

Meggan Herington, AICP, Executive Director
El Paso County Planning & Community Development

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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: 6/20/2023
RE: P2219; 6385 Vessey Road Rezone RR-5 to RR-2.5

Project Description

A request by SMH Consultants for approval of a Map Amendment (rezoning) from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The 14-acre property is located 0.37 miles west of the intersection of Vessey Road and Black Forest Road and 0.15 miles south of the intersection of Vessey Road and Pine Castle Drive. The item was recommended for **approval** by the Planning Commission (7 - 0). This item was heard as a called-up Consent item. There were questions regarding minimum lot size. The item was approved with an additional condition made by the Planning Commission that the minimum lot size be 4 acres instead of 2.5 acres in the RR-2.5 zoning district.

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

Ms. Fuller moved / Mr. Carlson seconded for approval, for the Map Amendment (rezoning), utilizing the resolution attached to the staff report, with three conditions and zero notations, that this item be forwarded to the Board of County Commissioners for their consideration. The motion was **approved (7-0)**. The item was heard as a called-up consent agenda item. After discussion regarding appropriate lot size designation for this area, the Planning Commission added a condition that the RR-2.5 zoning district be recommended for approval with a minimum lot size of 4 acres.

Discussion

Discussion was held regarding proper lot size for this area since the surrounding parcels are zoned RR-5. The applicant has submitted a subsequent application for a minor subdivision from 1 lot to 3 lots with a minimum lot size of 4 acres. Ms. Fuller stated she believes the concerns will be resolved with the added condition. The approval criteria was displayed to show what the PC must consider. She believes that this application will meet the spirit of RR-5 even though the zoning is changing. She is in favor of the proposal. Ms. Seago recommended addressing the concern by imposing a minimum lot size rather than binding it to an application that is still in review. If the condition for this rezone is that there be a minimum lot size of 4 acres, then the 5-acre parcel could not be further subdivided. Mr. Brett Louk, with SMH Consultants, stated that he discussed the concern with the owner. He stated they would be agreeable to the condition that no lot be smaller than 4 acres.

Attachments

1. Planning Commission Minutes from 5/18/2023.
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, May 18th, 2023
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: TOM BAILEY, JAY CARLSON (EXCUSED AFTER ITEM 4B), TIM TROWBRIDGE, BECKY FULLER, ERIC MORAES, KARA OFFNER, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: NONE.

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: SARAH BRITTAIN JACK, JOSHUA PATTERSON, BRYCE SCHUETTPELZ, AND BRANDY MERRIAM.

STAFF PRESENT: MEGGAN HERINGTON, JUSTIN KILGORE, MINDY MADDEN, RYAN HOWSER, CRISTEL MADDEN, ED SCHOENHEIT, CHARLENE DURHAM, JEFF RICE, KYLIE BAGLEY, KELLY HILLS, MIRANDA BENSON, AND EL PASO COUNTY ATTORNEY LORI SEAGO.

OTHERS PRESENT AND SPEAKING: LINDA SPUR, JIM WHITE, AND ELIZABETH MCCOY.

1. REPORT ITEMS

A. Planning Department. The next PC Hearing is Thursday, June 1st, 2023, at 9:00 A.M.

B. Designation of Officers.

PC ACTION: TROWBRIDGE MOVED / MORAES SECONDED TO NOMINATE BAILEY AS CHAIR AND CARLSON AS VICE-CHAIR OF THE PLANNING COMMISSION. THE MOTION WAS APPROVED (7-0)

C. Call for public comment for items not on hearing agenda. NONE.

2. CONSENT ITEMS

A. Adoption of Minutes of meeting held May 4th, 2023.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (7-0).

B. P2219

BAGLEY

**MAP AMENDMENT (REZONE)
6385 VESSEY ROAD REZONE RR-5 TO RR-2.5**

A request by SMH Consultants for approval of a map amendment (rezoning) from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The 14-acre property is located 0.37 miles west of the intersection of Vessey Road and Black Forest Road and 0.15 miles south of the intersection of Vessey Road and Pine Castle Drive. (Parcel No. 52060-00-065) (Commissioner District No. 1).

PC ACTION: THIS ITEM WAS CALLED-UP TO BE HEARD AS A REGULAR ITEM.

C. PUDSP227

PARSONS

**PUD/PRELIMINARY PLAN
FOURSQUARE AT STERLING RANCH PUD PRELIMINARY PLAN**

A request by Classic SRJ Land, LLC, for approval of a combined planned unit development and preliminary plan to create 158 single-family residential lots in one phase. The 36-acre property is zoned RR-5 (Residential Rural) and is located east of Vollmer Road and adjacent to the north of the future Briargate Parkway/Stapleton Road extension. The PUD/preliminary plan is within the approved Sterling Ranch Sketch Plan area. If the request for a PUD/preliminary plan is approved, the applicant will be required to obtain final plat approval prior to the issuance of any building permits on the property. (Parcel Nos. 52000-00-552, 52000-00-553, and 52330-00-016) (Commissioner District No. 2).

PC ACTION: THIS ITEM WAS CALLED-UP TO BE HEARD AS A REGULAR ITEM.

3. CALLED-UP CONSENT ITEMS

2B. P2219

BAGLEY

**MAP AMENDMENT (REZONE)
6385 VESSEY ROAD REZONE RR-5 TO RR-2.5**

A request by SMH Consultants for approval of a map amendment (rezoning) from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The 14-acre property is located 0.37 miles west of the intersection of Vessey Road and Black Forest Road and 0.15 miles south of the intersection of Vessey Road and Pine Castle Drive. (Parcel No. 52060-00-065) (Commissioner District No. 1).

STAFF PRESENTATION & APPLICANT PRESENTATION

Mr. Moraes asked for Ms. Bagley's analysis of how the forested area, designated a key area in the Master Plan, will be impacted. The Master Plan says that any redevelopment in this area should be of lesser intensity to mitigate impacts.

Ms. Bagley answered that there is a small group of trees on the property which will remain. Many of this property's trees burned down in the Black Forest Fire. A minor subdivision

application has also been submitted for review, anticipated to be heard on 7/6/2023. If the rezone is approved, they are proposing to subdivide their parcel into three lots which range from 4 to 5 acres. Their proposal maintains a rural nature.

Mr. Moraes asked if there were other properties in the area that are under 5 acres.

Ms. Bagley stated that is correct. She referenced an area map.

Mr. Bailey clarified that even if they are under 5 acres, they are still zoned RR-5. Any properties in this area that are under 5 acres were a result of the previous zoning regulations. He asked if a rezone was the only avenue available to subdivide this parcel.

Ms. Bagley stated that is correct. A rezone is the only way this property owner could subdivide into 3 lots because their parcel is less than 15 acres.

Ms. Fuller asked if the applicant could request to subdivide to 5 lots if the rezone is approved.

Ms. Bagley answered that 5 lots would meet the minimum 2.5-acre standard; however, they have already applied to subdivide to 3 lots. They are scheduled to appear before PC on 7/6/2023.

Ms. Fuller asked why the rezone and subdivision proposals didn't come together.

Ms. Bagley answered that they would not meet the minimum lot size until the rezone is approved.

Ms. Fuller asked if there is any protection to the neighbors that this only be divided into 3 lots.

Ms. Bagley stated there would be nothing prohibiting the applicant from requesting 5 lots.

Mr. Bailey stated he was more comfortable with this proposal knowing that there is already an application submitted for a minor subdivision to 3 lots.

Mr. Carlson asked if there was another other way to subdivide to 3 lots, perhaps a variance?

Ms. Herington asked Ms. Bagley what the proposed sizes of the lots would be.

Ms. Bagley answered that one is 4 acres, one is 4.3 acres, and one is 5.3 acres.

Ms. Herington stated that they may have been able to do a lot size variance, but there are 2 lots less than 5 acres. It may have been the staff's determination that it be more appropriate to pursue a rezone instead of seeking variance.

Ms. Seago added that there is a process for administrative relief for up to 20% reduction in lot size; however, to seek that variance, the applicant must show a hardship. That may have been a factor.

Mr. Trowbridge commented that the minor subdivision application will be coming to the PC. They can remember this conversation if the applicant tries to change their proposal.

Mr. Bailey reiterated that the request for a minor subdivision has already been submitted.

Mr. Kilgore mentioned that it is within the board's authority to recommend an added condition that subdivided lots be limited to a certain size. He suggested discussing that with the applicant.

Ms. Seago recommended giving the applicant the opportunity to address comments that have been made. She also affirmed Mr. Kilgore's remark. She has seen it done in the past that something be rezoned to a less dense zone district but have an interim limit on the lot sizes. She doesn't think it's a great approach philosophically, but it is legally supportable.

Mr. Moraes stated that he is less concerned about the lots less than 5 acres. If this rezone is approved, the 5.3-acre lot could potentially come back to request further subdivision. If the current owner of the 5.3-acre lot were to sell it in the future, the next owner could split it. He is concerned that this could potentially result in 4 homes on 14 acres, quadrupling the current intensity, when the Master Plan says any redevelopment of this area *should* be of lower intensity.

Mr. Carlson asked Ms. Seago if they could suggest a condition that the applicant abide by the sizes of lots within the application that has already been submitted for the minor subdivision.

Ms. Seago recommended addressing the concern by imposing a minimum lot size rather than binding it to an application that is still in review. If the condition for this rezone is that there be a minimum lot size of 4 acres, then the 5-acre parcel could not be further subdivided.

Mr. Brett Louk, with SMH Consultants, stated that he discussed the concern with the owner. He stated they would be agreeable to the condition that no lot be smaller than 4 acres.

Ms. Seago restated a question that was asked by the audience. The question was, "Why does it need to be rezoned if the Planning Commission is leaning toward setting a minimum lot size of 4 acres?". The answer would be that the current zoning is RR-5 which has a minimum lot size of 5 acres. The next step down in terms of El Paso County zone districts is RR-2.5 which has a minimum lot size of 2.5 acres. However, the owner has indicated they are willing to accept a restriction to that RR-2.5 zoning that no lot in this subdivision will be less than 4 acres.

Ms. Herington suggested this item be heard as a regular item if citizens wish to speak.

Mr. Bailey stated that he provided the opportunity earlier, so he believes that requirement has been satisfied.

Mr. Trowbridge suggested this item be treated as a Regular Item.

PUBLIC COMMENT

Ms. Linda Spur lives in the area and has concerns about the proposal. She is concerned about water. She would prefer to see a variance instead of a rezone. This would add to traffic. If a road needs to be added for access, that will further reduce the lot sizes.

DISCUSSION

Mr. Moraes asked Ms. Bagley to address when water sufficiency and traffic are evaluated.

Ms. Fuller asked for the criteria of approval to be displayed.

Ms. Bagley pulled up the criteria and answered that water and traffic are both reviewed during the subdivision process.

Mr. Louk stated the applicant had no further comments and is agreeable to the added condition.

Ms. Fuller stated she believes the concerns will be resolved with the added condition. The PC appreciates public comments. The approval criteria is displayed to show what the PC must consider. She believes that this application will meet the spirit of RR-5 even though the zoning is changing. She is in favor of the proposal.

Mr. Moraes added that each stage of the process has its own approval criteria. He also appreciates public comment because neighbors often bring up unique facts of what's going on in the area. The neighbors are the boots on the ground. Those concerns can receive extra attention because they were brought up by the public.

Mr. Bailey commented that the applicant also has the opportunity to hear those concerns and be open to compromise, so everyone is satisfied.

PC ACTION: FULLER MOVED / CARLSON SECONDED TO RECOMMEND APPROVAL OF CALLED-UP CONSENT ITEM NUMBER 2B, P-22-019 FOR A MAP AMENDMENT (REZONE), 6385 VESSEY ROAD REZONE RR-5 TO RR-2.5, MODIFYING THE RESOLUTION ATTACHED TO THE STAFF REPORT TO ADD A THIRD CONDITION FOR 4-ACRE MINIMUM LOT SIZE, RESULTING IN THREE (3) CONDITIONS AND ZERO (0) NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (7-0).

2C. PUDSP227

PARSONS

**PUD/PRELIMINARY PLAN
FOURSQUARE AT STERLING RANCH PUD PRELIMINARY PLAN**

A request by SMH Consultants for approval of a map amendment (rezoning) from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The 14-acre property is located 0.37 miles west of the intersection of Vessey Road and Black Forest Road and 0.15 miles south of the intersection of Vessey Road and Pine Castle Drive. (Parcel No. 52060-00-065) (Commissioner District No. 1).

STAFF PRESENTATION & APPLICANT PRESENTATION

Mr. Trowbridge mentioned that he emailed PCD staff to request they discuss the density of the application and the appropriateness of Tract H, which is a full-scale detention pond. While the applicant has the right to include the tract, he doesn't think it should be part of the computation for density. He is requesting that staff address density and how the proposal fits within the sketch plan.

Mr. Howser, filling in for Ms. Parsons, referred to a slide in the presentation. He stated after calculating what the gross density would be in the subject area if Tract H were not included, it would be 6.8 dwelling units per acre (du/ac), which satisfies the sketch plan's 5-8 du/ac identification.

Mr. Trowbridge asked why it was appropriate for Tract H to be included in this preliminary plan when it is from a separate area across a proposed road that has a different density.

Mr. Howser stated that if the applicant were to later propose subdivision of Tract H, it should meet the lower density identified on the sketch plan as 3-5 du/ac (yellow on the sketch plan). He reiterated that if Tract H were removed from the calculation, this proposal would still meet the 5-8 du/ac identified as the orange section of the sketch plan.

Mr. Trowbridge stated including Tract H raised a red flag for him. By including Tract H, the area increased by 44%. He doesn't understand why that is allowed to be pulled into this proposal.

Mr. Howser apologized for the confusion.

Mr. Trowbridge asked for an explanation of the difference between gross and net density.

Mr. Howser explained that net density is used when trying to get an evaluation after everything else is removed. Just dwelling units and acreage, excluding the roadways, open space, etc. In some cases, it may be beneficial to consider net density, but there wouldn't be houses without roads. Landscaping and open space is required for a subdivision, so it doesn't make sense to exclude those in the calculation. In this proposal, it is relevant to include Tract G (which is within the proposed residential) in the calculation of overall density of this development because it is clearly part of the development and is ancillary to the residential use. Excluding all roads and open space would be disingenuous. He does understand why it would make sense to exclude Tract H. It's within a different density of the sketch plan.

Mr. Trowbridge stated that when he removed Tract H, he calculated a gross density of 6.2 du/ac. When he removed both tracts as well as public rights-of-way, he calculated a net density of 8.4 du/ac, which made him think this proposal didn't meet the requirements of the sketch plan. He now understands that the gross density is the controlling factor. He mentioned that he had an issue with the staff analysis regarding the open space calculation. He stated stormwater facilities should be excluded from open space calculation if they are more than 10% of the required open space. He believes Tract H should be excluded from that calculation.

Mr. Rice, with Public Works Engineering, explained that because Tract H provides drainage facilities for this proposed subdivision, it is required to be platted and addressed for ownership and maintenance. Including Tract H in this preliminary plan sets the stage for when the final plat is completed, it would be included for ownership and maintenance by the metro district.

Mr. Bailey expressed gratitude for the explanation. He commented that he believes within a PUD sketch plan, an applicant can choose to develop as they see fit, so including Tract H in this application may just be how it works out like for engineering reasons.

Mr. Carlson asked for clarification regarding the executive summary of the staff report mentioning the preliminary plan includes 158 single-family residential units on 13.5 acres. Does that exclude roads?

Mr. Trowbridge stated that it excludes the roads.

Mr. Kilgore advised Mr. Bailey that Ms. Benson will add Mr. Trowbridge's email to the PIO folder so it can be presented to the board.

Mr. Carlson asked for clarification on whether Tract H will need to be rezoned later. Could they move the detention pond somewhere else and develop Tract H at the 5-8 du/ac density?

Mr. Rice stated that it is unlikely this pond will be moved or changed based on the amount of improvement being designed to go there and the need to detain flow before it reaches Sand Creek.

Mr. Bailey asked for confirmation that if the applicant uses Tract H in this calculation of density, they cannot use it again in a later application.

Mr. Howser stated that is correct. He added that if they later proposed residential in the tract, it would still have to be consistent with the sketch plan unless they request an amendment.

Mr. Trowbridge stated that he had assumed the detention facility in the tract was meant to serve a broader area. He understands that the applicant is doing it now for timing and to meet the need to get this in place.

Ms. Shagin, with NES, stated that she agrees with the assessment of the net density and added that without Tract H, the application still meets the PUD requirements for open space.

NO PUBLIC COMMENT OR FURTHER DISCUSSION

PC ACTION: MORAES MOVED / FULLER SECONDED TO RECOMMEND APPROVAL OF CALLED-UP CONSENT ITEM NUMBER 2C, PUDSP-22-007 FOR A PUD/PRELIMINARY PLAN, FOURSQUARE AT STERLING RANCH PUD, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, WITH ELEVEN (11) CONDITIONS AND THREE (3) NOTATIONS, WITH A RECOMMENDED FINDING OF WATER SUFFICIENCY WITH REGARD TO QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (7-0).

4. REGULAR ITEMS

A. PUDSP229

HOWSER

PUD/PRELIMINARY PLAN WATERSIDE

A request by Lake Woodmoor Holdings, LLC, for approval of a map amendment (rezoning) from R-4 (Planned Development) to PUD (Planned Unit Development) and a preliminary plan for 52 single-family attached (townhome) lots and six (6) tracts. The 7.53-acre property is located on the east side of Woodmoor Drive, approximately one-half of a mile north of Highway 105. The applicant is requesting the PUD development plan be approved as a preliminary plan and a finding of sufficiency with regards to water quality, quantity, and dependability. If approved, the applicant will be required to submit and receive approval for final plat applications prior to issuance of any building permits on the site. (Parcel Nos. 71114-04-112 through 71114-04-194 (83 total parcels)) (Commissioner District No. 1).

STAFF PRESENTATION & APPLICANT PRESENTATION

Mr. Moraes read a statement from the staff report: "During peak school hours the street connections through the project will provide an alternative to existing background traffic that is currently turning onto Woodmoor Drive using the "Barn"/north school access." He asked what that meant.

Ms. Durham answered that it is a quote from the TIS. She referenced a photo of the slideshow to point out the Barn access and how it lines up with the school access. Her understanding is that if traffic from the school causes that access point to become congested, people can travel further along the internal road to access Woodmoor Drive at the second access point.

Mr. Moraes asked if the HOA could limit access to that road since it is a private road.

Ms. Durham stated that if they found it to be a nuisance, they could put in a gate or something.

Mr. Moraes asked if there had been any discussion about improvements to the shared driveway with The Barn and the southern townhomes.

Ms. Durham answered not at this stage. That may be discussed at final plat.

Mr. Moraes stated that he is concerned that he can foresee an HOA deciding they don't want people going through there anymore after having to do repairs. The presentation continued.

Mr. Moraes asked how much of the designated no-build area was actually in the water.

Mr. Swensen, with NES, answered anywhere from 30% to 50%. He added that it would be nice to designate that area as no-build to preserve the views.

Mr. Trowbridge asked if there was no access to Woodmoor Drive at the hammerhead due to its spacing with the Deer Creek Road intersection.

Mr. Swensen stated that is correct. He stated they wanted to minimize the access points to Woodmoor Drive. He added that the hammerhead is one of their PUD modifications. It does meet the fire turnaround requirements. Emergency services has reviewed the plans.

Mr. Moraes stated that when he saw the 4 requested PUD modifications, he reviewed the development standards and requirements. He stated that he can infer why the roads need to be narrower due to the walking path, but he doesn't see justification for the hammerhead. If a cul-de-sac were used instead, there would likely be more open space. After reviewing the Letter of Intent, he still doesn't see justification.

Mr. Swensen responded that a cul-de-sac would give more paved open space. The reason they pursued a PUD was to allow a more tailored approach. The hammerhead is how the proposal would lay out best while providing the density to make the project viable and preserving the open space that's more valuable. Because they couldn't connect with Deer Creek Road, they couldn't line buildings along both sides of the internal road.

Mr. Moraes stated that he understands that reasoning, but viability isn't one of the approval criteria for a modification of the development standards. He reiterated that he understands the reason for the narrower roads, but he doesn't see the justification for the hammerhead.

Mr. Bailey asked if making these internal roads private instead of public made a difference in meeting the justifications that Mr. Moraes mentioned.

Ms. Durham answered that in reviewing that modification, making it a private road gives them more leniency. The only thing being accessed off that road will be the 4 units, so it will have minimal traffic. They ensured that they had the fire department's approval. She also considered that they are limiting access to the public roads. The hammerhead seemed a viable situation with the layout provided. She doesn't see an issue with allowing it.

PUBLIC COMMENT

Mr. Jim White stated many of the issues raised at the community meeting were not addressed. He is concerned about traffic because traffic outside the school there is horrible during pick-up and drop-off times. The turn lane used by people getting their kids from school can be backed up for a block and a half. Deer Creek Road to Monument Hill Road is full of potholes. He doesn't think the estimated traffic out of the development is accurate. He is also concerned about water. He stated that everyone that uses Woodmoor Water & Sanitation District pays an additional \$35 fee per month for future water. He stated there's no way water can be guaranteed for 300 years. He thinks people are choosing to ignore a severe water crisis. He stated there is a difference between R-4 and PUD because the majority of the Woodmoor area is .5 and 1-acre lots.

Ms. Elizabeth McCoy stated that when Palmer Ridge High School was built 10 years ago, they promised that traffic wouldn't be affected, and they would make repairs to Deer Creek West. The road may be designated a low-speed road, but as people travel downhill, it becomes a high-speed road. There are no sidewalks and kids traveling to school are not safe. She has experienced the traffic when trying to drop her kids off at school, which is horrible. Parking is also an issue. The hammerhead does not match the Woodmoor design; there are cul-de-sacs everywhere. She has concerns about water because this is the first time she has been on every-other-day watering restrictions. Why is Woodmoor Water telling the PC they have plenty of water when they are telling the residents that they don't? This area doesn't pass mill-levies for the schools, so the schools are overcrowded. Adding more houses will be overwhelming.

Mr. Swensen stated the TIS assessed school traffic and identified that the morning peak time was the only area of conflict but would not overburden the roadways. The traffic report does not assume one trip per day, but seven. He pointed out that what is currently being proposed is less than what is already approved. He stated that the applicant is working with the Woodmoor Improvement Association to advance a Safe Routes to School plan that will link trails and sidewalks in the area. Regarding water, the applicant is paying \$370,000 in supplemental water fees to the district in addition to a \$20,000 fee per unit. There is an overall water issue, but there is sufficient water for this development. There is also a housing crisis. He added that it was not assumed people would be exiting Woodmoor Drive to use the internal road to get back onto Woodmoor Drive. The Lake Woodmoor subdivision, 1.6 du/ac, is within R-4 and has a tighter density than the Woodmoor Oaks subdivision, but also has open space. An area south of Deer

Creek Road called toboggan hill and was made possible due to the PUD style of zoning. There are denser housing areas which keep open spaces preserved.

DISCUSSION

Mr. Moraes asked if the traffic study considers movement of the intersection, or does it also consider the queuing that happens for a school.

Ms. Durham answered that when a school is in the area, the traffic study considers a third peak hour, to include the afternoon school pick-up. The study considers a morning time, which indicated an overlap between people leaving for work and kids being dropped off at school, a mid-afternoon time, and an evening time.

Mr. Moraes asked if the study only considered turning movements.

Ms. Durham answered that it considers the entire scenario. Schools present a unique situation.

Mr. Moraes asked if Ms. Durham could elaborate on an anticipated project on Deer Creek West.

Ms. Durham stated she knows there is a project, but she doesn't know what stage it is in.

Mr. Moraes stated that he was concerned that proposed upgrades to a road in the area did not include sidewalks. He thinks that concern should be presented to Public Works. He asked if there would be a crosswalk in this area. He is concerned kids will cross directly to the school.

Ms. Durham answered that there would be a crosswalk as part of the Safe Routes to Schools project, but she thinks it will be south of the school. She thinks there is also a crosswalk at the northern end of Woodmoor.

Mr. Moraes asked for further explanation of the 300-year water review process.

Ms. Seago explained that there is no guarantee that water will be available for 300 years. What is required by the LDC, and what is reviewed when determining water sufficiency, is whether or not (in this case) the central water provider owns sufficient water rights to serve the subdivision for 300 years. This is colloquially called a paper water review. Any renewable water rights as well as ground water rights owned by the district are reviewed. She also reviews current commitments that the district has to serve existing developments, and whether they will have the additional water right to serve the proposed development. In her review of the documents provided by the State Engineers Office, the water district, as well as the applicant, she determined that they do own or have control of enough water rights to serve the anticipated water demand of this development for 300 years. However, there is never a guarantee that they will be able to do so.

Mr. Moraes clarified that water rights were determined by acre-feet.

Ms. Seago stated that is correct.

Mr. Bailey expressed gratitude for the explanation and added that El Paso County's 300-year rule is 3x the state mandated requirement.

Mr. Trowbridge added that the State of Colorado owns all the water in the state. Every drop of rain that falls in the state belongs broadly to the people of Colorado and the State Engineers Office is the executive agency that does all the controlling of the water rights. El Paso County is unique in that it requires a 300-year paper supply of water. He mentioned that all supporting documentation regarding traffic is available on the EDARP website.

Ms. Fuller mentioned that some of the concerns regarding water should be brought up with the Woodmoor Water & Sanitation District. She stated that she understands the rush of traffic that happens around schools, but this development is not adding to that; it's normal for any school.

PC ACTION: CARLSON MOVED / TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM NUMBER 4A, PUDSP-22-009 FOR A PUD/PRELIMINARY PLAN, WATERSIDE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, WITH SEVEN (7) CONDITIONS AND TWO (2) NOTATIONS, WITH A RECOMMENDED FINDING OF WATER SUFFICIENCY WITH REGARD TO QUALITY, QUANTITY, AND DEPENDABILITY, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (6-1).

IN FAVOR: BAILEY, CARLSON, FULLER, OFFNER, TROWBRIDGE, AND WHITNEY.

IN OPPOSITION: MORAES.

COMMENT: MR. MORAES stated that he thinks it is generally a good proposal, but he doesn't think the application meets the justification for a modification of the development standards for the use of a hammerhead. He also has reservations regarding private roads that could get closed off in the future.

B. LDC231

MADDEN

EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT PERSONAL GREENHOUSES

A request by the El Paso County Planning and Community Development Department to amend Chapter 5 of the El Paso County Land Development Code (2022) as it pertains to personal greenhouses. The proposed revisions, in their entirety, are on file with the El Paso County Planning and Community Development Department. (All Commissioner Districts).

STAFF PRESENTATION & DISCUSSION

Mr. Carlson asked for clarification regarding the exclusion of marijuana. He asked if people could grow their own personal marijuana in the greenhouse.

Mr. Trowbridge asked when a building permit is currently required to build a greenhouse.

Ms. Madden answered Mr. Trowbridge. Any structure over 200 sq. ft. requires a building permit. The Agricultural (Ag) Exemption would bypass that requirement unless someone included electrical or plumbing. Ag Exemption already exists in the Land Development Code (LDC) but doesn't currently apply to greenhouses.

Ms. Seago answered Mr. Carlson. There is a use defined in the LDC, "personal cultivation of marijuana". She read the use-specific standards found in the LDC under 5.2.33(B) and (C). *"(B) Located in Primary Residence. Personal cultivation of marijuana may only occur in the primary*

residence of the patient, caregiver or person over 21 years old, or in an accessory structure on the same property. (C) Location within Primary Residence. All personal cultivation of marijuana must occur in a separate, enclosed, locked space, not to exceed 150 square feet for a single-family dwelling or 100 square feet for all other dwelling units, within the dwelling unit or accessory structure.” Marijuana could be grown in a personal greenhouse if it meets those criteria.

Mr. Bailey asked why the Ag Exemption would then exclude marijuana.

Mr. Trowbridge thinks the Ag Exemption should be revised to say marijuana is prohibited *except* as specified under LDC 5.2.33.

Ms. Seago clarified that the reason they decided to exclude the intended use of growing marijuana from the Ag Exemption from the Building Code was because they wanted to ensure buildings used for the cultivation of marijuana, which often require electrical and plumbing, met Building Code standards.

Mr. Carlson stated he thinks the mention of marijuana should be removed altogether. If it remains a requirement to get a building permit for structures including electrical or plumbing, then that takes care of the concern.

Mr. Trowbridge clarified that the prohibiting of marijuana only falls under the Ag Exemption from the Building Code. The proposed change isn't talking about all greenhouses, just ones that are larger than 200 sq. ft. and are seeking an exemption from the Building Code. The proposed amendment says that you can't get the Ag Exemption if you're going to grow marijuana. He understood from Ms. Seago's comment that someone wouldn't be able to grow marijuana in an Ag Exempt structure anyway because it's either not in the principal residence or it's not in its own dedicated grow structure. But someone could build a small, 50 sq. ft. greenhouse to grow personal marijuana in addition to the larger structure they seek an Ag Exemption for.

Ms. Seago stated that is correct and continued by saying the marijuana provisions of the LDC do allow the cultivation in a portion of the accessory structure so long as that portion is no larger than 100 sq. ft. Under the proposed amendment, an accessory structure that includes a portion dedicated to marijuana (no greater than 100 sq. ft.) and is overall greater than 200 sq. ft. would require a building permit.

Mr. Bailey stated he thinks that discussion clarifies why growing marijuana is not allowed when seeking an Ag Exemption.

Mr. Carlson wonders why the proposed amendment wants to prohibit the cultivation of marijuana in an 800 sq. ft. greenhouse that would otherwise be eligible for the Ag Exemption if that person is willing to haul water to it, etc.

Ms. Madden referenced an email correspondence between herself and Ms. Seago where Ms. Seago did not consider the personal cultivation of marijuana as meeting the definition of agricultural use. She reiterated that people do not have to pursue the Ag Exemption, it is just an option. They can build a greenhouse as large as their zoning district allows. There are

standards to build a greenhouse and then there are further requirements if someone wants to seek the exemption.

Ms. Herington was excused from the meeting at this time.

Mr. Carlson reiterated that he thinks the exclusion of marijuana should be removed.

Ms. Offner mentioned that it does say later in the LDC that it's allowed if it meets the criteria listed in 5.2.33.

Mr. Bailey stated the prohibition would only apply to structures seeking an exemption from the Building Code, not all greenhouses. He asked for the opinion of a Regional Building employee.

Mr. Jay Eenhuis, with Regional Building, stated his department wouldn't care if the subject language was included or not. If someone wants to grow marijuana in an accessory structure less than 200 sq. ft., it's already exempt from needing a building permit. Regional Building is currently seeing greenhouses that exceed 200 sq. ft. constructed with bent PVC and plastic sheeting laid over it, which is not considered conventional construction. At that point an engineer needs to sign off on the plans. What someone does within the greenhouse is not up to their department, they leave that up to the County. He personally thought greenhouses were already included under the Ag Exemption.

Mr. Bailey stated he's starting to think the exclusion of marijuana cultivation isn't needed.

Mr. Moraes stated his understanding that anything under 200 sq. ft. is not a problem. Between 200 and 1,000 sq. ft. is where the potential of an Ag Exemption becomes relevant. The current proposal states that a greenhouse under 1,000 sq. ft. can be exempt from the Building Code, until you decide to put marijuana in it.

Mr. Whitney clarified that it can be done, they're just not eligible for the Ag Exemption.

Ms. Offner asked when the 100 sq. ft. specification mentioned by Ms. Seago becomes relevant.

Mr. Trowbridge thinks that you can build an accessory greenhouse for marijuana of 100 sq. ft., but it needs to meet the Building Code. Is that correct?

Ms. Madden stated that was not accurate. Structures under 200 sq. ft. would not need a building permit or an Ag Exemption, even if they want to grow marijuana.

Mr. Trowbridge clarified that is what is already allowed. What is being considered with this LDC amendment is an exemption from the Building Code for personal greenhouses. To be eligible for that exemption, the County is excluding buildings you intend to use for marijuana. By approving this amendment, the Planning Commission is agreeing that someone shouldn't be allowed to grow marijuana in a building greater than 200 sq. ft. that was exempted from the Building Code.

Mr. Bailey further clarified that the Ag Exemption was more restrictive than regular standards. Even if they designate a separate 100 sq. ft. section that could be locked, and even if it says

that's allowed in other places of the LDC, this proposal says that to be eligible for an Ag Exemption, you cannot grow marijuana in the structure.

Mr. Carlson thought he heard Ms. Seago say earlier that it would be allowed to grow marijuana in up to a 1,000 sq. ft. greenhouse with the Ag Exemption regardless of designating a separate 100 sq. ft. or not. He doesn't understand why the County is putting the restriction on marijuana. He thinks it should meet the criteria of agricultural use because it is a plant like any other.

Ms. Fuller clarified that this proposal would allow greenhouses up to 1,000 sq. ft. to be built without building permits and would exclude the cultivation of marijuana. If a residence that includes one of these accessory structures is sold, and the next owner puts marijuana in it, does the new owner need to seek a retro-active building permit? How would this be enforced?

Ms. Madden explained that an affidavit that permits inspection would be completed and recorded with the Clerk & Recorder. There is an exemption process in place for other Ag structures. Code Enforcement is complaint based. If there is a complaint, Code Enforcement would initiate a case and reach out to the owner to conduct an inspection to confirm compliance.

Ms. Fuller asked if the next owner would find the recorded affidavit through a title search.

Ms. Madden stated she wasn't sure but stated the seller should provide the new owner with that information.

Ms. Seago stated she read through the current use-specific standards in the LDC relating to the existing Ag Exemption from the Building Code, regardless of personal greenhouse or not, and there are already use-specific standards in section 5.2.5. Those provisions already state in paragraph D, subsection 3, that marijuana related uses are prohibited in an Ag structure that was exempted from the Building Code. It's already part of the LDC under the broader definition of the Ag Exemption. By prohibiting it in the subcategory of greenhouses, it is consistent with the rest of the LDC.

Mr. Whitney said he is more comfortable leaving the language restricting marijuana in the proposed amendment to greenhouses now that it is clear the Planning Commission is not making the arbitrary decision to restrict it where it would be allowed otherwise. This language does not add or restrict anything, it is just consistent.

Mr. Trowbridge read the proposed LDC amendment changes for clarity.

Mr. Bailey added that this will go to the BOCC who will ultimately approve the amendment, and they can further discuss the policy of excluding marijuana from the Ag Exemption if they so choose.

Mr. Carlson stated he felt comfortable leaving the language as presented after the discussion.

Ms. Madden added that a driving force behind the Ag Exemption section of the LDC that Ms. Seago referenced, adopted in 2019, was an overwhelming number of illegal marijuana growing sites in the County. People were able to come into PCD, sign one paper, and get an Ag

Exemption. There was an increase in illegal marijuana growing sites. This resulted in the BOCC adopting the language in the LDC as it is now.

NO PUBLIC COMMENT

PC ACTION: TROWBRIDGE MOVED / WHITNEY SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM NUMBER 4B, LDC-23-001, FOR A LAND DEVELOPMENT CODE AMENDMENT, PERSONAL GREENHOUSES, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, WITH NO ADDED CONDITIONS OR NOTATIONS, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (7-0).

Mr. Carlson was excused from the meeting. The number of voting members is now six.

C. LDC232

MADDEN

**EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT
CARPORTS**

A request by the El Paso County Planning and Community Development Department to amend Chapters 1 and 5 of the El Paso County Land Development Code (2022) as it pertains to carports. The proposed revisions, in their entirety, are on file with the El Paso County Planning and Community Development Department. (All Commissioner Districts).

STAFF PRESENTATION & DISCUSSION

Mr. Trowbridge asked if the reason for the 5-foot setback limit combined with the specification on side walls was to ensure visibility while driving.

Ms. Madden stated that was correct. Protection for the sides of vehicles was suggested by people getting Code Enforcement complaints. Hail, for example, does not always fall straight down. The presentation continued.

Mr. Whitney provided a hypothetical example. If someone were to have a one-car garage that has a single lane of paved driveway, and they put gravel next to the driveway, would they be allowed to put a carport over the graveled area so that they're not blocking access to their own garage?

Ms. Madden answered that if the carport is over the driveway, it would be allowed to extend into the easement and side-yard setbacks under this amendment. If the carport was put solely over the gravel drive and was not accessed by the approved access, that would not be allowed.

Mr. Whitney clarified that he was talking about if someone were to put gravel 4 feet to the side of their approved driveway.

Ms. Madden referenced pictures in her presentation. She stated that would not be allowed because they would have to drive over the curb to access the carport.

Mr. Bailey asked if it would be allowed if it were pushed further back from the street.

Mr. Whitney asked if it would be allowed if it were further back, flush with the garage. If the person used the approved concrete driveway but then pulled under the carport instead of into the garage, would that be allowed?

Ms. Madden stated that based on recommendations she received, that would not be allowed.

Mr. Trowbridge asked why prohibited materials needed to be listed when the list of approved materials is provided.

Ms. Madden explained that from a Code Enforcement standpoint, listing prohibited materials specifically is easier to enforce. This would deter people from building a 95% wood carport and then putting canvas on the sides.

Mr. Trowbridge expressed understanding. He then asked about the materials that were allowed. Would asphalt shingles be allowed? He does not see them on the approved list.

Ms. Madden answered that roofing materials were not included in construction materials. She stated they could add language to address roofing materials, but the proposed amendment as it is presented only covers the materials of the main structure.

Mr. Trowbridge asked if the roof is not part of the main structure.

Ms. Madden stated that it is, but she meant the proposed amendment is addressing the frame of the carport.

Mr. Trowbridge understood the explanation, but stated the amendment seems to be referring to all materials of the carport.

Ms. Madden stated she can add a section to address roofing materials.

Mr. Bailey added that he thinks most carports will be prefabricated kits.

Ms. Fuller doesn't like that the proposed amendment would prohibit people from putting a carport next to their driveways as Mr. Whitney described. That placement seems logical to her. To prohibit that doesn't seem like it was the intention of the LDC amendment. To add that the carport may be adjacent to the attached garage seems appropriate.

Ms. Madden thanked the board for the comments. She will look at adding language that allows a carport directly adjacent to an approved driveway access.

Mr. Bailey clarified that a site plan is required for a carport and would catch that people aren't going to enter on their driveway and then make an immediate turn to drive across the front yard.

Mr. Trowbridge reiterated that would be the reason it should be adjacent to an existing garage.

Mr. Moraes asked if carports counted in the maximum lot coverage percentage.

Mr. Kilgore answered that if a structure doesn't need a building permit, there is no way for PCD to track it. If a site plan comes through that has small lot with a house, barn, carport, greenhouse, etc. PCD staff, either planners or front counter, would see if a lot is getting close to their allowed coverage to evaluate their percentage.

Mr. Trowbridge added that he thinks it would only increase their imperviousness if it were *not* over the existing driveway.

Ms. Fuller asked if existing language would help staff enforce the spirit of the proposed change.

Mr. Bailey asked if the existing lot coverage standards would give PCD enough leverage to enforce.

Mr. Moraes thinks an issue would only arise with lot coverage if the carport was not proposed over an existing driveway. The water would go to the side instead of being immediately absorbed.

Ms. Madden clarified that the proposed carport amendment was meant to target lots less than half an acre. Areas that have bigger lots will not likely have an issue meeting setbacks. She stated she would work on making the suggested change regarding a carport allowed to be placed adjacent to an existing garage or approved driveway access.

NO PUBLIC COMMENT

PC ACTION: TROWBRIDGE MOVED / MORAES SECONDED TO RECOMMENDED APPROVAL OF REGULAR ITEM NUMBER 4C, LDC-23-002, FOR A LAND DEVELOPMENT CODE AMENDMENT, CARPORTS, MODIFYING THE RESOLUTION ATTACHED TO THE STAFF REPORT, ADDING THE SUGGESTIONS DISCUSSED, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (6-0).

5. NON-ACTION ITEMS

A. Work Session with Lori Seago

Annual training regarding quasi-judicial processes, ex parte, and ethics.

MEETING ADJOURNED at 12:18.

Minutes Prepared By: Miranda Benson

MAP AMENDMENT - REZONE (RECOMMEND APPROVAL)

Fuller

moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. P-22-019
6385 VESSEY RD REZONE RR-5 TO RR-2.5

WHEREAS, SMH Consultants did file an application with the El Paso County Planning and Community Development Department for an amendment of the El Paso County Zoning Map to rezone property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference, from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by this Commission on May 18, 2023; and

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

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

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

WHEREAS, when approving a map amendment, the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5.B (Map Amendment, Rezoning) of the El Paso County Land Development Code (2022):

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111, § 30-28-113, and § 30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of SMH Consultants for an amendment to the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

3. Any future or subsequent subdivision and/or use of the property shall have a minimum lot size of 4 acres within the RR-2.5 zoning district.

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.

Carlson 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 / abstain / absent
Sarah Brittain Jack	aye / no / abstain / <u>absent</u>
Jay Carlson	<u>aye</u> / no / abstain / absent
Becky Fuller	<u>aye</u> / no / abstain / absent
Brandy Merriam	aye / no / abstain / <u>absent</u>
Eric Moraes	<u>aye</u> / no / abstain / absent
Kara Offner	<u>aye</u> / no / abstain / absent
Joshua Patterson	aye / no / abstain / <u>absent</u>
Bryce Schuettpelz	aye / no / abstain / <u>absent</u>
Tim Trowbridge	<u>aye</u> / no / abstain / absent
Christopher Whitney	<u>aye</u> / no / abstain / absent

The Resolution was adopted by a vote of 1 to 0 by the Planning Commission of the County of El Paso, State of Colorado.

DONE THIS 18th day of May 2023, at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: 
Thomas Bailey, Chair

DATED: May 18, 2023

EXHIBIT A

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

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

Subject to easements and restrictions of record.

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

HOLLY WILLIAMS
STAN VANDERWERF
LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission

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

RE: Project File Number: P-22-019
Project Name: 6385 Vessey Rd Rezone RR-5 to RR-2.5
Parcel Number: 52060-00-065

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

Commissioner District: 1

Planning Commission Hearing Date:	5/18/2023
Board of County Commissioners Hearing Date:	6/20/2023

EXECUTIVE SUMMARY

A request by SMH Consultants for approval of a map amendment (rezoning) from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The 14-acre property is located 0.37 miles west of the intersection of Vessey Road and Black Forest Road and 0.15 miles south of the intersection of Vessey Road and Pine Castle Drive.

A. APPROVAL CRITERIA

In approving a map amendment (rezoning), the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2022):

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- The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
- The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
- The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
- The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

B. LOCATION

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

C. BACKGROUND

The subject property was initially zoned A-1 (Garden Home District) on September 20, 1965, when zoning was first initiated in this part of the County. Due to nomenclature changes, the zoning district was renamed RR-5 (Residential Rural). The applicant has also submitted a minor subdivision application in addition to the rezoning application. The applicant is proposing a three-lot subdivision which will exceed the 2.5-acre minimum requirement per lot, with each lot being 4 acres or greater. The minor subdivision application is currently in review and has not been scheduled for a public hearing.

D. ANALYSIS

1. Land Development Code Analysis

The applicant is proposing to rezone the property from RR-5 (Residential Rural) to RR-2.5 (Residential Rural) Section 3.2 of the Code states the following as the intent of the RR-2.5 zoning district:

The RR-2.5 zoning district is a 2.5-acre district intended to accommodate low-density, rural, single-family residential development.

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The applicant intends to use the property for low-density, rural, single-family residential purposes, which is consistent with the intent of the RR-2.5 zoning district.

2. Zoning Compliance

The applicant is requesting to rezone 14.0 acres to the RR-2.5 (Residential Rural) zoning district. The RR-2.5(Residential Rural) zoning district is intended to accommodate low-density, rural, single-family residential development. The density and dimensional standards for the RR-2.5(Residential Rural) zoning district are as follows:

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

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

The applicant has also submitted a subdivision application in addition to the rezoning application. The subdivision will be reviewed to ensure that all proposed structures will comply with the zoning district dimensional standards as well as the General Development Standards of the Code and Engineering Criteria Manual requirements.

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

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

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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*

Analysis:

The Large-Lot Residential placetype supports the rural character of the County while providing for unique and desirable neighborhoods. Relevant goals and objectives are as follows:

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.*

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

The proposed rezone would reallocate approximately 14-acres of underdeveloped land from the RR-5 zoning district to the RR-2.5 zoning district, which would support single-family detached residential with 2.5-acre lots or larger as a primary use. The applicant currently has an application in review with El Paso County for a minor subdivision which is proposing a three-lot subdivision with the smallest lot being 4-acres in size.

The subject property is surrounded by smaller lots, some 2.5-acres in size, which would keep the RR-2.5 zoning district compatible with the existing rural feel in the area. Half a mile to the east of the subject property was rezoned to PUD in 2001, as part of the Cathedral Pines Subdivision. The PUD has a minimum lot size of 2.5 acres. Between the subject property and Cathedral Pines Subdivision eight of the eleven properties that front the southern portion of Vessey Road are less than two acres in size.

b. Area of Change Designation: Minimal Change: Undeveloped

The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall there will be no change to the prioritized rural and natural environments.

Analysis:

The minimal change: undeveloped area of change states that these areas will experience some redevelopment but will be limited in scale. The applicant is proposing to rezone the subject property to RR-2.5 (Residential Rural) in order to create two additional lots for single-family development. Each lot will be a minimum of 4-acres which is consistent with the lot size in the immediate vicinity of the subject property. The lot to the south, southwest and west along Vessey Road contain 2.5 acres and 3.5 acres respectively.



c. Key Area Influences: Forested Area

This Key Area includes parts of the County where natural forests are the predominant feature such as Black Forest, areas north of Peyton, and areas along Highway 115 as well as lands within Pike National Forest. Pike National Forest is one of the County's largest natural amenities and tourist destinations. Continued coordination with the U.S. Forest Service is critical to ensuring future development in areas adjacent to the Forest do not negatively impact the natural environment. There are also many established communities within Pike National Forest particularly in Ute Pass and along Highway 115. New development and any redevelopment in these locations should be of a lower intensity to mitigate any impacts on the Forest, properly manage stormwater, provide safe access to major roads and state highways for the traveling public and emergency response vehicles and adhere to the strictest building codes to prevent any hazards such as fires and soil erosion related to poor planning, design, and construction.

Managed residential growth, along with supportive commercial uses, have helped the other forested areas preserve their natural amenities while supporting the daily needs of a thriving local community. The seamless connection between the natural environment and small-scale, low intensity development is critical to their identity. All new development and redevelopment in this Key Area should strictly adhere to the transportation and infrastructure, stormwater requirements, built form, and transition guidelines outlined in their appropriate placetypes. Each development proposal should also be reviewed on a case-by-case basis to determine its specific impact on the forested area and the established character of the individual community.

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

The subject property is not within a development area.

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.*

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

Goal 1.2 – Integrate water and land use planning.

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 2 of the Plan, which is an area anticipated to experience growth by 2040. The following information pertains to water demands and supplies in Region 2 for central water providers:

The Plan identifies the current demand for Region 2 to be 7,532 acre-feet per year (AFY) (Figure 5.1) with a current supply of 13,607 AFY (Figure 5.2). The projected demand in 2040 for Region 2 is at 11,713 AFY (Figure 5.1) with a projected supply of 20,516 AFY (Figure 5.2) in 2040. The projected demand at build-out in 2060 for Region is 2 is at 13,254 AFY (Figure 5.1) with a projected supply of 20,756 AFY (Figure 5.2) in 2060. This means that by 2060 a surplus of 7,502 AFY is anticipated for Region 2.

A finding of water sufficiency is not required with a map amendment; however, it is required with any future subdivision request.

3. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a low wildlife impact potential. El Paso County Environmental Services, Colorado State Forest Service and the US Forest Service were each sent a referral and have no outstanding comments.

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

Please see the Parks Section below for information regarding conformance with The El Paso County Parks Master Plan (2022).

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Please see the Transportation Section below for information regarding conformance with the 2016 Major Transportation Corridors Plan Update (MTCP).

F. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified as part of this rezone application.

2. Floodplain

The site is not located within a defined floodplain as determined by staff upon review of the FEMA Flood Insurance Rate Map Panel No. 08041C0315G, effective on December 7, 2018.

3. Drainage and Erosion

The property is located within the Kettle Creek Drainage Basin. Drainage basin and bridge fees are applicable at the time of plating. A drainage report will be required with the proposed minor subdivision. No public drainage improvements are proposed or required with the rezone or plat.

4. Transportation

The property is accessed from Vessey Road, currently classified as a county maintained paved unimproved local road. Vessey Road is identified in the El Paso County 2016 Major Transportation Corridors Plan Update (MTCP) for future road improvements as a collector road. County road impact fees are applicable at the time of building permit. A traffic impact study is not required with the rezone or minor subdivision.

G. SERVICES

1. Water

Water is provided by an existing onsite well.

2. Sanitation

Wastewater is provided by an existing onsite water treatment system.

3. Emergency Services

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

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4. Utilities

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

5. Metropolitan Districts

The subject property is not located within a metropolitan district.

6. Parks/Trails

Land dedication and fees in lieu of park land dedication are not required for a map amendment (rezoning) application.

7. Schools

Land dedication and fees in lieu of school land dedication are not required for a map amendment (rezoning) application.

H. APPLICABLE RESOLUTIONS

See attached resolution.

I. STATUS OF MAJOR ISSUES

There are no major issues as part of this rezone application.

J. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and the Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2022), staff recommends the following conditions:

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.

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2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

K. PUBLIC COMMENT AND NOTICE

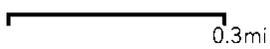
The Planning and Community Development Department notified 17 adjoining property owners on May 1, 2023 for the Planning Commission and Board of County Commissioners meetings. Responses will be provided at the hearing.

L. ATTACHMENTS

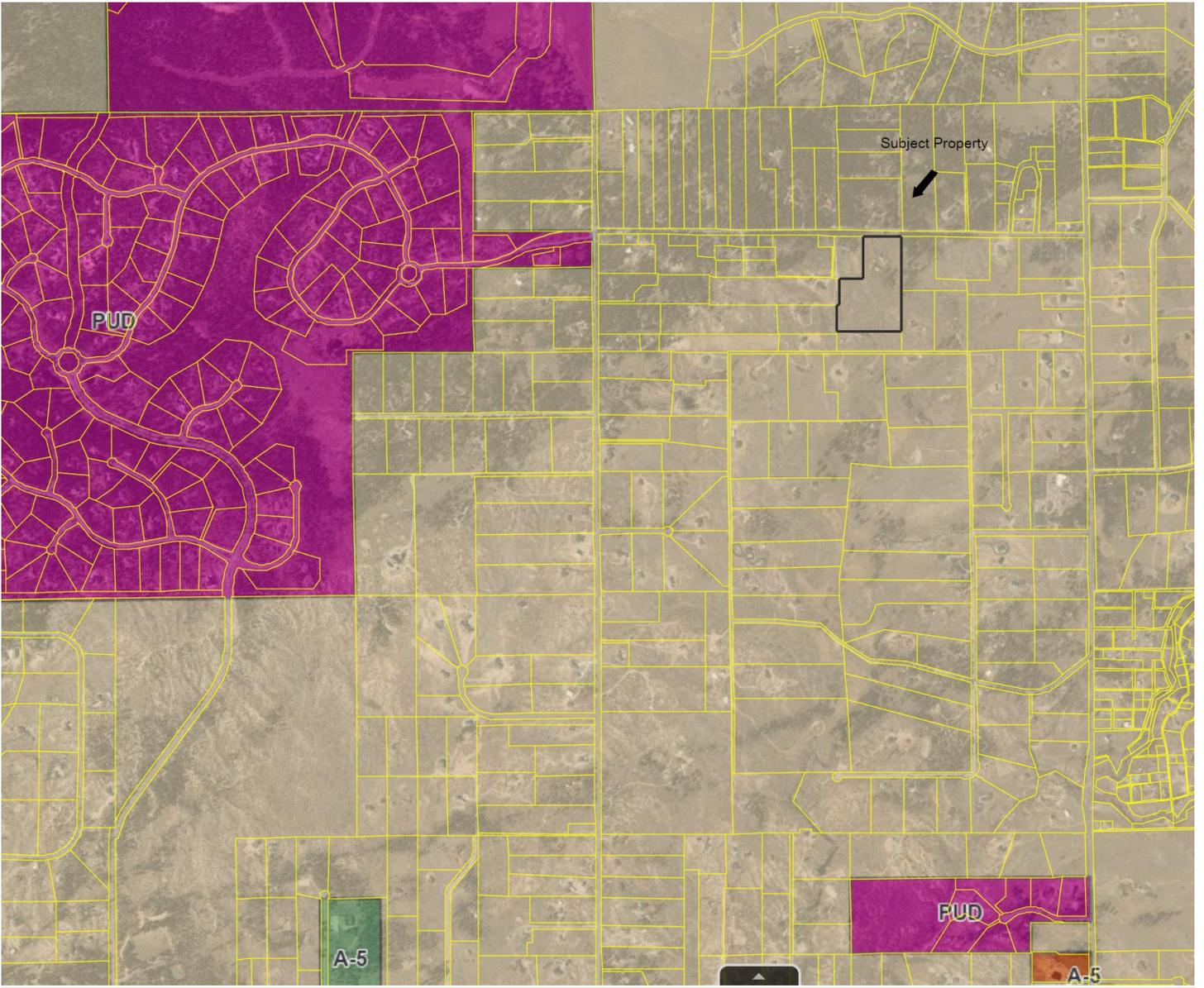
- Map Exhibit
- Vicinity Map
- Letter of Intent
- Rezone Map
- Draft Resolution



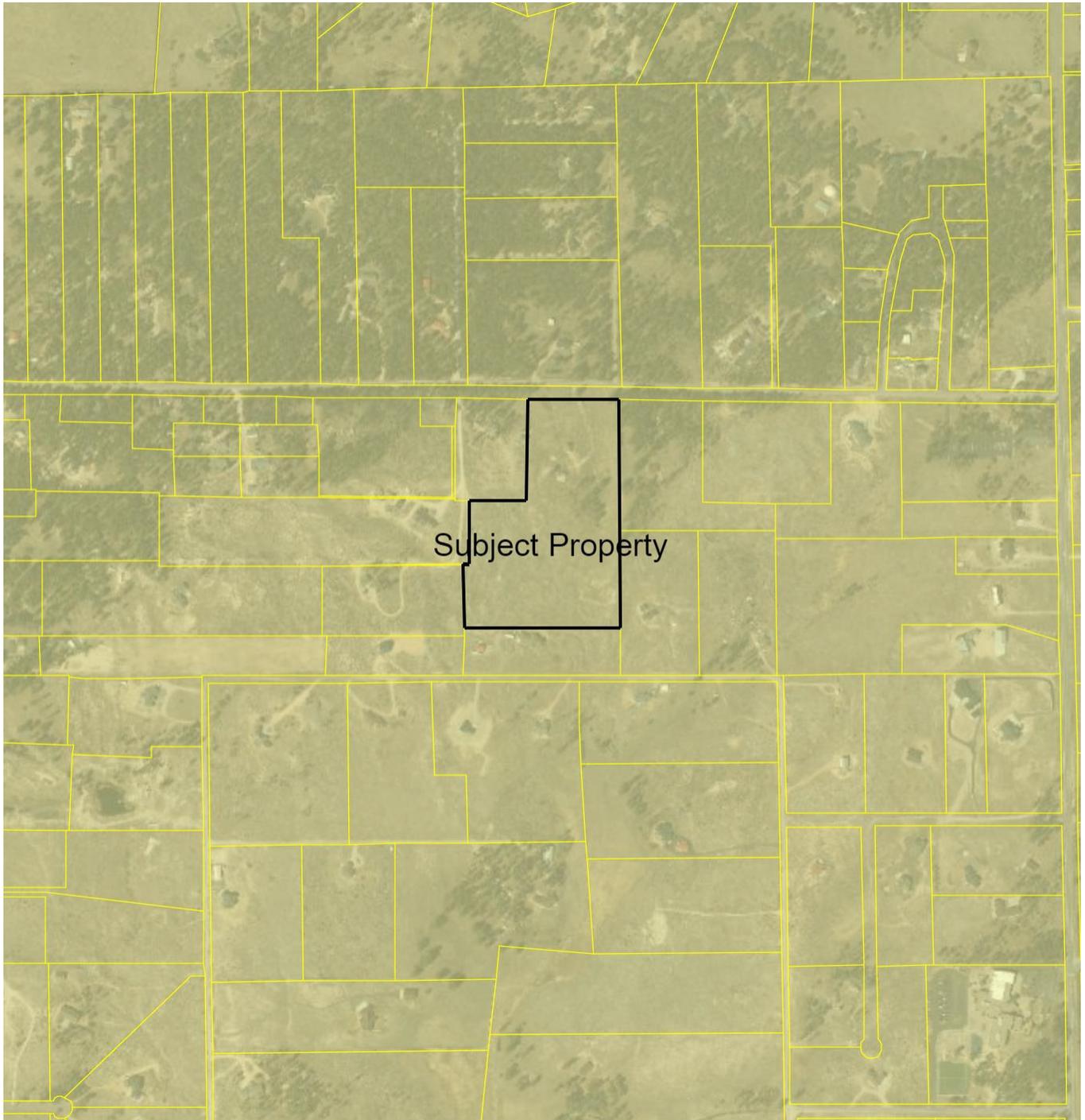
Map Exhibit #1: Aerial



Map Exhibit #2: Zoning



Map Exhibit #3: Placetype

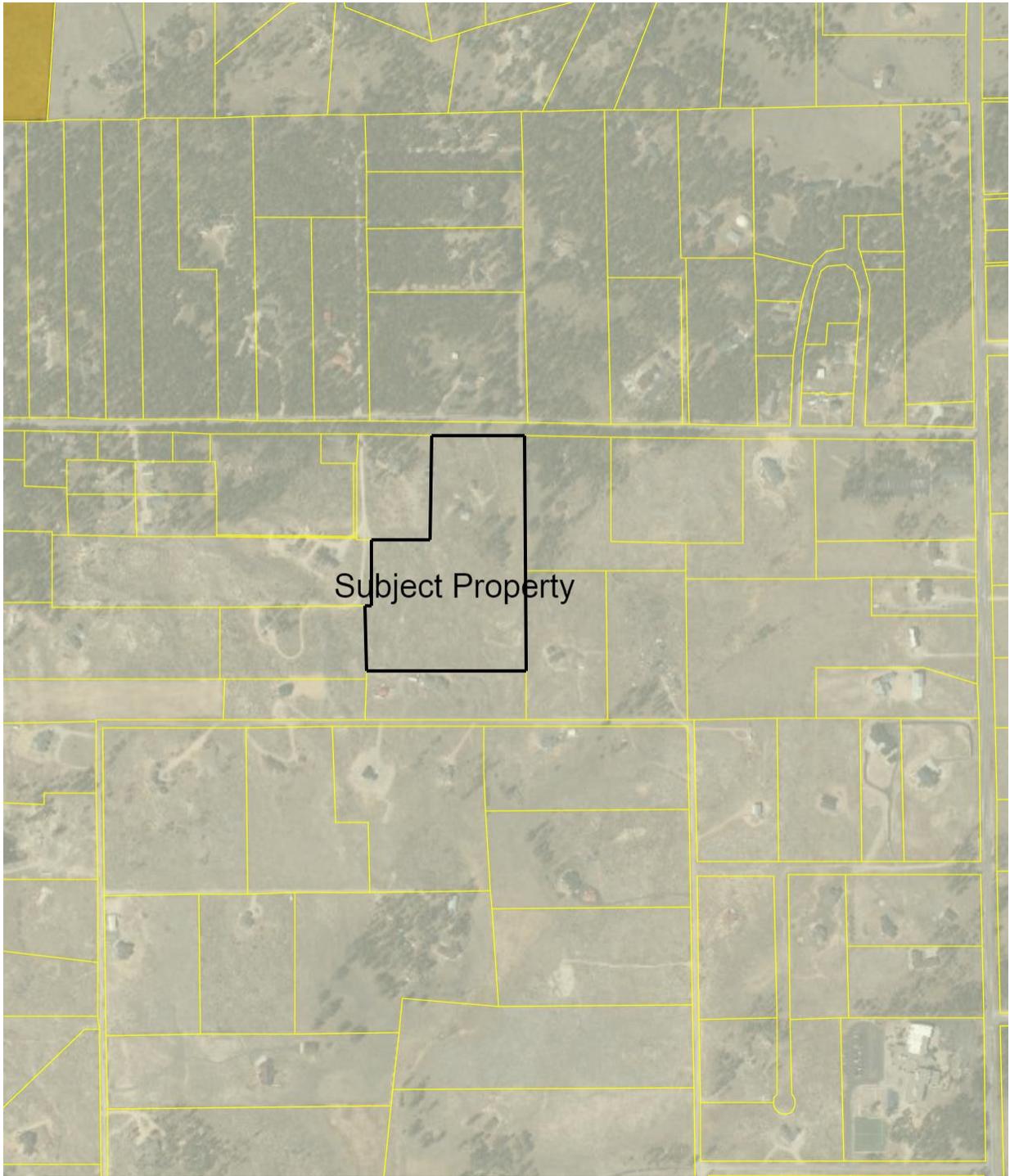


0.3mi

Legend

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

Map Exhibit #4: Area of Change



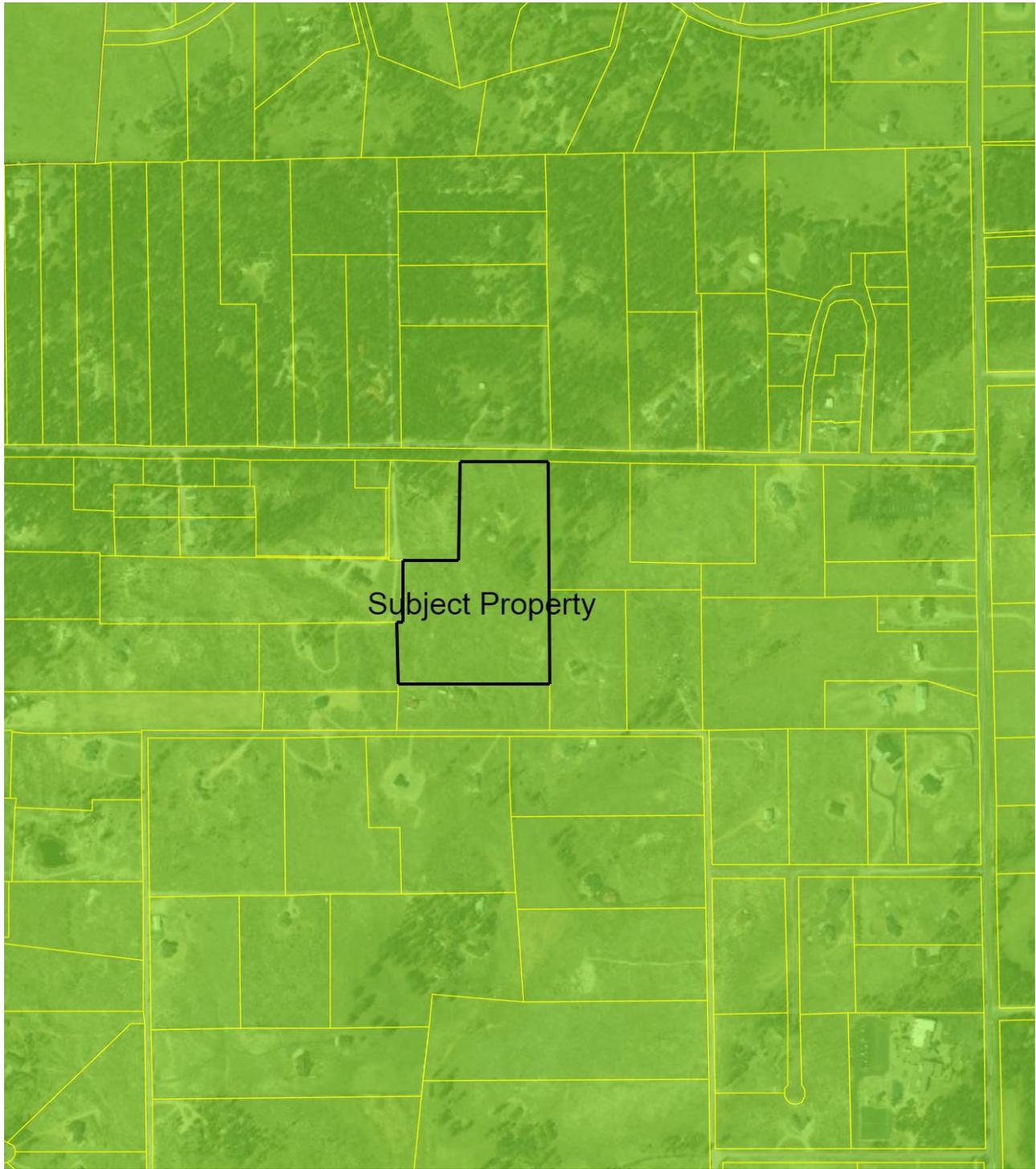
Legend

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



0.3mi

Map Exhibit #4: Key Areas



Legend

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

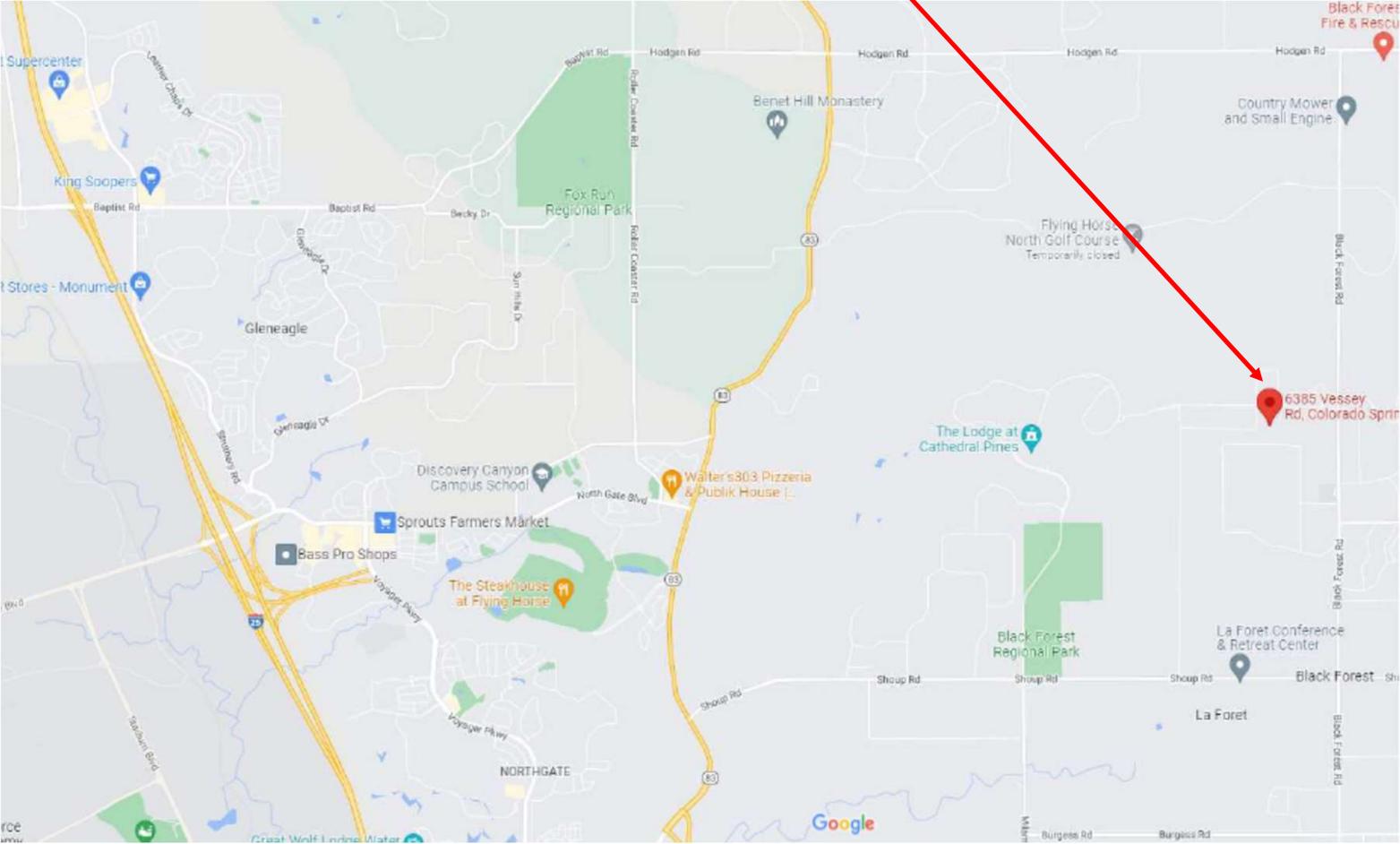


0.3mi

Vicinity Map

Not to Scale

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





March 10, 2023

Kylie Bagley, Planner
El Paso County Planning & Community Development
2880 International Circle, Suite 110
Colorado Springs, CO 80910

Re: PCD File #P2219 - Ivilo Rezone Letter of Intent

Dear Mr. Howser:

The property owner would like to request approval of a rezoning for 6385 Vessey Road, Colorado Springs, CO 80908. The parcel number is 5206000065. A separate minor subdivision application has been submitted requesting the property to be subdivided into 3 single-family residential lots of the following sizes: Lot 1: 5.33 acres, Lot 2: 4.05 acres and Lot 3: 4.53 acres. The site is 14 acres and is currently zoned RR-5 with no current overlay zones and would like to be rezoned to RR-2.5 with no overlay zones with the approval of the rezoning. The proposed rezoning meets the following criteria for approval of a rezone, as outlined in the El Paso County Land Development Code.

- The zoning request complies with each of the Criteria of Approval in Chapter 5.
 - This area is shown as Large-lot Residential Placetype in the El Paso County Master Plan adopted in 2021. Large-Lot Residential Placetype is defined in the Master Plan as single-family detached typically 2.5-acres or larger. The subdivision is proposing lots greater than 2.5-acres. The proposed subdivision is located in the Forested Key Area and an area of minimal change in the Areas of Change Section. Development in the Forested Key Area and Area of Minimal change allows for development of undeveloped land with minimal change to the prioritized rural and natural environments. The proposed subdivision meets this by proposing large-lot residential and maintaining large areas of undisturbed property to maintain the rural and natural environment. The proposed development fits within the 2040 Major Transportation Corridor Plan. Vessey Road is shown as being upgraded to a collector road by 2040. Sufficient right-of-way has been provided along the north property line of the proposed subdivision to accommodate the future improvements of Vessey Road. The proposed subdivision also fits within the Water Master Plan. The proposed subdivision will be served by individual wells. This is an acceptable method of providing water to a subdivision per the Water Master Plan.
 - The rezoning is in compliance with all applicable statutory provisions.
 - The proposed land use or zone district is compatible with the existing and

- permitted land uses and zone districts in all directions
 - The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5, for the intended zone district.
- Goal 8 of the 2022 El Paso County Parks Master Plan advocates to create a continuous, connected system of regional trails. The proposed project falls along the Palmer Divide Regional Trail, a proposed Primary Regional Trail in the Masterplan. Once completed, this trail will connect the Black Forest Regional Trail with the Rock Island Trail connecting Black Forest Regional Park, the Pineries Open Space, Homestead Ranch Regional Park and the Ramah State Wildlife Area. To comply with this proposed masterplan, the project will provide a 25-foot-wide public easement along the south side of the dedicated right-of-way for Vessey Road for the construction of Palmer Divide Regional Trail. The project will also be paying fees to help fund future development.
- The water rights and augmentation plan in place for the existing parcel are adequate to meet the needs of three (3) lots proposed for the subdivision on a 300-year basis. According to Water Court Decree Case Number 18CW3077, the property has water rights adjudicated in the Dawson Aquifer, the Denver Aquifer, the Arapahoe Aquifer, and the Laramie-Fox Hills Aquifer. The proposed water source for the development would be the Dawson Aquifer, for which the replacement plan contained in Water Court Decree Case Number 21CW3048 was prepared for (thus revising an existing plan for augmentation originally contained in Decree No. 18CW3035) allowing the property to set aside sufficient amounts from the Laramie-Fox Hills and Arapahoe groundwater to replace post-pumping depletions. Results from the water quality test have been submitted with the final plat application. These items satisfy the requirements outlined in the El Paso County Water Master Plan.
- The proposed request is in compliance with the applicable requirements of the Land Development Code.
- The proposed request complies with the definition of the proposed use. The proposed use is RR-2.5, Residential Rural District. This zoning district is a 2.5 acre district intended to accommodate low-density, rural, single family residential development. There are no use specific standards being requested at this time.
- Service commitment letters have been provided by Black Forest Fire, Black Hills Energy, and Mountain View Electric Association fulfilling the necessary services to be provided. The project is located on Vessey Road, so no new transportation systems are required by the project. A 25-ft. easement is being provided for the future construction of Palmer Divide Regional Trail providing recreational opportunities.
- There are no potentially sensitive natural or physical features within the area included within the request
- On April 8, 2022 the applicant mailed notification letters to all adjacent property owners describing the proposed development.
- The proposed rezoning will generate approximately 9 trips in the A.M. peak hour, 4 trips in the P.M. peak hour and 40 daily trips. Per the El Paso Engineering Criteria Manual, a Traffic Impact Study is not required if daily vehicle trip is less than 100 or the peak hour trip generation is less than 10.

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

Consultant

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

Owner

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

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

Sincerely,



Brett Louk, PE
SMH Consultants

REZONE MAP IVILO SUBDIVISION

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

TO WIT (DEED DESCRIPTION):

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

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

(R4)

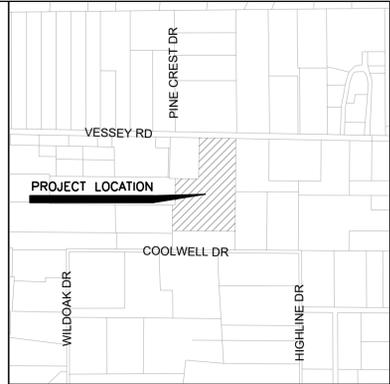
Subject to easements and restrictions of record.

TO WIT (SURVEYED DESCRIPTION):

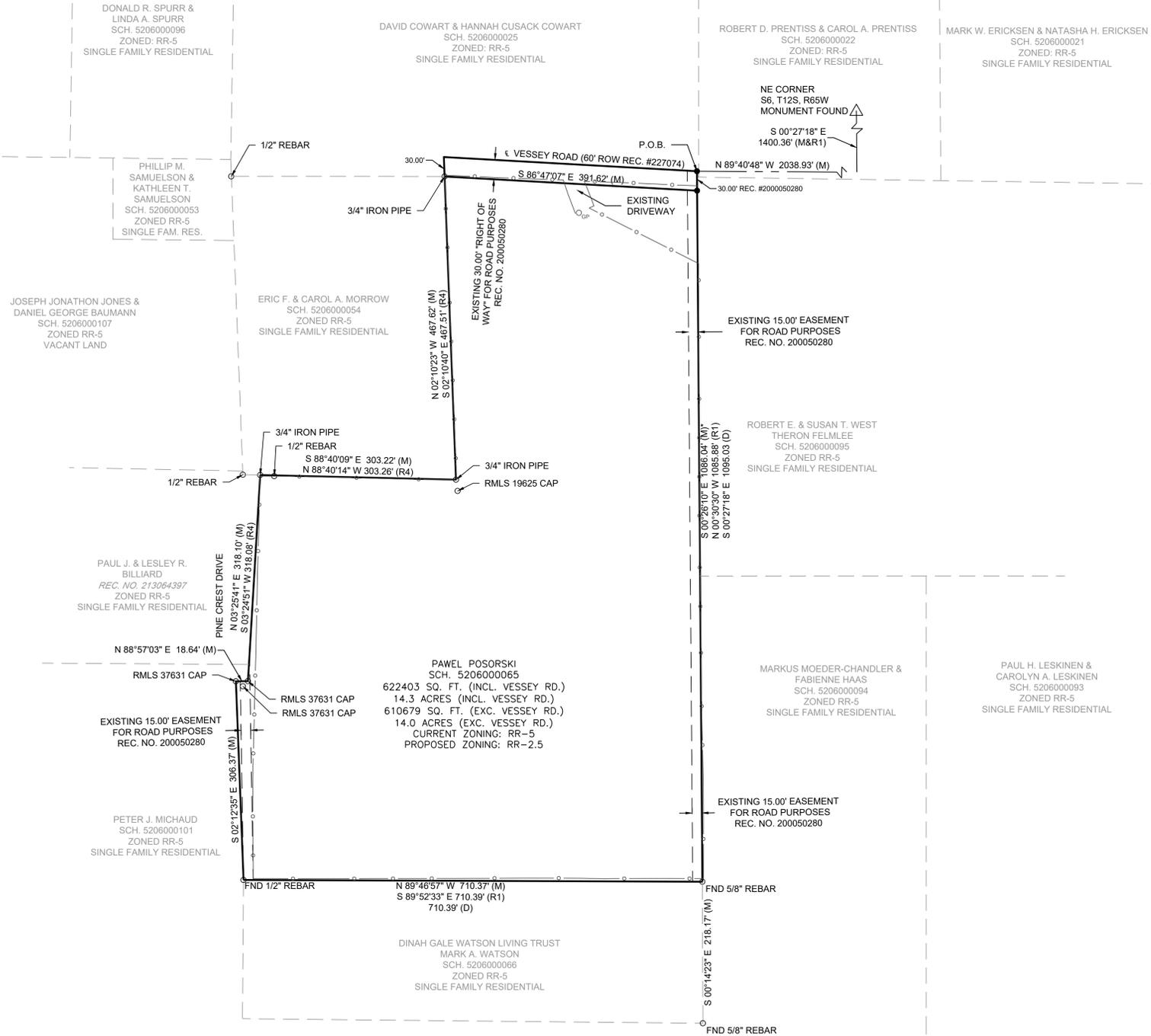
That portion of the North Half of Section 6 in Township 12 South, Range 65 West of the 6th Principal Meridian, El Paso County, Colorado described as follows;

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

Subject to easements and restrictions of record.



VICINITY MAP
(NOT TO SCALE)

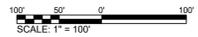


OWNER & PETITIONER:
PAWEL POSORSKI
6385 VESSEY ROAD
COLORADO SPRINGS, CO 80908
630-302-7308

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

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

- LEGEND**
- Monument Found (1/2" Rebar),
Origin unknown unless otherwise noted
 - 1/2"x24" Rebar w/PLS38374 Cap Set
 - △ Section Corner. NOTE: All section corner monument origins are unknown unless otherwise noted.
 - Assumed Bearing
 - (C) Calculated Dimension
 - (M) Measured Dimension
 - (R) Recorded Dimension - Land Survey Plat by Rocky Mountain Land Services dated December 14, 2015
 - (R⁴) Recorded Dimension - Land Survey Plat by Crossed Paths Surveying Services dated June 28, 2022



SMH
CONSULTANTS

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Overland Park, KS P: (913) 444-9615 • Colorado Springs, CO P: (719) 465-2145

Drawn By: JTH Project #2107-0301 DD #TDS86

MARCH 2023

RESOLUTION NO. 23-

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

APPROVAL OF MAP AMENDMENT (REZONE)
6385 VESSEY ROAD REZONE RR-5 TO RR-2.5 (P-22-019)

WHEREAS, SMH Consultants did file an application with the El Paso County Planning and Community Development Department for an amendment to the El Paso County Zoning Map to rezone property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on May 18, 2023, upon which date the Planning Commission did by formal resolution recommend approval of the subject map amendment application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on June 20, 2023; and

WHEREAS, based on the evidence, testimony, exhibits, consideration of the master plan for the unincorporated area of the County, presentation and comments of the El Paso County Planning and Community Development Department and other County representatives, comments of public officials and agencies, comments from all interested persons, comments by the general public, 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 the 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 zoning is in compliance with the recommendations set forth in the Master Plan for the unincorporated area of the county.
6. That the proposed land use will be compatible with existing and permitted land uses in the area.

7. That the proposed land use does not permit the use of any area containing a commercial mineral deposit in a manner, which would interfere with the present or future extraction of such deposit by an extractor.
8. That changing conditions clearly require amendment to the Zoning Resolutions.
9. That for the above-stated and other reasons, the proposed Amendment to the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, pursuant to Section 5.3.5 of the El Paso County Land Development Code, as amended, in approving this amendment to the El Paso County Zoning Map, the Board of County Commissioners considered one or more of the following criteria:

1. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;
2. The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111, § 30-28-113, and § 30-28-116;
3. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
4. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the petition of 6385 Vessey Road Rezone RR-5 to RR-2.5 to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from the RR-5 (Residential Rural) zoning district to the RR-2.5 (Residential Rural) zoning district;

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

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.

2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-2.5 zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.
3. Any future or subsequent subdivision and/or use of the property shall have a minimum lot size of 4 acres within the RR-2.5 zoning district.

AND BE IT FURTHER RESOLVED the record and recommendations of the El Paso County Planning Commission be adopted, except as modified herein.

DONE THIS 20th day of June 2023 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

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

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

Subject to easements and restrictions of record.