preliminary Plan:

Basements or crawlspaces are not allowed without data demonstrating adequate separation (approximately 3-5 feet) can be maintained from fluctuating groundwater



levels. Basements should not be allowed without groundwater monitoring throughout a 12-month period that clearly indicates adequate separation (approximately 3-5 feet) can be maintained from fluctuating groundwater levels. Impacts to the measured fluctuating groundwater levels from variations in yearly precipitation rates must be included in this analysis. Prior to approval of basement or other habitable below-grade construction site-specific investigations must provide data on the fluctuation of groundwater and how the variation of yearly precipitation rates may impact this fluctuation.

This note will be required to be included on all subsequent Final Plats within the Preliminary Plan area.

2. Floodplain

As shown on FEMA Flood Insurance Rate Map (FIRM) panel numbers 08041C0567G, the western portion of the subject property is located within a FEMA Zone AE, floodplain with studied base flood elevations. The remaining portion of the proposed subdivision is located outside of the 100-year floodplain.

3. Drainage and Erosion

The proposed subdivision is located within the Haegler Ranch drainage basin, which was studied in 2009. This basin requires drainage and bridge fees to be paid at the time of Final Plat recording. The site generally drains from east to west toward an unnamed creek.

A Preliminary Drainage Report (PDR) was provided with the Preliminary Plan submittal. Runoff will generally be collected via roadside ditches adjacent to the proposed public roads and private gravel driveways. The collected runoff will be released into the unnamed drainageway at the western edge of the project site. Flow will be consistent with historic drainage patterns. The PDR analysis and design indicates that the proposed development will not release developed runoff in excess of historic rates. The PDR concludes that “development of the proposed site does not significantly impact any downstream facility or property to an extent greater than that which currently exists in the pre-development conditions.”

The Haegler Ranch Drainage Basin Planning Study (DBPS) did not call for any improvements with the project site.



An erosion and stormwater quality control permit (ESQCP), a grading and erosion control plan, a Financial Assurance Estimate (FAE), a Stormwater Management Plan (SWMP), and wet utility plans will be required at the time of Final Plat.

4. Transportation

The development is located on the south side of Falcon Highway with the intersection of Sage Creek Road. Falcon Highway is a minor arterial owned and maintained by El Paso County. Sagecreek Road is a local gravel road owned and maintained by El Paso County. With the buildout of the project site, the two existing driveways along Falcon Highway will be closed and Sagecreek Road will be extended to the south, providing access to the proposed lots.

The submitted traffic study projects that the development will generate 68 average daily trips with full buildout of the development.

The El Paso County 2016 Major Transportation Corridors Plan Update did not identify any roadway improvements in the immediate vicinity of the site.

El Paso County Road Impact Fees (RIF) as approved by Resolution 19-471 apply to the development. The RIF will be assessed at the final land use approval or when the applicant applies for a building permit.

G. SERVICES

1. Water

Water sufficiency has been analyzed with the review of the proposed subdivision. The applicant has shown a sufficient water supply for the required 300-year period. The State Engineer and the County Attorney's Office have recommended that the proposed Preliminary Plan 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. Water is proposed to be provided to the proposed lots by individual wells.

2. Sanitation

Wastewater is provided by individual on-site wastewater treatment systems (OWTS).

3. Emergency Services

The property is within the Falcon Fire Protection District, which is committed to providing fire protection services to the proposed development. The District was



sent a referral for the Preliminary Plan and has no outstanding comments or concerns at this time.

4. Utilities

Mountain View Electric Association (MVEA) will provide electrical service and Black Hills Energy (BHE) will provide natural gas service to the subject property. Both utility providers were sent referrals for the Map Amendment; MVEA has no outstanding comments and BHE did not provide a response.

5. Metropolitan Districts

The property is not located within any Metropolitan Districts.

6. Parks/Trails

Fees in lieu of park land dedication will be due at the time of recording the Final Plat(s).

7. Schools

The site is within the boundaries of the Falcon School District No. 49. Fees in lieu of school land dedication shall be paid to El Paso County at time of recording the Final Plat(s).

H. STATUS OF MAJOR ISSUES

There are no major issues.

I. 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. Applicable traffic, drainage and bridge fees shall be paid with each Final Plat.
2. Applicable school and park fees shall be paid with each Final Plat.
3. 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.

4. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assigns that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the Countywide Transportation Improvement Fee Resolution (Resolution 19-471), as amended, 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.
5. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 8/15/2024, as provided by the County Attorney's Office.

NOTATIONS

1. Subsequent Final Plat Filings may be approved administratively by the Planning and Community Development Director.
2. Approval of the Preliminary Plan will expire after twenty-four (24) months unless a Final Plat has been approved and recorded or a time extension has been granted.
3. Preliminary Plans not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed to be withdrawn and will have to be resubmitted in their entirety.

J. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified 12 adjoining property owners on August 22, 2024, for the Planning Commission and Board of County Commissioner meetings. Responses will be provided at the hearing.

K. ATTACHMENTS

Letter of Intent

Plat Drawing

County Attorney's Water Supply Review and Recommendations

Draft Resolution

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Peerless Farms

Preliminary Plan, Pre-Development Site Grading & Wet Utilities
PCD File No. SP217

Letter of Intent

(Revised 12-08-23)

APPLICANT-OWNER/CONSULTANT INFORMATION:

OWNERS

ROBERT S. WILLIAMS
16975 FALCON HIGHWAY
PEYTON, CO 80831-7906

WENDY K. WILLIAMS
16975 FALCON HIGHWAY
PEYTON, CO 80831-7906

PLANNING

KIMLEY-HORN AND ASSOCIATES, INC.
2. NORTH NEVADA AVENUE, SUITE 900
COLORADO SPRINGS, CO 80903

ENGINEERING

KIMLEY-HORN AND ASSOCIATES, INC.
2. NORTH NEVADA AVENUE, SUITE 900
COLORADO SPRINGS, CO 80903

SURVEYING

CENTENNIAL LAND SURVEYING
6165 LEHMAN DRIVE,
COLORADO SPRINGS, CO 80918

PEERLESS FARMS PRELIMINARY PLAN SITE LOCATION, SIZE, & ZONING:

Parcel ID Nos.: 4313000001

Area/Acreage: ±40.01 AC

Existing Zoning: RR-5

Location: The development limits are located in the Northwest quarter (1/4) of Section 13, Township 13 South, Range 64 West of the Sixth Principal Meridian. Southwest of the Falcon Highway and Sage Creek Road Intersection.

REQUEST

Robert S. and Wendy K. Williams' preliminary plan application includes the following requests:

- Approval to develop seven (7) single-family residential lots in the RR-5 zone and one (1) public access tract (Tract A) for public improvements, water wells, utilities and drainage;
- Findings of sufficient water quality, quantity, and dependability with the requested preliminary plan approval;
- Authorization to submit a final plat(s) for administrative approval subject to findings that 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;
- Approval of a Waiver of Section 8.4.3.B.2.e, which requires Lots to have a minimum of 30 feet of frontage on and have access from a public road (Lots 1, 2, 4 & 7 will have frontage but no access to public roads; Lots 3, 5, & 6 will not have frontage nor access to public roads).
 - **Justification of the private road waivers and deviations of the standard roadway cross sections are discussed at the end of this letter report in the Preliminary Plan review and approval criteria analysis and justification.*

PRELIMINARY PLAN SUMMARY

The development standards and layout for seven (7) detached single-family rural residential lots, subdivision access to public rights of way will include one (1) direct access from Falcon Highway, along with two (2) Access and Utility easements.

ACCESS: Vehicular access to the Peerless Farms development is to propose one (1) full movement accesses, extension of Sage Creek Road (South), from Falcon Highway. Two (2) private access and utility easements will service interior lots.

LAND USE: The minimum lot size is five (5) Acres for all lots. Some lot sizes exceed the minimum lot size due to lot configuration and private improvements contained in easements for public drainage, utilities, access and circulation and private open space

(within lot yards). Peerless Farms Subdivision will pay park fees in lieu of providing shared or public open space(s).

Permitted and accessory single-family residential uses include single-family detached dwellings, residential accessory uses (per LDC Chapter 5, Table 5-1 and 5-2 allowances), open spaces, and transportation and stormwater facilities. Separate and privately owned detached accessory structures are not permitted on individual residential lots. A complete listing of permitted uses is provided on the development plan.

Lot 3 has two (2) existing living quarters. One is primary housing, the second is accessory, which is an allowed use in the RR-5 Zone. A guest house affidavit will be completed prior to plat approval.

LOT DIMENSIONAL STANDARDS:

Typical lots have been planned to meet the following dimensional standards:

- **Minimum lot size: 5 Acres**
- **Maximum Height: 35'**
- **Setbacks:**
 - **Front Yard: 25'**
 - **Side Yard: 25'**
 - **Rear Yard: 25'**

PUBLIC SERVICES AND UTILITIES

Public services and utilities are, or will be, provided by the following:

- | | |
|----------------------|-------------------------------------|
| • Water Services: | Water Well |
| • Wastewater: | Individual on-site septic |
| • Natural Gas: | Colorado Springs Utilities |
| • Electric Service: | Mountain View Electric Association |
| • Fire Protection: | Falcon Fire Protection District |
| • Public Schools: | Colorado Springs District #49 |
| • Library Services: | Pikes Peak Library District: |
| • Roads: | El Paso County Road and Bridge |
| • Police Protection: | El Paso County Sheriff's Department |

WATER RESOURCES:

The proposed development is planned to have seven (7) residential properties, which will be provided with water service through private wells. See water resource report for more information.

DRAINAGE REPORT

Peerless Farms consists of unplatted land to be developed into seven (7) rural residential lots (RR-5 zoning). The site is within the Haegler Ranch drainage basin (and DBPS). The proposed development is in general conformance with the DBPS and will not negatively affect downstream drainage.

The existing Project Site generally slopes from east to west as well as from the southeast to the north at grades of approximately 1.5 – 3.5%. The historical drainage patterns will be generally maintained. The Site consists of two (2) single-family homes, a large barn and some small out-buildings. The Site does not have any existing stormwater infrastructure; with the exception of a 24" culvert beneath Falcon Highway that allows the unnamed drainageway to drain from the north side of Falcon Highway to the Site.

The developed runoff from the Project will generally be collected by means of roadside ditches located adjacent to the proposed public road and private gravel driveways. The runoff collected in the roadside ditches will be conveyed to the unnamed drainageway, following historical runoff patterns.

Detention and water-quality facilities are not required for the Project as the development consists of 5-acre residential lots and as less than 1-acre of public roadway is proposed for the Site.

WILDFIRE HAZARD ASSESSMENT AND MITIGATION

Peerless Farms Site is outside the wildland urban interface zone and is **not** in the mapped Wildfire Susceptibility index (very-high or moderate to very-high) zones.

According to the site planning and maintenance within defensible zones, each residential site will be encouraged to address the principles of protection zones within this grassland environment with the goal of reducing dense and tall landscape materials within the initial 15' zone around structures. This would include thinning and branching-up of existing trees and ground plain materials.

Mitigation efforts can be reviewed in the EPC Community Wildfire Protection Plan for Unincorporated El Paso County, with reference to Forest Action Plan, provided by the Colorado State Forest Service.

FALCON FIRE PROTECTION DISTRICT COMMITMENT LETTER

Peerless Farms Subdivision is in the Falcon Fire Protection District. Fire Chief Trent Harwig confirmed on April 1, 2021 that service will be provided subject to the following conditions:

- All new construction, renovations or developments within the Fire Department's jurisdiction must comply with the applicable fire code and nationally recognized life-safety

standards adopted by the El Paso County Board of County Commissioners and the Fire Department's Board of Directors, as amended.

- All development, water and commercial construction plans must be reviewed and approved by the Fire Department for compliance with the applicable fire code and nationally recognized life-safety standards prior to final plat or construction permit being issued; and,
- All new development projects' accesses shall meet the fire code and nationally recognized standards pertaining to fire apparatus access.

ELECTRIC PROVIDER SERVICE COMMITMENT

Peerless Farms Subdivision is located within the Mountain View Electrical Association (MVEA) service area. MVEA confirmed April 8, 2021 with the request of a ten (10) foot front, side and rear lot utility easement, along with a twenty (20) foot exterior utility easement on the plat and all tracts. They also request all existing facilities with easements on plat(s) be included.

Note: removal and relocation of existing facilities will be at the expense of the landowner(s).

NATURAL FEATURES:

Wildlife

Wildlife impacts are expected to be generally low based on review of the El Paso County Wildlife Descriptors Map. Additional wildlife impacts may be identified by other entities with wildlife jurisdiction.

Floodplain

(from KH- FDR)

According to the Preliminary Drainage Report, the western portion of the Site is within Area AE, special flood hazard areas with base flood elevations and Zone X, 0.2% annual chance flood hazard, areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile.

The remaining portion of the Site is located outside of the 100-year floodplain as determined by the custom FIRMette map created on April 20, 2021 and contained with Appendix B.

(from RMG Soils Report)

According to the geology and soils report, this presence of the floodplain is not believed to pose a higher risk to this structure than to several currently existing structures in the surrounding area.

Provided that the recommendations presented herein, as well as any requirements stipulated by the governing regulatory agencies, are followed, the presence of the floodplain is not anticipated to preclude the proposed development on Lots 1 and 5 or the development as a whole.

Vegetation

The Site contains two (2) single family residences located near the center of the property and a detached barn approximately 500 feet to the east of the residences. Topographically the Site consists of fairly flat to gently rolling terrain, with overall slopes less than 9 percent across the property. The overall slope is downward from the north to the south, southwest, with an elevation difference of approximately 28 to 30 feet across the Site.

An unnamed intermittent creek traverses the Site along the western portion the property. Trees only exist around the residence. Three small ponds are located east of the intermittent creek. It is uncertain at this time if the ponds are to remain or to be filled in prior to future construction. The entire Site consists of low-lying native grasses and weeds. According to the 'Geology and Soils Study' prepared by completed by RMG-Rocky Mountain Group, dated April 14, 2021, which has been included with the submittal.

NOXIOUS WEED

Per the El Paso County Noxious Weed Mitigation Plan, weed management for Peerless Farms Subdivision includes both prevention and mitigation.

JUSTIFICATION

Approval to develop said seven (7) single-family residential lots under the RR-5 zoning criteria set out in Section 7.2.1 (D)(f) as follows.

- **Peerless Farms Subdivision is in conformance with the goals, objectives, and policies of the master plan established by El Paso County.**

All lots will be a minimum of 5 Acres per the land development code section 3.2.2 (A)

- **Peerless Farms Subdivision does not include open space areas, but plan to pay park fees in lieu of providing open space.**
- ***The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;***

The subdivision generally conforms to the goals, objectives, and policies of the Master Plan, which includes the Your El Paso Master Plan, and Water Master Plan. Conformance with the Master Plan is discussed separately below.

Findings of Master Plan conformity regarding land use and densities have been made in support with the adjacent Developments, those being Sagecreek North and Sagecreek South Filing No. 1 with existing land uses and densities for the Peerless Farms area. This application remains consistent with those findings; and with the following policies from the Your El Paso Master Plan, County Policy Plan and County Water Master Plan:

Peerless Farms Subdivision would promote the rural-residential character of eastern El Paso County and would also satisfy the Following policies of Your El Paso County Master Plan:

Core Principle 1: Manage growth to ensure a variety of compatible land uses that preserve all character areas of the County.

Goal 1.1-Ensure compatibility with established character and infrastructure capacity.

Goal 1.2- Coordinate context-sensitive annexation and growth strategies with municipalities.

Goal 1.3- Encourage a range of development types to support a variety of land uses.

Goal 1.4- Continue to encourage policies that ensure “development pays for itself”.

Key Areas

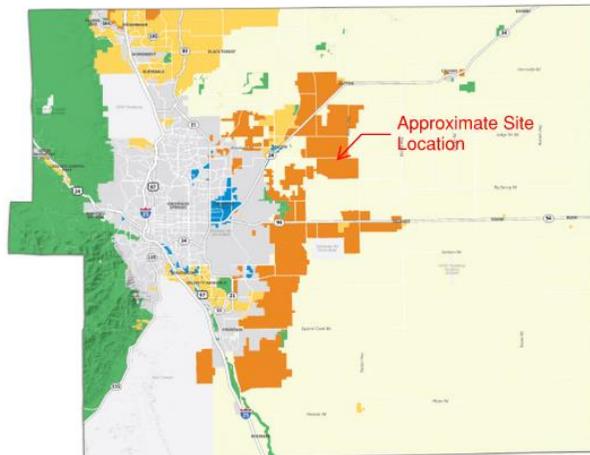


Key Areas

- | | | |
|---|--|---|
| Military Installations and 2-Mile Notification Zone | Small Town & Rural Communities | Tri-Lakes Area |
| Potential Area For Annexation | Forested Area | Colorado Springs Airport/ Peterson Air Force Base |
| Enclaves or Near Enclaves | Fountain Creek Watershed Flood Control & Greenway District | Uncommon Natural Resources |
| Pikes Peak Influence Area | | |

This Site is not located within any Key areas

Areas of Change

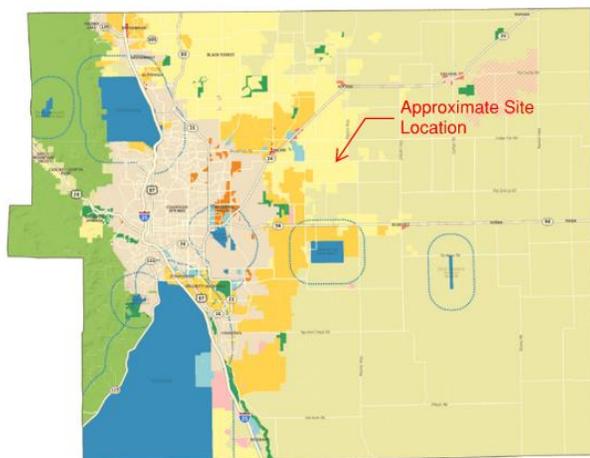


Areas of Change

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

Peerless Farms is located in the area expected for New Development. These areas are designated to as undeveloped or agricultural areas, it is expected that these developments are to match the characteristics of adjacent properties.

Place Type



Placetypes

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

Peerless Farms is located within the Large-Lot Residential type. This land use is designated for Single-family detached residential units, 2.5 acres or larger. The large lots residential place type generally supports accessory dwelling units as well. See Chapter 5.2.1 for further details.

It has been recognized and meets the requirements from the said section. The existing accessory structure is to remain as such on proposed Lot 3, affidavit will be filed with the clerk and recorder during the Final Plat process acknowledging that the accessory living quarters may not be leased or rented.

- **The subdivision is consistent with the purposes of this Code;**

The preliminary plan is consistent with the purposes of this Code, which include development procedures and standards intended to promote safe and orderly development of land and the placement of land uses in relation to existing and predicted patterns of growth and availability of necessary services.

- **The subdivision is in conformance with the subdivision design standards and any approved sketch plan;**

The subdivision conforms with the subdivision standards of the Code if the requested waivers are approved.

- **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**

An existing well is on site to be capped. There are two (2) exiting, abandoned water lines that will not be used with the proposed lots. With the current water rights findings, all lots shall be served by their own new wells. See the water resource report for more information.

Water rights have been identified and approved for individual wells. See enclosed letters of Determination:

No: 4476-BD

No: 4475-BD

No: 4477-BD

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

Wastewater will be provided by way of individual on-site septic/wastewater systems. Reference the Soil and Geology Report, prepared by RMG – Rocky Mountain Group, Job No. 180213, last dated April 14, 2021

- **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)];**

Soils and geologic hazards and constraints including floodplain have been identified on the preliminary plan. The soils and geology report has not identified any hazards

or constraints that would preclude development of the site. The subdivision has been designed to avoid and minimize impacts to identified hazard and/or constraint conditions.

Constraints and mitigation efforts can be found on line item 10.0 title Bearing of Geologic Conditions Upon Proposed Development. Under line item 11.0, "A site-specific subsurface soil investigation and OWTS evaluation and design will be required for all proposed single-family residences.

- **Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;**

Drainage improvements have been designed to adequately convey, store, treat, and release historic and developed flows onto and through the site.

- **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;**

The public improvements (on-site and off-site) have been designed and sited to adequately serve the needs and mitigate the impacts of the development, including, roads, utilities, drainage facilities.

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

Legal access is provided to the subdivision is via connection from the Sage Creek Road southerly extension to Falcon Highway. The required access meets applicable spacing criteria. Individual lot access is provided by way of both public street and private drive access points identified on the plan. Each private drive will provide access to three (3) lots. None of the proposed lots will gain direct access to Falcon Highway.

- **The proposed subdivision has established an adequate level of compatibility by incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision;**

The subdivision has been designed to minimize impact to natural features such as the noted floodplain. The Code does not have open space requirements for rural density subdivisions and no common open space is provided. Lots are large enough to provide private open spaces within each individual lot.

- **Does the plan incorporate 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?**

The Site has been designed to provide required public services and infrastructure (transportation/utilities) consistent with rural large lot development standards.

- **Do the plan incorporate physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses?**

The plan reflects the standard transitions and buffers consistent with the EPC planning criteria.

- **Does the plan incorporate identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design?**

Environmentally sensitive features have been identified on the preliminary plan and designated as no-build areas.

- **Does the plan incorporate public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities?**

The subdivision improvements (road, utility, stormwater) have been planned to meet the demand of the subdivision and not negatively impact level of service for county services and facilities. Appropriate bridge, drainage, park, school, and traffic fees will be paid at the time of final plat recordation.

- **Are necessary services, including police and protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision?**

Services have been reviewed with identified provided and related commitment letters have been provide with this application.

- **The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and**

The fire protection requirements for access and water supply for fire suppression have been provided. Specific recommendations and requirements of the Falcon Fire

Protection District will be incorporated into the design; including required public improvements necessary for fire protection.

- **The proposed subdivision meets other applicable sections of Chapter 6 and 8 of this Code.**

The subdivision and application meet all other applicable sections of Chapter 6 and 8 subject to approval of the private road waiver and waiver for:

WAIVER APPROVAL CRITERIA (Private Road/Access)

- ***The waiver does not have the effect of nullifying the intent and purpose of this Code;***

The waiver request does not have the effect of nullifying the intent and purpose of the Code, which is the preservation and improvement of the public health, safety and general welfare of the citizens and businesses of El Paso County; to ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision, and, in so doing, ensure that current residents will be required to bear no more than their fair share of the cost of providing the facilities and services by requiring the developer to pay fees, furnish land, or establish mitigation measures to cover the development's fair share of the capital facilities needs generated by the development.

The project extends Sage Creek Road southward across Falcon Highway into the subdivision boundaries. Instead of constructing an additional 1/3 mile of public roadways that will only serve the seven (7) lots in the Peerless Subdivision the developer proposes private driveways provide access to lots from the Sage Creek Road extension. The shared driveways shift the burden of maintenance from the public to property owners within the development.

- ***The waiver will not result in the need for additional subsequent waivers;***

No additional waivers are needed to support the lot access and frontage waiver.

- ***The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;***

The transportation impacts were analyzed in the Crossroads Mixed Use Traffic Study Letter, prepared by Kimley-Horn dated May 24, 2021, which found the proposed private roads suitable to meet projected traffic demands of the Crossroads Mixed-Use development.

- ***The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;***

Unique property conditions upon which the waiver are based include: the floodplain impacts to the western portion of the Site, horizontal orientation of the property length against Falcon Highway, the alignment of Sage Creek Road on the eastern boundary of the Site, and limitations on future individual lot access to Falcon Highway. These conditions create a unique, cumulative circumstance upon the property, which are not applicable to other properties.

- ***A non-economical hardship to the owner would result from a strict application of this Code;***

The requested waivers are not related to any specific economic hardships.

- ***The waiver will not in any manner vary the zoning provisions of this Code; and***

The waivers will not vary any zoning provisions of the Code.

- ***The proposed waiver is not contrary to any provision of the Master Plan.***

The waivers are not contrary to any provision of the Master Plan.

Traffic Assessment:

Traffic Assessment Letter presents trip generation for the proposed Peerless Farms project to be located on the southwest corner of the Falcon Highway and Sagecreek Road intersection in El Paso County, Colorado. The site is located at 16975 Falcon Highway and is proposed to include seven (7) single-family residential homes (site plan attached). Of note, one (1) single family home currently exists on the property; therefore, a net of six (6) homes are proposed to be added with this development.

Additionally, a traffic impact study is not required if all of the El Paso County ECM criteria below are satisfied: (1) there are no additional proposed minor or major roadway intersections on major collectors, arterials, or State Highways; (2) the increase in the number of vehicular trips does not exceed the existing trip generation by more than 10 peak hour trips or 100 daily trip ends; (3) the change in the type of traffic to be generated (i.e., the addition of truck traffic) does not adversely affect the traffic currently planned for and accommodated within, and adjacent to, the property; (4) acceptable LOS on the adjacent public roadways, accesses, and intersections will be maintained; (5) no roadway

or intersection in the immediate vicinity has a history of safety or accident problems; and
(6) there is no change of land use with access to a State Highway.

Single Family Detached Road Impact Fees:

The Developer elects to pay the Road Impact Fees prior to/at time of recording the Final Plat.

The estimated fee is (proposed new units) 6 x \$3,830.00 =\$22,980.00

One Residential Unit existing.

PEERLESS FARMS PRELIMINARY PLAN

16975 FALCON HIGHWAY, PEYTON, CO
SITUATED IN THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 13 SOUTH, RANGE 64 WEST OF THE
6TH P.M., CITY OF PEYTON, COUNTY OF EL PASO, STATE OF COLORADO

LEGAL DESCRIPTION:

The Land referred to herein below is situated in the County of El Paso, State of Colorado, and is described as follows:

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 13, IN TOWNSHIP 13 SOUTH, RANGE 64 WEST OF THE 6TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 13; THENCE SOUTH 00°31'50" WEST ALONG THE WEST SECTION LINE A DISTANCE OF 60.01 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 89°21'32" EAST ON A LINE PARALLEL TO THE NORTH SECTION LINE A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00°31'50" WEST ALONG THE WEST SECTION LINE A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°31'50" EAST 1959.39 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF EL PASO, STATE OF COLORADO.

SITE DATA TABLE:

TAX ID NUMBER:	4313000001
RELEASER:	RR-5
CURRENT ZONING:	RR-5
PROPOSED ZONING:	RR-5
PROPOSED LOTS:	7
TOTAL SITE AREA/AE:	40.01 AC±
MINIMUM LOT SIZE:	5.019 AC±
PUBLIC ROW:	0.025 AC±
PERCENT COVERED:	NONE
MAXIMUM LOT COVERAGE:	NONE
MAXIMUM BUILDING HEIGHT:	35' (UNLESS OTHERWISE IMPACTED BY RRR&S RESTRICTIONS)

SOILS & GEOLOGY CONDITIONS, CONSTRAINTS, & HAZARDS NOTE

1. A SOILS AND GEOLOGY STUDY FOR ROBERT WILLIAMS, WAS COMPLETED BY RKS ENGINEERS ON APRIL 14, 2022 AND INCLUDED THE AREA OF DEVELOPMENT PROPOSED, KNOWN AS, PEERLESS FARMS. THE PRELIMINARY PLAN SUBMITTED TO THE EL PASO BOARD OF COUNTY COMMISSIONERS, PLANNING AND COMMUNITY DEVELOPMENT FILE NUMBER (TBD), DEVELOPERS AND HOMEOWNERS SHOULD BECOME FAMILIAR WITH THIS REPORT AND ITS CONTENTS. **
 2. THE PROPOSED DEVELOPMENT IS FEASIBLE. THE GEOLOGIC CONDITIONS IDENTIFIED POTENTIALLY CONSIDERED TYPICAL FOR THE FRONT RANGE REGIONS OF COLORADO. MITIGATION OF GEOLOGIC CONDITIONS IS MOST EFFECTIVELY ACCOMPLISHED BY AVOIDANCE. HOWEVER, WHERE AVOIDANCE IS NOT A PRACTICAL NOR ACCEPTABLE ALTERNATIVE, GEOLOGIC CONDITIONS SHOULD BE MITIGATED BY IMPLEMENTING APPROPRIATE PLANNING, ENGINEERING AND SUITABLE CONSTRUCTION PRACTICES. **
 3. SITE-SPECIFIC STUDIES SHOULD BE PERFORMED FOR THE LOTS WITH THIS SUBDIVISION WORK TO IDENTIFY AND PROVIDE PERTINENT GEOTECHNICAL-RELATED PARAMETERS AND RECOMMENDATIONS FOR FOUNDATION DESIGN AND CONSTRUCTION. **
 4. DUE TO THE SHALLOW GROUNDWATER CONDITIONS ENCOUNTERED NEAR THE UNNAMED INTERMITTENT CREEK, THE USE OF BASEMENTS ON LOTS 1, 5, AND 6 MAY BE LIMITED. NEW CONSTRUCTION IS NOT RECOMMENDED FOR THESE LOTS UNLESS THE FOUNDATION DESIGN IS APPROVED BY THE ENGINEER. WE RECOMMEND THAT THOSE STRUCTURES BE SUBJECT TO THE SAME FEASIBILITY EVALUATIONS AS
 5. THE PROPOSED RESIDENCES ON LOT 1 AND 5 AND ANY FUTURE STRUCTURES PROPOSED FOR LOT 3 WILL NEED TO CONSIDER THE BFE AT THE TIME OF CONSTRUCTION. **
 6. BASEMENTS OR CRAWL SPACES ARE NOT ALLOWED WITHOUT DATA DEMONSTRATING ADEQUATE SEPARATION (APPROXIMATELY 3-5 FEET) CAN BE MAINTAINED FROM FLUCTUATING GROUNDWATER LEVELS. BASEMENTS OR CRAWL SPACES ARE NOT ALLOWED WITHOUT DATA DEMONSTRATING ADEQUATE SEPARATION (APPROXIMATELY 3-5 FEET) CAN BE MAINTAINED FROM FLUCTUATING GROUNDWATER LEVELS. IMPACTS TO THE MEASURED FLUCTUATING GROUNDWATER LEVELS FROM VARIATIONS IN YEARLY PRECIPITATION RATES MUST BE INCLUDED IN THIS ANALYSIS. PRIOR TO APPROVAL OF BASEMENT OR OTHER HABITABLE BELOW-GRADE CONSTRUCTION, SITE-SPECIFIC YEARLY PRECIPITATION RATES MAY IMPACT THIS FLUCTUATION. **
 7. PREVIOUSLY IDENTIFIED MITIGATION ALTERNATIVES, SURFACE AND SUBSURFACE DRAINAGE SYSTEMS SHOULD BE CONSIDERED. EXTERIOR PERIMETER FOUNDATION DRAINS SHOULD BE INSTALLED AROUND BELOW-GRADE HABITABLE OR STORAGE SPACES. SURFACE WATER SHOULD BE EFFICIENTLY REMOVED FROM THE BUILDING AREA TO PREVENT PONDING AND INFILTRATION TO THE SUBSURFACE SOIL. **
 8. ALL CONSTRUCTION SHOULD REMAIN OUTSIDE THE UNNAMED CREEK DRAINAGEWAY. IT IS RECOMMENDED THAT THE ENGINEER CONDUCT VISUAL INSPECTIONS OF THE CREEK CHANNEL AND DRAINAGEWAY ARE PERFORMED IN CONJUNCTION WITH THE DRAINAGE ENGINEER, PRIOR TO ANY NEW CONSTRUCTION. **
- ** REFER TO THE SOILS REPORT FOR MORE DETAILED INFORMATION.

FLOODPLAIN NOTES:

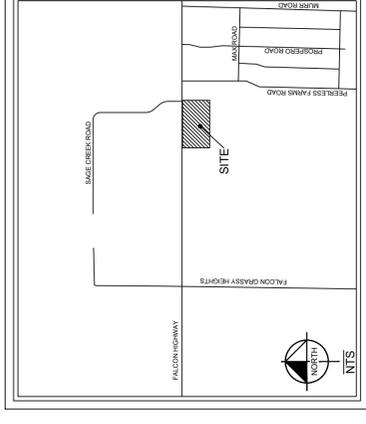
A PORTION OF THE PROPERTY IS LOCATED WITHIN A DESIGNATED FEMA FLOODPLAIN AS DETERMINED BY THE FLOOD INSURANCE RATE MAP, COMMUNITY MAPS NUMBERED 19804L0567G, DATED DECEMBER 7, 2018, THE LIMITS OF WHICH ARE SHOWN ON THE SURVEY. AREAS WITHIN THE FLOODPLAIN ARE ZONE AE. AREAS OUTSIDE THE FLOODPLAIN ARE ZONE X.

Kimley **Horn**
© 2023 KIMLEY-HORN AND ASSOCIATES, INC.
2 NORTH NEVADA AVENUE, SUITE 900
COLORADO SPRINGS, COLORADO 80903 (719) 453-0180

PRELIMINARY PLAN NOTES

1. THE FOLLOWING REPORTS HAVE BEEN SUBMITTED IN ASSOCIATION WITH THE PRELIMINARY PLAN AND ARE ON FILE AT THE COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT: DRAINAGE REPORT; WATER RESOURCES REPORT; GEOLOGY AND SOILS REPORT; FIRE PROTECTION REPORT; NATURAL FEATURES REPORT.
 2. THE PROPOSED DEVELOPMENT IS FEASIBLE. THE GEOLOGIC CONDITIONS IDENTIFIED POTENTIALLY CONSIDERED TYPICAL FOR THE FRONT RANGE REGIONS OF COLORADO. MITIGATION OF GEOLOGIC CONDITIONS IS MOST EFFECTIVELY ACCOMPLISHED BY AVOIDANCE. HOWEVER, WHERE AVOIDANCE IS NOT A PRACTICAL NOR ACCEPTABLE ALTERNATIVE, GEOLOGIC CONDITIONS SHOULD BE MITIGATED BY IMPLEMENTING APPROPRIATE PLANNING, ENGINEERING AND SUITABLE CONSTRUCTION PRACTICES. **
 3. SITE-SPECIFIC STUDIES SHOULD BE PERFORMED FOR THE LOTS WITH THIS SUBDIVISION WORK TO IDENTIFY AND PROVIDE PERTINENT GEOTECHNICAL-RELATED PARAMETERS AND RECOMMENDATIONS FOR FOUNDATION DESIGN AND CONSTRUCTION. **
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 8. ALL CONSTRUCTION SHOULD REMAIN OUTSIDE THE UNNAMED CREEK DRAINAGEWAY. IT IS RECOMMENDED THAT THE ENGINEER CONDUCT VISUAL INSPECTIONS OF THE CREEK CHANNEL AND DRAINAGEWAY ARE PERFORMED IN CONJUNCTION WITH THE DRAINAGE ENGINEER, PRIOR TO ANY NEW CONSTRUCTION. **
- ** REFER TO THE SOILS REPORT FOR MORE DETAILED INFORMATION.
1. ALL "STOP SIGNS" AND OTHER TRAFFIC CONTROL SIGNAGE SHALL BE INSTALLED BY THE DEVELOPER AT LOCATIONS SHOWN ON THE SITE DEVELOPMENT PLAN TO MEET MUTCD STANDARDS.
 2. PRIOR TO BUILDING PERMIT APPROVAL, A FINAL SUBDIVISION PLAT SHALL BE SUBMITTED FOR REVIEW BY THE EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS, PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT AND THE EL PASO BOARD OF COUNTY COMMISSIONERS, AND THE PLAT MUST BE RECORDED OR AUTHORIZED DESIGNER AND THE PLAT SHALL BE RECORDED.
 3. ALL STREETS SHALL BE NAMED AND CONSTRUCTED TO EL PASO COUNTY STANDARDS AND/OR ANY APPROVED DEVIATIONS. PRIVATE STREETS/SERVES SHALL BE OWNED AND MAINTAINED BY EACH INDIVIDUAL OWNER.
 4. NOTWITHSTANDING ANY AND/OR ASSOCIATED PUBLIC IMPROVEMENTS OR GRAPHIC REPRESENTATION, ALL DESIGN AND CONSTRUCTION RELATED TO ROADS, STORM DRAINAGE AND EROSION CONTROL SHALL CONFORM TO THE STANDARDS AND REQUIREMENTS OF THE MOST RECENT VERSION OF THE RELEVANT ADOPTED EL PASO COUNTY STANDARDS, INCLUDING THE 2019 EL PASO COUNTY STANDARD SPECIFICATIONS FOR ROADWAYS AND UTILITIES, AND THE 2019 EL PASO COUNTY STANDARD SPECIFICATIONS FOR UTILITIES. ANY DEVIATIONS FROM THESE STANDARDS MUST BE SPECIFICALLY REQUESTED AND APPROVED IN WRITING TO BE ACCEPTABLE. THE APPROVAL OF THIS PRELIMINARY PLAN DOES NOT IMPLICITLY ALLOW ANY DEVIATIONS OR WAIVERS THAT HAVE NOT BEEN OTHERWISE APPROVED THROUGH THE DEVIATION APPROVAL PROCESS.
 5. DEVELOPMENT OF THE PROPERTY WILL BE IN ACCORDANCE WITH THE MOST RECENT VERSION OF THE EL PASO COUNTY LAND DEVELOPMENT CODE, AS AMENDED, FOR RR-2 ZONES.
 6. WATER SERVICES FOR THIS SUBDIVISION WILL BE PROVIDED BY INDIVIDUAL WELLS AND WILL COMPLY WITH ALL REGULATIONS AND SPECIFICATIONS.
 7. WASTEWATER WILL BE PROVIDED BY INDIVIDUAL SEPTIC SYSTEMS PER EPC STANDARDS AND REGULATIONS.
 8. THERE SHALL BE NO DIRECT LOT ACCESS TO FALCON HIGHWAY.
 9. LOT 4 WILL BE THE SOLE PROPERTY TO TAKE ACCESS FROM SAGE CREEK ROAD. IT WILL BE PROHIBITED FROM TAKING ACCESS FROM THE TWO PLATTED DRIVEWAY EASEMENTS.
 10. ALL FENCING AND GATES WILL BE OUTSIDE OF ALL SHARED PRIVATE ACCESS EASEMENTS.
 11. 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, THE SOLE RESPONSIBILITY FOR MAINTENANCE OF THESE EASEMENTS IS HEREBY VESTED WITH THE INDIVIDUAL LOT OWNERS VIA A MUTUAL MAINTENANCE AGREEMENT, RECEPTION NO. _____.

VICINITY MAP



SHEET INDEX:

01	COVER SHEET
02	PRELIMINARY PLAN
03	PRELIMINARY PLAN DETAILS

PROJECT TEAM:

OWNER/DEVELOPER:
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COVER SHEET
SHEET 1 OF 3

PEERLESS FARMS PRELIMINARY PLAN - COUNTY FILE NO. SP217

PEERLESS FARMS

PRELIMINARY PLAN

16975 FALCON HIGHWAY, PEYTON, CO
 SITUATED IN THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 13 SOUTH, RANGE 64 WEST OF THE
 6TH P.M., CITY OF PEYTON, COUNTY OF EL PASO, STATE OF COLORADO

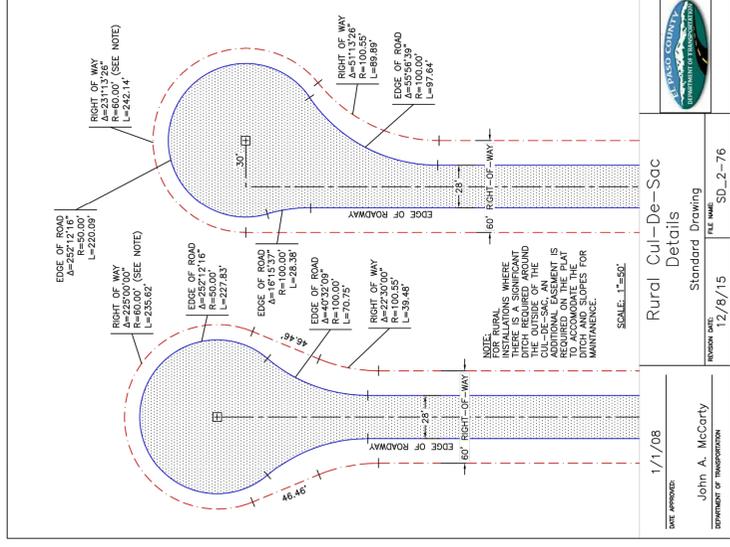
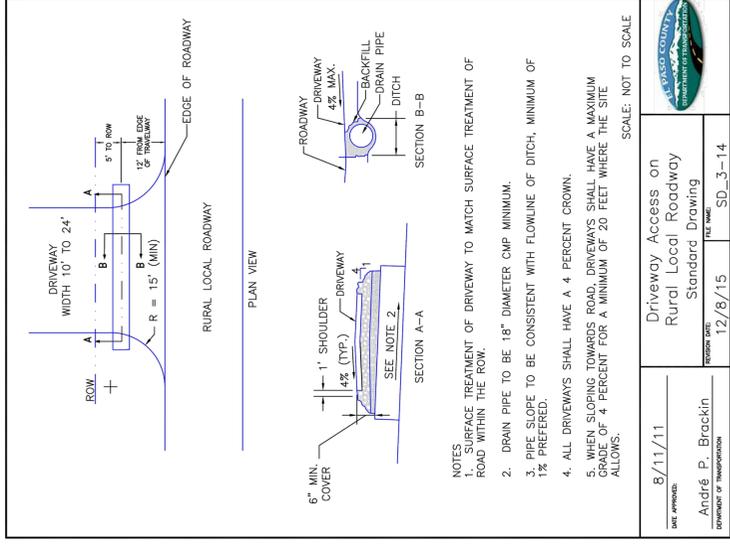
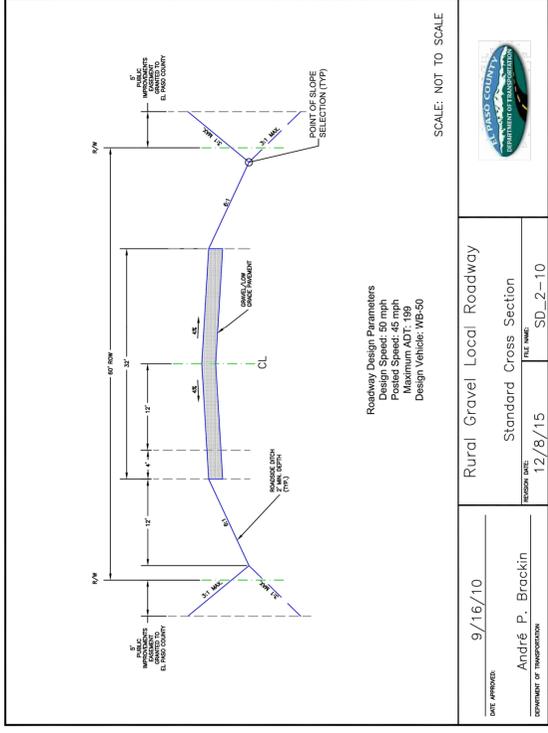
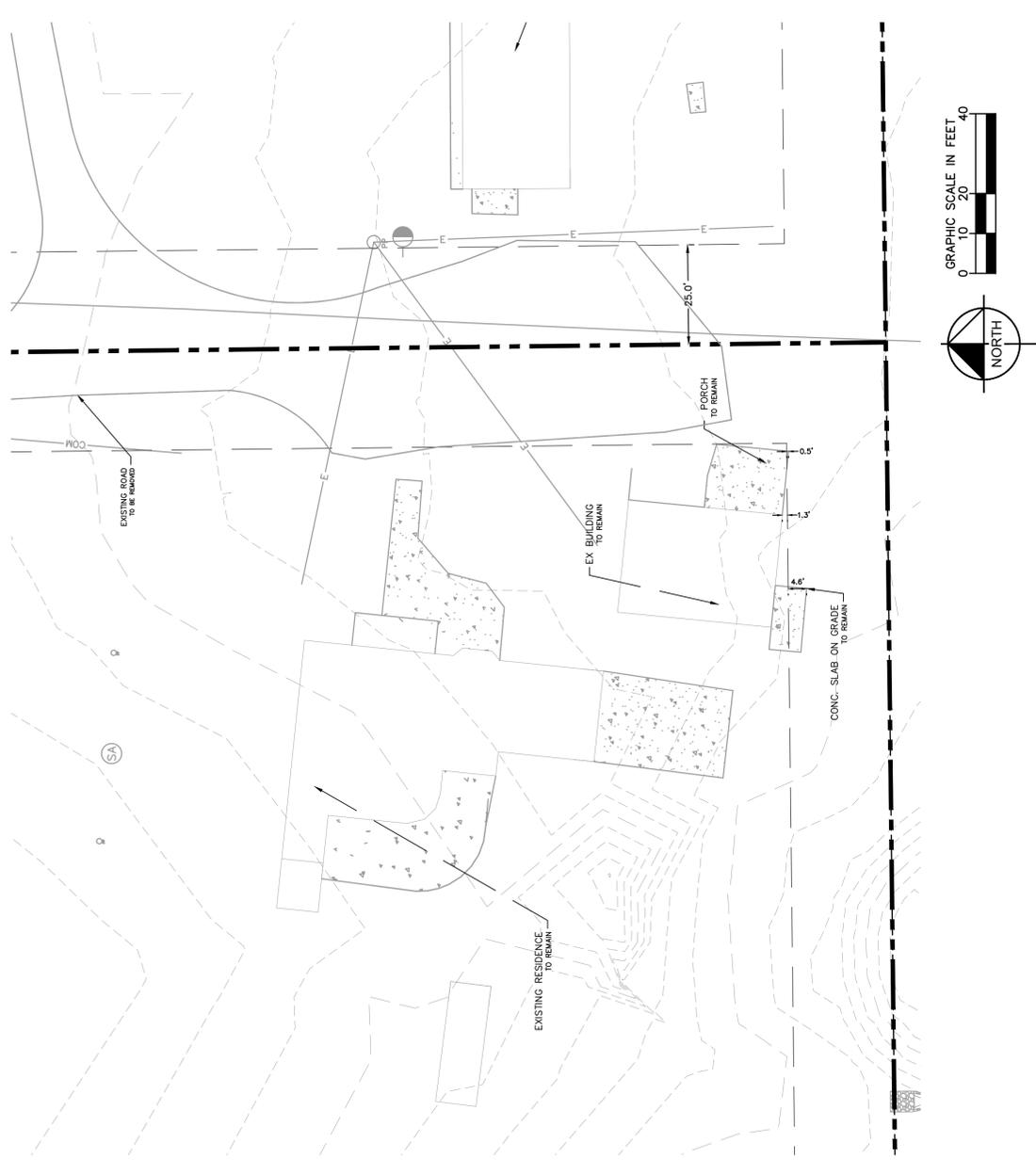


EXHIBIT "A" SITE PLAN



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County Attorney

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

August 15, 2024

SP-21-7 Peerless Farms

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

AMENDED WATER SUPPLY REVIEW AND RECOMMENDATIONS

**This Review replaces and supersedes the Review dated July 25, 2024*

Project Description

1. This is a proposal for approval of Peerless Farms, an application by Robert and Wendy Williams (“Applicant”) for a 7-lot subdivision on a parcel of 40 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 7 residential lots is estimated to include household use of 1.82 acre-feet/year (0.26 acre-feet/year per lot), 3.50 acre-feet per year of irrigation per year (0.5 acre-feet/year per lot) for a total estimated demand of 5.32 acre-feet per year for the 7 lots or 0.76 acre-feet/year per lot.¹ Based on this total demand, Applicant must be able to provide a supply of 1,596 acre-feet of water (5.32 acre-feet per year x 300 years) to meet the County’s 300-year water supply requirement.

¹ Lot 3 contains a single-family home and one guest house. According to the Report, water is currently provided through an existing well with Permit No. 8141. This well will be abandoned and a new well will be installed. The Report indicates that the guest house is only occupied 25% of the year and because the irrigation demand estimate is double what is required by the El Paso County Land Development Code, the additional water demand posed by the guest house will be covered by the additional irrigation demand.

ASSISTANT COUNTY ATTORNEYS

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CHRISTOPHER M. STRIDER

STEVEN A. KLAFFKY
TERRY A. SAMPLE

LORI L. SEAGO
ERIKA KEECH

BRYAN E. SCHMID
STEVEN W. MARTYN

DOREY L. SPOTTS
MERI GERRINGER

Proposed Water Supply

3. The Applicant has provided for the source of water to derive from one or more individual on-lot wells withdrawing from the nontributary Arapahoe and Laramie-Fox Hills aquifers as provided in Colorado Ground Water Commission Determination of Water Right No. 4476-BD (“Arapahoe Determination”) and Determination of Water Right No. 4475-BD (“Laramie-Fox Hills Determination”), permitting a total withdrawal of 4.3 acre-feet per year of groundwater from the Laramie-Fox Hills aquifer (for a total of 1,290 acre-feet over 300 years) and 4.53 acre-feet per year of groundwater from the Arapahoe aquifer (for a total of 1,360 acre-feet over 300 years). The proposed water supply for Lots 1, 6 and 7 of Peerless Farms are wells not yet constructed operating pursuant to the Arapahoe Determination. The proposed water supply for Lots 2, 3,² 4 and 5 of Peerless Farms are wells not yet constructed operating pursuant to the Laramie-Fox Hills Determination.

An existing well currently provides water service to two single family homes through Permit No. 8141. The existing well is expected to be abandoned and new individual wells will be installed for all 7 lots.

State Engineer’s Office Opinion

4. In a letter dated June 11, 2024, the State Engineer stated that the proposed water supply for the 7 lots includes 3 new wells constructed in the Arapahoe aquifer operating pursuant to Determination no. 4476-BD, and 4 new wells in the Laramie-Fox Hills aquifer operating pursuant to Determination no. 4475-BD.

Lots 1, 6 and 7 of Peerless Farms will construct wells in the Arapahoe aquifer pursuant to the Arapahoe Determination with the following allowed uses: domestic in-house; irrigation of lawn, garden, and greenhouse; domestic animal and stock watering; commercial; firefighting; and replacement; either directly or after temporary storage in a cistern. The wells are each permitted to draw up to 1.51 acre-feet/year but the current demand for each lot is 0.76 acre-feet per year for a total of 2.28 acre-feet per year.

Lots 2, 3, 4 and 5 of Peerless Farms will construct wells in the Laramie-Fox Hills aquifer pursuant to the Laramie-Fox Hills Determination with the following allowed uses: domestic in-house; irrigation of lawn, garden and greenhouse; domestic animal and stock watering; commercial; firefighting; and replacement; either directly or after temporary storage in a cistern. The wells are each permitted to draw up to 1.08 acre-feet/year but the current demand for each lot is 0.76 acre-feet per year for a total of 3.04 acre-feet per year.

Finally, the State Engineer provided their opinion, “. . . pursuant to section 30-28-136(1)(h)(l), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights **so long as well no. 8141 is plugged and abandoned upon subdivision approval.**”

Recommended Findings

5. Quantity and Dependability. Applicant's water demand for Peerless Farms is 5.32 acre-feet per year. This results in a demand of 1,596 acre-feet for the subdivision for 300 years. Under the Arapahoe Determination, Applicant owns the right to withdraw up to 1,360 acre-feet or 4.53 acre-feet per year of water from the Arapahoe aquifer, and under the Laramie-Fox Hills Determination, Applicant owns the right to withdraw up to 1,290 acre-feet or 4.3 acre-feet per year based on a 300-year allocation for use within the subdivision.

Based on the water demand of 1,596 acre-feet total or 5.32 acre-feet/year (0.76 acre-feet per lot per year) for Peerless Farms and the right to withdraw up to 4.53 acre-feet per year from the Arapahoe aquifer, as well as an additional 4.3 acre-feet total per year from the Laramie-Fox Hills aquifer, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for Peerless Farms.

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 June 3, 2024, the Water Supply Information Summary, the State Engineer's Office Opinion dated June 11, 2024, Determination of Water Right No. 4475-BD entered on January 25, 2023, and Determination of Water Right No. 4476-BD entered on January 25, 2023. 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. 4475-BD ("Laramie-Fox Hills Determination") and Determination of Water Right No. 4476-BD ("Arapahoe Determination"), including that water withdrawn from the Laramie-Fox Hills aquifer shall not exceed 4.3 combined acre-feet per year and water withdrawn from the Arapahoe aquifer shall not exceed 4.53 combined acre-feet per year.

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 for the property. For minor subdivisions such as this, however, in which a replacement plan is not required, 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 the Laramie-Fox Hills and Arapahoe Determinations.

Covenants shall specifically address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 912 acre-feet of nontributary Laramie-Fox Hills aquifer water pursuant to the Laramie-Fox Hills Determination to satisfy El Paso County's 300-year water supply requirement for the 4 lots utilizing the Laramie-Fox Hills aquifer in Peerless Farms. The Covenants shall further identify that 228 acre-feet (0.76 acre-feet/year) of Laramie-Fox Hills aquifer water is allocated to each of Lots 2, 3, 4 and 5 of Peerless Farms.

The Covenants shall reserve 684 acre-feet of nontributary Arapahoe aquifer water pursuant to the Arapahoe Determination to satisfy El Paso County's 300-year water supply requirement for the 3 lots utilizing the Arapahoe aquifer in Peerless Farms. The Covenants shall further identify that 228 acre-feet (0.76 acre-feet/year) of Arapahoe aquifer water is allocated to each of Lots 1, 6 and 7.

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 complying with the Determination, which include the installation and/or maintenance of totalizing flow meters.

3) 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 the Laramie-Fox Hills Determination and or the Arapahoe Determination 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."

4) 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 future wells in the Laramie-Fox Hills and Arapahoe aquifers.

5) 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 Peerless Farms pursuant to Determination of Water Right Nos. 4475-BD and 4476-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.”

6) 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 Nos. 4475-BD and 4476-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 Laramie Fox Hills aquifer water in the decreed amount of 912 acre-feet and Arapahoe aquifer water in the decreed amount of 684 acre-feet. 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 supply.

E. Applicant and its successors and assigns shall convey by recorded warranty deed these reserved Laramie-Fox Hills and Arapahoe aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Laramie-Fox Hills and Arapahoe aquifers underlying the respective lots to satisfy El Paso County’s 300-year water supply requirement. Sufficient water rights are 228 acre-feet (0.76 acre-feet/year x 300 years) of Laramie-Fox Hills aquifer water for each of Peerless Farms Lots 2, 3, 4 and 5 and 228 acre-feet (0.76 acre-feet/year x 300 years) of Arapahoe aquifer water for each Peerless Farms Lots 1, 6 and 7.

Any and all conveyance instruments shall also recite as follows:

For the water rights conveyed for the primary supply (Laramie-Fox Hills and Arapahoe aquifer): “These water rights conveyed are intended to provide a 300-year water supply each of the lots Peerless Farms. The water rights so conveyed 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 Nos. 4475-BD and 4476-BD 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 Nos. 4475-BD and 4476-BD, 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. The following plat note shall be added to the face of the plat:

“No building permits shall be issued until El Paso County has received proof that well no. 8141 has been plugged and abandoned.”

cc: Ryan Howser, Project Manager, Planner

RESOLUTION NO. 24-

BOARD OF COUNTY COMMISSIONERS

COUNTY OF EL PASO

STATE OF COLORADO

APPROVAL OF A PRELIMINARY PLAN FOR
PEERLESS FARMS (SP217)

WHEREAS, Robert and Wendy Williams did file an application with the El Paso County Planning and Community Development Department for the approval of a Preliminary Plan for the Peerless Farms Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on September 5, 2024, upon which date the Planning Commission did by formal resolution recommend approval of the Preliminary Plan application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on September 26, 2024; and

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

1. That the application was properly submitted for consideration by the Board of County Commissioners.
2. That proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners.
3. That the hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, that all pertinent facts, matters, and issues were submitted and reviewed, and that all interested persons were heard at those hearings.
4. That all exhibits were received into evidence.

5. That the proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan.
6. That the subdivision is in conformance with the subdivision design standards and any approved Sketch Plan.
7. That the subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of El Paso County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.
8. That 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.
9. That 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 Land Development Code.
10. That 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.W. §30-28-133(6)(c)].
11. That adequate drainage improvements complying with State law [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of the Land Development Code and the Engineering Criteria Manual are provided by the design.
12. That 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.
13. That legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Land Development Code and the Engineering Criteria Manual.
14. That 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 encouraging 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.

15. That necessary services, including police and fire protection, recreation, utilities, open space, and transportation system are or will be available to serve the proposed subdivision.
16. That the subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Land Development Code.
17. That the proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Land Development Code.
18. That for the above-stated and other reasons, the proposed subdivision is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the Preliminary Plan application for the Peerless Farms Subdivision;

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

CONDITIONS

1. Applicable traffic, drainage and bridge fees shall be paid with each Final Plat.
2. Applicable school and park fees shall be paid with each Final Plat.
3. 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.
4. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assigns that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the Countywide Transportation Improvement Fee Resolution (Resolution 19-471), as amended, 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.

5. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 8/15/2024, as provided by the County Attorney's Office.

NOTATIONS

6. Subsequent Final Plat Filings may be approved administratively by the Planning and Community Development Director.
7. Approval of the Preliminary Plan will expire after twenty-four (24) months unless a Final Plat has been approved and recorded or a time extension has been granted.
8. Preliminary Plans not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed to be withdrawn and will have to be resubmitted in their entirety.

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

DONE THIS 26th day of September 2024 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF EL PASO, STATE OF COLORADO, AND IS DESCRIBED AS FOLLOWS:

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 13 IN TOWNSHIP 13 SOUTH, RANGE 64 WEST OF THE 6TH P.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 13;
THENCE SOUTH 00°31'50" WEST ALONG THE WEST SECTION LINE, A DISTANCE OF 60.01 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 89°21'32" EAST ON A LINE PARALLEL TO THE NORTH SECTION LINE A DISTANCE OF 1,779.95 FEET;

THENCE SOUTH 00°38'28" EAST, A DISTANCE OF 992.00 FEET;

THENCE NORTH 89°28'10" WEST A DISTANCE OF 1,799.86 FEET;

THENCE NORTH 00°31'50" EAST 955.39 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF EL PASO, STATE OF COLORADO.