

**Joyful View
Subdivision
Letter of Intent**

November 21, 2022



The O'Neil Group
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Colorado Springs, CO 80903

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Tax Schedule No: 33000-00-466, 33000-00-467

Acreage: 70 Acres

Site Location, Size, Zoning:

Vertex Consulting, on behalf of The O’Neil Group, is respectfully submitting the Joyful View 9 lot subdivision within the RR-5 (Residential Rural) zoning district. The property is located east of Peyton Highway and approximately 2 miles north of Highway 94. The property is surrounded by other RR-5 zoned properties in all directions. The proposed subdivision is consistent with the RR-5 zoning district as well as the Your El Paso Master Plan.

Existing and Proposed Improvements.

The site is presently vacant. Proposed improvements will include the construction of a private roadway. Electric and telecommunication service points-of-connection will be extended from the roadways to all new lots. No extension of natural gas service from a utilities provider is sought. On site propane tanks will provide gas for the residences. Water will be provided by individual wells. Wastewater service will be provided by an On Site Wastewater Treatment system (OSWT). Grading and earthmoving activities will be limited to the private roadway, residential driveways, and utility construction areas. Individual lot owners will assume responsibility for grading their respective lot; no ‘overlot’ grading is proposed to occur.

Request:

The request includes the following:

1. The purpose of this application is to request approval of a 9-lot subdivision with a finding of water sufficiency. The subject property is 70 acres in size and is located within the RR-5 (Rural Residential) zoning district.
2. Waiver #1. A waiver request of Sections 8.4.3.A.1 and 8.4.3.B.2.e of the Land Development Code, which require lots have frontage onto a public road. Joyful View is an existing private roadway, therefore, the proposed cul-de-sac cannot be a public roadway and must be private. **The proposed private roadway will be constructed to County standards.**
3. Waiver #2, A waiver of Section 6.3.3.B.1, which requires the submission of a fire

Roadways are not being built to county standards

protection report for any subdivision application. An email from the Ellicott Fire Marshal dated November 1, 2022 has been included in the submission of the subdivision. The Fire Marshal has objected to the submission of a fire protection report and believes it to be a security risk. Therefore, a waiver request is being submitted.

Deviation requests have been submitted for the length of the cul-de-sac as well as the culvert pipe sizing and design. Two fire turnaround locations have been included to allow for emergency services to exit without having to travel to the end of the cul-de-sac. Deviations are approved by the EMC administrator and are not subject to the public hearing process. Please review the submitted deviation forms for further information regarding the specific request and justification.

Justification:

Waiver #1

Section 7.3.3 of the Land Development Code provide approved. All of the approval criteria is met:

Describe the deviation request for a non standard private road (Joyful View and Ellas) that does not meet County ECM for cross section width. It also does not meet Fire access road width requirements.

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

The intent and purpose of requiring all lots have access onto a public roadway is to ensure legal and safe access is maintained. Legal access will be maintained through access easements. Safe access will be maintained by the private roadway being constructed to County standards.

The waiver will not result in the need for additional subsequent waivers;
No additional of subsequent waivers will be required.

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

Public safety, health, and welfare will be maintained by the private roadway being constructed to allow for emergency response.

The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;
It is unique for a property to be landlocked without being immediately adjacent to a public roadway. If Joyful View were a public roadway, no waiver request would be required because the proposed roadway would qualify as a public roadway.

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

The requested waiver is not based on an economic hardship but is being requested due to the preexisting conditions of the existing access.

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

The proposed waiver is not contrary to any provision of the Master Plan.
The Master Plan contemplates that minor subdivisions may be access through private roadways and shared drives.

Waiver #2

Section 7.3.3 of the Land Development Code provides the criteria for which a waiver should be approved. All of the approval criteria is met:

You cannot request a waiver of Chapter 6 requirements. Per Chapter 7 of the LDC: *BoCC Authorized to Grant Waivers. After receiving a recommendation from the Planning Commission, the BoCC may approve a waiver from any of the subdivision design standards and requirements of this Code.* BoCC is only authorized to grant waivers of Chapter 8 subdivision design standards.

However, I believe we can waive the requirement pursuant to the Fire District advising that one is not needed. No waiver request is necessary.

As provided, the site is not located within a high wildfire risk area but is comprised primarily of native prairie. The private roadway was designed with fire response being considered. The roadway includes not only a cul-de-sac that meets the turning radius of a fire apparatus but also includes two turnarounds to allow emergency responders to exit the community quickly. Lastly, a 30,000 gallon cistern is being installed with the subdivision.

The waiver will not result in the need for additional subsequent waivers;
No additional of subsequent waivers will be required.

The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;
Public safety, health, and welfare will be maintained by the private roadways being constructed to allow for emergency response.

The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;
The waiver is unique to all properties within the Ellicott Fire Department District boundaries.

A particular non-economical hardship to the owner would result from a strict application of this Code;
Per the Fire Department, providing the Fire Protection Report would result in a breach of security for the Department.

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

The proposed waiver is not contrary to any provision of the Master Plan.
The Master Plan did not contemplate security issues related to fire protection report submission.

Subdivision

The proposed subdivision meets the criteria for approval included within Section 7.2.1.D.3.f of the El Paso County Land Development Code:

The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;

Please see the Master Plan analysis below.

The subdivision is consistent with the purposes of the Land Development Code;

The subdivision is consistent with the purposes of the Land Development Code, which authorize the Commissioners to approve waivers and subdivision applications.

The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;

The subdivision meets all of the design standards included within Chapter 8 of the Code as well as the minimum lot size and frontage requirements of the RR-5 zoning district. The reports and maps submitted in support of the application are in full compliance with the County, State, and Federal rules and regulations as well as the County adopted checklists, with the exception of the submitted waiver and deviation requests.

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

The applicant requests the Board of County Commissioners make a finding of sufficiency in terms of water quality, quantity and dependability with the approval of the subdivision. The water resources report submitted in support of this application demonstrates sufficient

water. Water will be provided by individual wells drawing water from the Arapahoe aquifer not to exceed 4.11 acre feet per year. The property is located within the Upper Black Squirrel Creek Designated Ground Water Basin. No augmentation plan is required for use of the Arapahoe aquifer in this location.

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

Wastewater disposal is proposed to be provided by onsite wastewater treatment systems (OWTS). A OWST report was submitted in support of the subdivision. The report depicts a minimum of two potential sites for an OWTS per proposed lot.

All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];

The only potentially hazardous area is the floodplain, which has been designated as no-build. There are other geologic hazard / constraint areas identified on the plat and in the soils & geology report

Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM;

The drainage report submitted in support of the application demonstrates that the proposed development will result in a negligible impact to the drainage patterns and that all ECM drainage requirements will be met.

The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development.

No public improvements are proposed or needed in association with the rural subdivision.

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

Access will be provided by a private access easement identified on the plat drawing.

Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;

The property is served by the Ellicott Fire Protection District. Mountain View Electric Association will provide electric service. The proposed private roadway will be adequate and allow for emergency response.

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

A 30,000 gallon cistern will be installed with the subdivision. The cul-de-sac is designed to meet the fire apparatus turning radius and two turnarounds have also been included in the roadway design to allow emergency responders to exit quickly.

The proposed subdivision meets other applicable sections of Chapters 6 and 8 of the Code;

The proposed subdivision meets all applicable regulations included within Chapters 6 and 8 with the exception of the requested waivers. Please review the soils and geology report, onsite wastewater treatment system report, traffic study, drainage report, and grading and erosion control plan which document compliance with these chapters, as applicable.

Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8;

Offsite impacts will be minimal and include traffic and drainage. The traffic study, prepared by LSC, and drainage report, prepared by HR Green, submitted in support of the application demonstrate impacts to be negligible.

Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;

The applicant will pay fees in lieu of park and school land dedication as well as drainage and road impact fees. Road impact fees will be paid at the time of building permit. The applicant is not proposing to construct any public facilities, but will instead construct a private cul-de-sac. The private road will be under common ownership with shared maintenance responsibilities as outlined in the covenants submitted with the subdivision application.

The subdivision meets other applicable sections of Chapter 6 and 8; and

The various reports and maps submitted in support of the subdivision demonstrate compliance with drainage and floodplain (6.3.2), Fire Protection and Wildfire Mitigation

There is no Fire Protection Report.

There are no wetlands on the property.

(6.3.3), Grading and Erosion Control (6.3.5), Wetlands (6.3.8), Wildlife (6.3.9), Environmental Considerations (8.4.2), Division of Land, Block, Lot, and Tract Layout (8.4.3), Transportation System Considerations and Standards (8.4.4), Drainage Considerations (8.4.5), Utilities Considerations and Standards (8.4.6), Water Supply Standards (8.4.7) Wastewater Disposal (8.4.8), and Geology and Soils Standards and Reports (8.4.9),

The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.]

The mineral rights have not been severed from the property.

Your El Paso County Master Plan Analysis

Chapter 1 of Your El Paso Master Plan (2021) states that the Plan is “general in nature-it cannot tackle every issue in sufficient detail to determine every type of necessary action.” In addition, Chapter 1 goes on to state that the Plan “is intended to provide clearer and more coordinated policy, resulting in a document that effectively communicates County goals and identifies specific actions to achieve both County-wide and local area objectives.” When taken together, these two statements suggest to the reader that the Plan may only address certain issues at a cursory level and that specific steps or actions for addressing such issues may not be offered within the Plan. That conclusion is certainly the case in numerous instances and with regard to a variety of topical areas. However, where that is not the case is with respect to the property that is proposed for subdivision, as identified below in an analysis of Chapter 3 of the Plan.

Key Area Analysis

The subject property is not identified in the Plan as either being within or in close proximity to a Key Area. The nearest Key Area to the subject property is the Potential Areas for Annexation Key Area, which is located over two (2) miles to the south. None of the Key Areas would be negatively impacted or otherwise affected by the subdivision.

Area of Change Analysis

The subject property is identified in the Areas of Change map within the Plan as being within “Minimal Change: Undeveloped”

Page 21 of the Plan characterizes areas of “Minimal Change: Undeveloped” by stating:

“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.”

(Emphasis added)

The subdivision proposed will result in an overall density of .13 dwelling units per acre with an average lot size of 7.52 acres. All of the surrounding properties are zoned RR-5, which requires a minimum lot size of 5 acres. The proposed 9-lot subdivision will not alter the essential character of the surrounding property.

Placetype Analysis

The subject property is shown on the Placetypes map of Your El Paso Master Plan as being within the Rural Placetype. Page 24 of the Plan identifies the following land uses as being Primary Land Uses within the Rural Placetype:

- Agriculture
- Parks/Open Space
- Farm/Homestead Residential

In addition, the Placetype includes the following Supporting Land Uses:

- Estate Residential (Minimum 1 unit/5-acres)
- Institutional

The Rural placetype is further described on page 24:

“The Rural placetype comprises ranchland, farms, and other agricultural uses. The primary land use in this placetype is agriculture however residential uses such as farm homesteads and estate residential are allowed as support uses. Residential lot development within the Rural placetype typically cover 35 acres or more per two units with the minimum lot area consisting of 5-acres per unit. The Rural placetype covers most of the eastern half of the County. Rural areas typically rely on well and septic and parcels for residential development tend to be substantial in size. Rural areas are remotely located and distant from high activity areas or dense suburban or urban places, making access to regional transportation routes, such as Highway 24 and Highway 94, vital to the quality of life for rural community residents. The agricultural lands that Rural areas contain represent a valuable economic resource and unique lifestyle that should be preserved. The Rural placetype includes agricultural lands which represent a valuable economic resource and allow for a unique lifestyle that should be preserved. As growth occurs, some Rural areas may develop and transition to another placetype, however leapfrog development should be discouraged, by pro-actively permitting changing areas contiguous to existing development to another placetype.”

The placetype supports rural residential development not to exceed one dwelling unit per five acres, therefore, the proposed subdivisions is in conformance with the Placetype recommendations.

El Paso County Water Master Plan

The Executive Summary from the Water Master Plan states that “The Plan Water Master Plan (WMP) was developed for the Board of County Commissioners, El Paso County officials and staff,

developers, citizens, and water providers within the County for the purpose of identifying and addressing water supply issues earlier in the land use entitlement process.” For that reason, water supply should be discussed even as early as the rezoning stage. This does not mean that a full water sufficiency finding should be made since sufficiency findings in El Paso County are made at either the preliminary plan or final plat stage of development, both of which are part of the subsequent subdivision stage of development.

The subject property is located within Planning Region 4c of the Water Master Plan, pursuant to Figure 3-1 on page 27. Region 4c, is made up of 6 central water providers, including several small neighborhood providers such as Prairie Estates and Peyton Pines. The property is also located within the boundaries of the Upper Black Squirrel Designated Groundwater Basin.

The Plan states the following with respect to Region 4c:

“Region 4c contains one small projected growth area by 2040 located between Highway 94 and Highway 24 along the Region 8 boundary. Further development will likely be located along the Highway 94 corridor in Region 4c by 2060, due to proximity to Schriever Air Force Base. The largest development in Region 4c is expected to occur by 2060 along the west side of Meridian Road north of Fountain.”

Table 5-4 of the Plan identifies the current supply and demand forecasts at full build out (year 2060) for each of the Planning Regions. The Table indicates that the current water supply and demand for 4c is 2,970 AF per year. The proposed development will utilize groundwater wells, therefore, it will not result in a deficit water supply.

As discussed above, the water resource report submitted in support of the application demonstrate a probable positive water sufficiency finding by the State and County. For the reasons stated above, the applicant requests that the proposed service plan be found to be in compliance with the Water Master Plan.

El Paso County Parks Master Plan

The El Paso County Parks Master Plan (2022) does not depict and existing or planned parks or trails within proximity to the proposed subdivision. The proposed map amendment is in general compliance with the El Paso County Parks Master Plan.

Other Topical Elements of the County Master Plan

The proposed subdivision is in compliance with the other topical elements of the County Master Plan including the Master Plan for Mineral Extraction, and the El Paso County Wildlife Habitat Maps and Descriptors.