

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

O: 719-520-6300
MegganHerington@elpasoco.com
2880 International Circle, Suite 110
Colorado Springs, CO 80910

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: 3/14/2024
RE: SF2231 Joyful View Subdivision

Project Description

A request by OGC RE2, LLC for approval of a 70.24-acre Final Plat creating nine (9) single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 19925 Joyful View and 20045 Joyful View, Calhan, CO, 80808.

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

Schuettepelz moved / Smith seconded to recommend approval for the Final Plat, utilizing the resolution attached to the staff report with ten (10) conditions, two (2) notations, one (1) waiver, and a finding of water sufficiency with regards to quality, quantity, and dependability, that this item be forwarded to the Board of County Commissioners for their consideration. The motion was unanimously **approved (7-0)**. The item was heard as a called-up consent agenda item.

Discussion

The Final Plat application was heard as a called-up consent agenda item at the February 15, 2024, Planning Commission hearing. Discussion included access, private road standards, and the applicant's waiver request.

Attachments

1. Planning Commission Minutes from 2/15/2024.
2. Signed Planning Commission Resolution.
3. Planning Commission Staff Report.
4. Draft BOCC Resolution.

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EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting
Thursday, February 15, 2024
El Paso County Planning and Community Development Department
2880 International Circle – Second Floor Hearing Room
Colorado Springs, Colorado

REGULAR HEARING, 9:00 A.M.

PC MEMBERS PRESENT AND VOTING: JAY CARLSON, BECKY FULLER, JEFFREY MARKEWICH, WAYNE SMITH, BRYCE SCHUETTELPELZ, TIM TROWBRIDGE, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: NONE.

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: THOMAS BAILEY, SARAH BRITTAIN JACK, JIM BYERS BRANDY MERRIAM, ERIC MORAES, AND KARA OFFNER.

STAFF PRESENT: JUSTIN KILGORE, ELIZABETH NIJKAMP, GILBERT LAFORCE, CHARLENE DURHAM, HAO VO, BRET DILTS, ED SCHOENHEIT, DANIEL TORRES, KARI PARSONS, RYAN HOWSER, MIRANDA BENSON, AND LORI SEAGO.

OTHERS PRESENT AND SPEAKING: NINA RUIZ, HERB ZIMMERMAN, LANNY KIDD, ANDREA BARLOW, AND LOREN MORELAND.

1. REPORT ITEMS

Mr. Kilgore advised the board that the next PC Hearing is Thursday, March 7, 2024, at 9:00 A.M.

Mr. LaForce, Development Services (Engineering) Manager with DPW, introduced two new staff members.

Mr. Dilts and **Ms. Vo** each introduced themselves.

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

3. CONSENT ITEMS

A. Adoption of Minutes for meeting held February 1, 2024.

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

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**MAP AMENDMENT (REZONING)
MAYBERRY FILING NO. 4**

A request by Mayberry Communities, LLC for approval of a Map Amendment (Rezoning) 4.44 acres from PUD (Planned Unit Development) to CS (Commercial Service). A concurrent Final Plat is also being requested. Approval of the Map Amendment (Rezoning) shall be considered prior to consideration of the Final Plat. The property is located on the south side of Colorado State Highway 94, approximately two (2) miles east of the intersection of Colorado State Highway 94 and Peyton Highway. (Parcel No. 3414102015) (Commissioner District No. 4)

NO PUBLIC COMMENT OR DISCUSSION

PC ACTION: MS. FULLER MOVED / MR. TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3B, FILE NUMBER CS233 FOR A MAP AMENDMENT (REZONING), MAYBERRY FILING NO. 4, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

**FINAL PLAT
MAYBERRY FILING NO. 4**

A request by Mayberry Communities, LLC for approval of a Final Plat illustrating eight (8) commercial lots on 4.44 acres. A concurrent Map Amendment (Rezoning) is also being requested. Approval of the Map Amendment (Rezoning) shall be considered prior to consideration of the Final Plat. The property is located on the south side of Colorado State Highway 94, approximately two (2) miles east of the intersection of Colorado State Highway 94 and Peyton Highway. (Parcel No. 3414102015) (Commissioner District No. 4)

NO PUBLIC COMMENT

DISCUSSION

Mr. Whitney mentioned that he saw a reference to add a seemingly significant plat note regarding geologic conditions and hazards. He doesn't see that plat note mentioned in the conditions or notations that are included in the motion. He asked if the staff report indicating importance is sufficient or if it should be included in the motion. He asked if it was already included by reference in the Pre-construction Conference notation.

Ms. Parsons explained that PCD staff is identifying that the applicant provided a geological and soils study that Colorado Geological Survey (CGS) has reviewed and provided comment. Through the review period, PCD staff utilizes CGS comments to enable the applicant to depict certain notes on the Preliminary Plan and Final Plat. She stated that because the applicant has already depicted the recommended notes, an additional condition of approval is not needed. PCD staff is pointing to the review comment because the approval criteria references constraints being mitigated so they do not impede development.

Mr. Whitney asked if that note can be seen on the Final Plat and if PCD staff is satisfied with the note.

Mr. Howser confirmed.

PC ACTION: MS. FULLER MOVED / MR. SCHUETTELZ SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3C, FILE NUMBER SF2317 FOR A FINAL PLAT, MAYBERRY FILING NO. 4, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH NINE (9) CONDITIONS, TWO (2) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

D. SF2231

HOWSER

**FINAL PLAT
JOYFUL VIEW SUBDIVISION**

A request by OGC RE2, LLC for approval of a 70.24-acre Final Plat illustrating nine (9) single-family residential lots. The properties are zoned RR-5 (Residential Rural) and are located at 19925 Joyful View and 20045 Joyful View, Calhan, CO 80808. (Parcel Nos. 3300000466 and 3300000467) (Commissioner District No. 2)

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

4. CALLED-UP CONSENT ITEMS

3D. SF2231

HOWSER

**FINAL PLAT
JOYFUL VIEW SUBDIVISION**

A request by OGC RE2, LLC for approval of a 70.24-acre Final Plat illustrating nine (9) single-family residential lots. The properties are zoned RR-5 (Residential Rural) and are located at 19925 Joyful View and 20045 Joyful View, Calhan, CO 80808. (Parcel Nos. 3300000466 and 3300000467) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

Mr. Whitney clarified that his earlier question (regarding geological plat notes) was meant for this project. He appreciated the previous explanation. The presentation continued.

Mr. Carlson asked if the proposed cul-de-sac would allow sufficient access to Lot 4 (when considering the drainage constraints).

Mr. Schoenheit, with DPW Development Services (Engineering), confirmed it would allow access.

Mr. Carlson mentioned that most of the usable land on Lot 4 is at the southern end.

Mr. Markewich asked for clarification regarding the historic zoning change from A-4 to RR-5.

Mr. Howser explained that the change was strictly nomenclature; the zoning types are otherwise the same. The staff presentation concluded. The applicant's presentation began.

Ms. Ruiz, with Vertex Consulting Services, representing the applicant, addressed Mr. Carlson's comment. She explained that Lot 4 has about 2.5 acres of buildable area in the northern portion, which connects to the cul-de-sac. The applicant evaluated possible well and septic system locations to confirm the lot will be buildable without crossing the floodplain. The presentation continued.

Mr. Smith asked for further explanation regarding the fire cistern.

Ms. Ruiz referenced the proposed location of the cistern (on Lot 7). She explained that the developer is responsible for its construction. The Fire Department will inspect the cistern prior to any building permits being issued.

Mr. Whitney asked if all surrounding property was zoned RR-5. (It is.)

Mr. Markewich asked if there was any required ongoing maintenance for the fire cistern after its initial construction. He asked who will be responsible for ongoing road and cistern maintenance.

Ms. Ruiz explained that covenants will be established as part of the subdivision process. The covenants will establish a shared responsibility for the private drive as well as the cistern.

Mr. Trowbridge asked if the Fire Department will inspect the cistern on an ongoing basis or will the residents of the subdivision need to provide the Fire Department with regular inspection reports.

Ms. Ruiz stated the Fire Department would complete the inspections, but she's not sure how often. The applicant's presentation concluded.

PUBLIC COMMENTS

Mr. Herb Zimmerman spoke in opposition. He lives west of the subject property. He commended Mr. Schoenheit for his professionalism. He submitted a letter for himself as well as a neighbor. He stated that though the property was assigned zoning 40 years ago, much has happened since that time. He stated that because the parcel is landlocked, he thinks the PC should take into consideration everything that is surrounding to ensure it makes sense. He believes the property directly north is zoned A-35.

Mr. Carlson clarified that the land north of the subject property is zoned RR-5. (A zoning map was presented to show the surrounding zoning districts.)

Mr. Zimmerman observed and understood that the land immediately north of the subject property is zoned RR-5. He stated that regardless of the zoning district, all surrounding properties are made up of 35 acres or greater. He doesn't think the subdivision makes sense in the area because it is landlocked and surrounded by larger parcels.

Mr. Lanny Kidd spoke in opposition. He lives west of the subject property. He stated he purchased in the area because he didn't want very many neighbors. He stated there are currently no parcels in the area smaller than 35 acres. He worries that more houses will mean more dogs, which could kill his calves.

Ms. Ruiz responded to the public comments. Regarding the comment that the subdivision doesn't fit with the surrounding character, she pointed out that there are other 5-acre subdivisions in the vicinity. She stated that even though the immediately adjacent properties are not 5 acres, the area has been zoned RR-5 for 40 years. She stated that when the Master Plan was adopted, the subject area was recognized as appropriate for 5-acre lots.

DISCUSSION

Ms. Fuller stated she would be in support of the proposal. She stated splitting the parcels into 5-acre lots is allowed within RR-5, so the board is not in a position where they can restrict that right. She understands that it may feel like a big change in the character, but 5-acre lots are allowed within that zoning type.

Mr. Whitney agreed with Ms. Fuller. He understands the opposed neighbors' frustration as he also lives on acreage that is surrounded by parcels denser than his own. As Ms. Fuller stated, the board is not able to make recommendations based on personal preference, but by what is allowed by law and regulation. For that reason, he will also be in favor of the application.

Mr. Markewich stated he would also be in favor because he believes the application meets the review criteria. He mentioned that as time passes, many of the other large parcels may be similarly subdivided unless the zoning is changed.

PC ACTION: MR. SCHUETTELZ MOVED / MR. SMITH SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3D, FILE NUMBER SF2231 FOR A FINAL PLAT, JOYFUL VIEW SUBDIVISION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TEN (10) CONDITIONS, TWO (2) NOTATIONS, ONE (1) WAIVER, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

5. REGULAR ITEMS (Items 5A through 5D were presented as a combined report and presentation.)

A. SKP235

PARSONS

SKETCH PLAN STERLING RANCH SKETCH PLAN AMENDMENT

A request by Classic SRJ Land, LLC for approval of a 212-acre Sketch Plan Amendment to the approved 1,444-acre Sterling Ranch Sketch Plan. Multiple concurrent Map Amendment (Rezoning) requests are also being considered. The applicant intends to develop single-family homes. The property is located north of the Future Briargate Parkway/Stapleton Corridor, south of Arroya Lane, and east of the Sand Creek Channel. A combined staff report has been provided. (Parcel Nos. 227000005, 5227000006, 5227000008, and 5200000553) (Commissioner District No. 2)

B. P239

PARSONS

MAP AMENDMENT (REZONING) STERLING RANCH NORTH RR-2.5 REZONE

A request by Classic SRJ Land, LLC for approval of a Map Amendment (Rezoning) 33.97 acres from RR-5 (Residential Rural) to RR-2.5 (Residential Rural). The applicant intends to develop single-family homes

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pursuant to the concurrently requested Sterling Ranch Sketch Plan Amendment. The property is located north of the Future Briargate Parkway/Stapleton Corridor, south of Arroya Lane, and east of the Sand Creek Channel. A combined staff report has been provided. (Parcel Nos. 227000005, 5227000006, 5227000008, and 5200000553) (Commissioner District No. 2)

C. P2310

PARSONS

**MAP AMENDMENT (REZONING)
STERLING RANCH NORTH RR-0.5 REZONE**

A request by Classic SRJ Land, LLC for approval of a Map Amendment (Rezoning) 37.87 acres from RR-5 (Residential Rural) to RR-0.5 (Residential Rural). The applicant intends to develop single-family homes pursuant to the concurrently requested Sterling Ranch Sketch Plan Amendment. The property is located north of the Future Briargate Parkway/Stapleton Corridor, south of Arroya Lane, and east of the Sand Creek Channel. A combined staff report has been provided. (Parcel Nos. 227000005, 5227000006, 5227000008, and 5200000553) (Commissioner District No. 2)

D. P2311

PARSONS

**MAP AMENDMENT (REZONING)
STERLING RANCH NORTH RS-5000 REZONE**

A request by Classic SRJ Land, LLC for approval of a Map Amendment (Rezoning) 328.72 acres from RR-5 (Residential Rural) to RS-5000 (Residential Suburban). The applicant intends to develop single-family homes pursuant to the concurrently requested Sterling Ranch Sketch Plan Amendment. The property is located north of the Future Briargate Parkway/Stapleton Corridor, south of Arroya Lane, and east of the Sand Creek Channel. A combined staff report has been provided. (Parcel Nos. 227000005, 5227000006, 5227000008, and 5200000553) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

Mr. Whitney mentioned that the staff report indicates there is no increase in the overall density for the Sketch Plan. He wonders about the potential for incrementalism. He asked if there is anything preventing the applicant from requesting further amendment to later increase the density.

Ms. Parsons replied that any applicant has the right to request any development. She mentioned that this Sketch Plan had a reduction in density previously, from 5,400 units to 4,800 units, when further details (like a potential ASD20 school location) were actualized. Areas that were fully built-out were updated on the Sketch Plan, which reduced the overall density. She stated that she would not anticipate the 4,800-unit cap increasing based on the planned roadway infrastructure. The presentation continued.

Mr. Carlson asked about the width of the buffer on the east side of the proposed amendment.

Ms. Parsons answered that the buffer will be approximately 40 acres. The width cannot be defined because exact dimensions are not provided on a Sketch Plan. That information will be available on the Preliminary Plan. The applicant might have a general idea of width, but she has not seen that plan yet. PCD and DPW staff presentations concluded.

Mr. Smith asked if the Sherriff's Office was a review agency.

Ms. Parsons confirmed that most applications, including this one, are sent to the Sherriff's Office for review and comment through the EDARP system. The Sherriff's Office did not provide comments or concerns regarding the Sterling Ranch Sketch Plan area, nor have they requested a substation, though they could in the future. The applicant's presentation began.

Ms. Barlow, with N.E.S., representing the applicant, addressed Mr. Carlson's question regarding the width of the buffer. She indicated different areas on the presentation image. The buffer varies from 50 feet wide in the north to 250 feet wide in the southern portion. The presentation continued.

Mr. Trowbridge stated he was not generally in favor of the proposed Sketch Plan amendment. He stated it appears that the larger lots are being shoved to the far north and the density is tripling, sometimes even quadrupling. He prefers a gradual transition in density. He remarked that while the Black Forest Preservation Plan (BFPP) is no longer in place on its own, it was part of the Master Plan discussion and much of its spirit was incorporated into the Plan, including gradual density transitions. He stated the revised transition happens very suddenly.

Ms. Barlow replied that she is aware of the Master Plan's process and how the BFPP as well as other small area plans were pulled in. She further stated that the ultimate decision regarding the subject area (and even further north) was to define it as the Suburban Residential placetype which is appropriate for new development ranging in density from 2.5-acre lots to 5 units per acre. The proposal is within that range. She believes they meet the Master Plan's new guidance. She stated the Master Plan supersedes the previous plans.

Mr. Trowbridge remarked that he didn't disagree.

Mr. Smith mentioned that the size of the lot has been discussed, but he wonders about the resulting affordability between each lot size.

Ms. Barlow clarified that Mr. Smith was asking about the ultimate price of the house after construction. She deferred to Mr. Moreland.

Mr. Loren Moreland, with Classic SRJ Land LLC, answered that they are evaluating variables, such as Metro Districts and what is already built in the region. He stated that higher density homes (3-5 units per acre) average between \$450,000-\$550,000, which he stated is becoming more affordable. He added that the 2.5-acre homes sold in TimberRidge cost around \$1.2 million. The 0.33-acre homes west of the subject area are selling for an average of \$930,000. He stated that as density increases, so does affordability.

Mr. Whitney asked for further explanation of the immediate surrounding development.

Ms. Barlow referred to an image in her slideshow presentation. The Retreat at TimberRidge PUD is west and northwest of the subject area. When the Sketch Plan was originally approved in 2008, the region west of the smokestack was zoned RR-5. It was rezoned to PUD in 2017. The Ranch's Sketch Plan, southeast of the subject area, approved 2,200 units within approximately 800 acres. The current zoning of that region is RR-2.5, but the Sketch Plan anticipates a range of densities; the largest lots will be 1-acre lots along the perimeter. Immediately east of the subject area, there are 5-acre lots. East of that, Eagleview Subdivision's Preliminary Plan was recently approved for 2.5-acre lots. Continuing east, the Paintbrush Hills subdivision has 5,000 to 12,000 sq ft lots.

Mr. Whitney asked if the purpose of the amendment was to accelerate density where it is appropriate to match the adjacent TimberRidge density.

Ms. Barlow agreed with that statement. The surrounding area has changed since 2008.

Mr. Whitney understood and agreed.

Ms. Barlow stated the applicant would not have requested an amendment if the surrounding changes had not been a factor. She further stated that while Classic Homes is the current developer of the subject and western area, they were not the original owner or initiator of the PUD change. She referred to another slideshow image that illustrated 2.5-acre lots along the north.

Ms. Fuller mentioned that the density transition lines are not random; they match what is adjacent.

Ms. Barlow confirmed and further pointed out how the proposed density mirrors the existing density to the west.

Mr. Whitney expressed his concern that if surrounding areas increase in density, further amendments might be requested.

Ms. Barlow mentioned that the area to the west is already built-out in the southern part and they are in the final stages along the north. That area is unlikely to change. If there are density changes that are approved in the east before the subject area is fully developed, she conceded that they might request an amendment to match that density. She remarked that buffers and transitions often create pockets of higher density once surrounding areas fully develop.

NO PUBLIC COMMENTS

DISCUSSION

Mr. Carlson stated he would normally agree with Mr. Trowbridge's remarks, but in this case, he appreciates the applicant's sensitivity to transition with the lots to the north and east. He specifically mentioned the "L" shape of the 0.5-acre rezone and the buffer region along the 5-acre properties. He commended the applicant.

PC ACTION: MS. FULLER MOVED / MR. SCHUETTELZ SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5A, FILE NUMBER SKP235 FOR A SKETCH PLAN AMENDMENT, STERLING RANCH SKETCH PLAN AMENDMENT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

PC ACTION: MR. SCHUETTELZ MOVED / MR. SMITH SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5B, FILE NUMBER P239 FOR A MAP AMENDMENT (REZONING), STERLING RANCH NORTH RR-2.5 REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

PC ACTION: MS. FULLER MOVED / MR. SMITH SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5C, FILE NUMBER P2310 FOR A MAP AMENDMENT (REZONING), STERLING RANCH NORTH RR-0.5 REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

PC ACTION: MR. SCHUETTPELZ MOVED / MR. SMITH SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5D, FILE NUMBER P2311 FOR A MAP AMENDMENT (REZONING), STERLING RANCH NORTH RS-5000 REZONE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (7-0).

6. NON-ACTION ITEMS (NONE)

MEETING ADJOURNED at 10:47 A.M.

Minutes Prepared By: Miranda Benson

FINAL PLAT (RECOMMEND APPROVAL)

Mr. Schuettpelz moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. SF2231
JOYFUL VIEW SUBDIVISION

WHEREAS, OGC RE2, LLC did file an application with the El Paso County Planning and Community Development Department for approval of a Final Plat, Joyful View Subdivision, for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on February 15, 2024; and

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

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

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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.
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 Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code ("Code") (as amended):

1. The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
2. The subdivision is in substantial conformance with the approved Preliminary Plan;
3. 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;
4. Either 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, or, with respect to applications for administrative final plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval;
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of the Code;
6. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];
7. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the ECM;
8. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM;
9. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;

10. The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code;
11. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code;
12. 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;
13. The subdivision meets other applicable sections of Chapter 6 and 8 of the Code; and
14. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

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

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends that the petition of OGC RE2, LLC for a Final Plat of Joyful View Subdivision be approved by the Board of County Commissioners with the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.

5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
7. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.
8. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
9. Drainage fees in the amount of \$57,444.53 and bridge fees in the amount of \$8,476.65 shall be paid for the Haegler Ranch drainage basin at the time of plat recordation.
10. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 8/1/2023, as provided by the County Attorney's Office.

NOTATIONS

1. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

AND BE IT FURTHER RESOLVED that this Resolution and the recommendations contained herein be forwarded to the El Paso County Board of County Commissioners for its consideration.

Mr. Smith seconded the adoption of the foregoing Resolution.

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

Thomas Bailey	aye / no / non-voting / recused / <u>absent</u>
Sarah Brittain Jack	aye / no / non-voting / recused / <u>absent</u>
Jim Byers	aye / no / non-voting / recused / <u>absent</u>
Jay Carlson	<u>aye</u> / no / non-voting / recused / absent
Becky Fuller	<u>aye</u> / no / non-voting / recused / absent
Jeffrey Markewich	<u>aye</u> / no / non-voting / recused / absent
Brandy Merriam	aye / no / non-voting / recused / <u>absent</u>
Eric Moraes	aye / no / non-voting / recused / <u>absent</u>
Kara Offner	aye / no / non-voting / recused / <u>absent</u>
Bryce Schuettpeiz	<u>aye</u> / no / non-voting / recused / absent
Wayne Smith	<u>aye</u> / no / non-voting / recused / absent
Tim Trowbridge	<u>aye</u> / no / non-voting / recused / absent
Christopher Whitney	<u>aye</u> / no / non-voting / recused / absent

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

DONE THIS 15th day of February 2024 at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: 
~~Thomas Bailey, Chair~~
Jay Carlson, Vice-Chair

EXHIBIT A

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 13 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 33;
THENCE N00°30'32"E ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 33 A DISTANCE OF 2633.71 FEET;
THENCE S89°29'18"E PARALLEL WITH THE SOUTH LINE OF SAID SECTION 33 A DISTANCE OF 600.35 FEET TO THE POINT OF BEGINNING OF THE TRACT DESCRIBED HEREIN;
THENCE CONTINUE S89°29'18"E PARALLEL WITH THE SOUTH LINE OF SAID SECTION 33 A DISTANCE OF 1154.00 FEET;
THENCE S00°34'43"W A DISTANCE OF 2633.71 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 33;
THENCE N89°29'18"W ON THE SOUTH LINE OF SAID SECTION 33 A DISTANCE OF 1167.44 FEET;
THENCE N00°52'15"E A DISTANCE OF 2633.76 FEET TO THE POINT OF BEGINNING.

THE DESCRIBED TRACT CONTAINING 70.179 ACRES, MORE OR LESS.

THIS PROPERTY IS ALSO DESCRIBED AS TRACTS 2 AND 3, GRAND VIEW ESTATES III, EL PASO COUNTY, COLORADO AND SHOWN ON THE LAND SURVEY PLAT UNDER DEPOSIT NUMBER 205900168 OF THE EL PASO COUNTY RECORDS.



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

COLORADO

HOLLY WILLIAMS
STAN VANDERWERF
LONGINOS GONZALEZ, JR.

PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Thomas Bailey, Chair

FROM: Ryan Howser, AICP, Planner III
Edward Schoenheit, EI, Engineer I
Meggan Herington, AICP, Executive Director

RE: Project File Number: SF2231
Project Name: Joyful View Subdivision
Parcel Number: 3300000466 and 3300000467

OWNER:	REPRESENTATIVE:
OGC RE2, LLC PO Box 1385 Colorado Springs, CO 80901	Vertex Consulting Services 455 Pikes Peak Avenue, Suite 101 Colorado Springs, CO 80903

Commissioner District: 2

Planning Commission Hearing Date:	2/15/2024
Board of County Commissioners Hearing Date:	3/14/2024

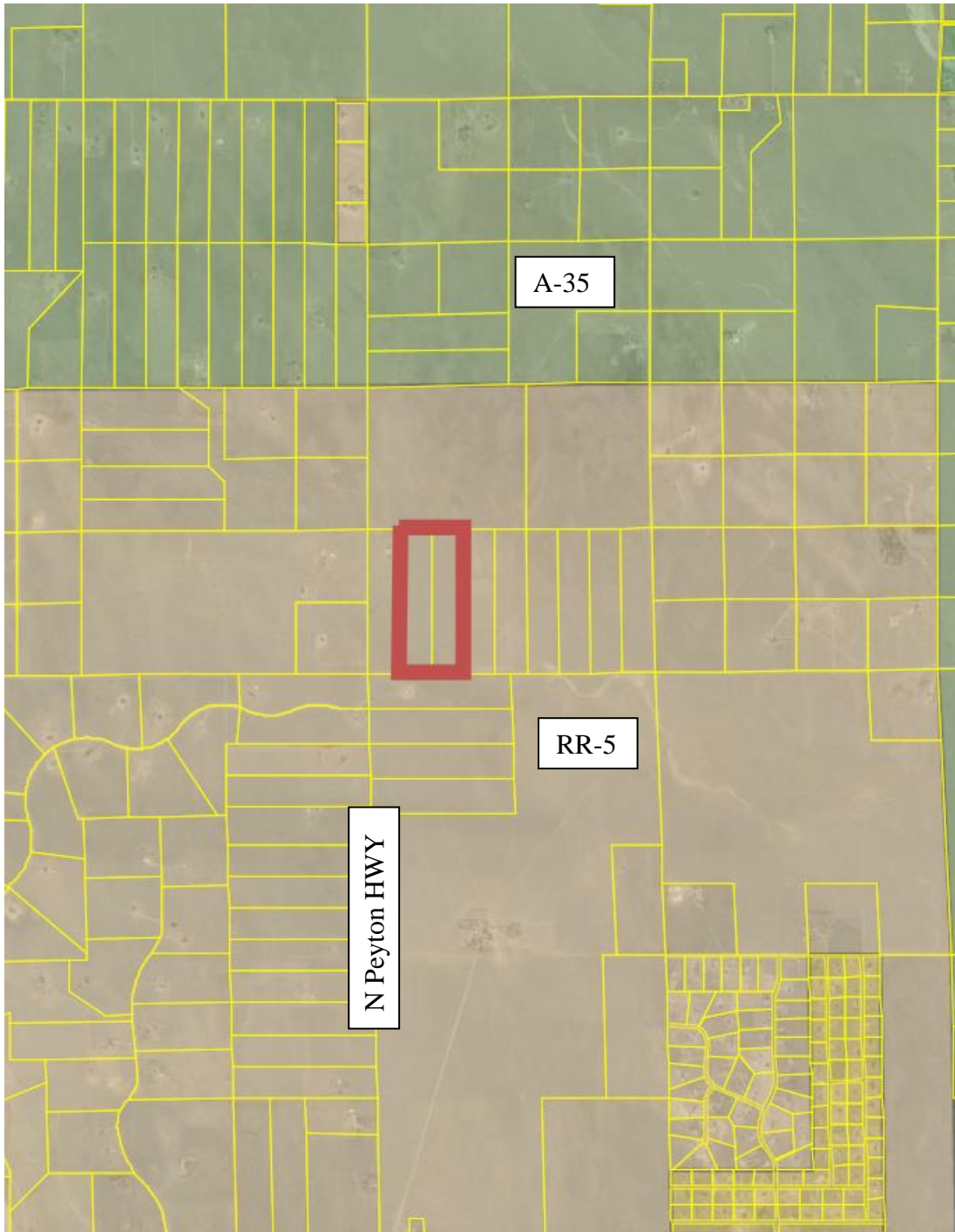
EXECUTIVE SUMMARY

A request by OGC RE2, LLC for approval of a 70.24-acre Final Plat creating nine (9) single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 19925 Joyful View and 20045 Joyful View.

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Zoning and Vicinity Map

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A. WAIVERS AND AUTHORIZATION

Waiver(s):

The applicants are requesting a waiver from Section 8.4.3.B. of the El Paso County Land Development Code (as amended) to allow the proposed lots to be created without having direct access to and 30 feet of frontage along a public road. The applicant is requesting that the lots receive access via an existing private road.

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

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

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

The applicant is proposing to create nine (9) lots. The property currently does not have frontage on a public road and receives access through Joyful View, an existing private road. Joyful View provides access to Peyton Highway, an existing public road. All lots are proposed to obtain access from Joyful View. Because Joyful View is a private road, the applicant is not able to create a public road within the property for the proposed lots. The applicant has depicted a layout that accommodates lot access through the private roads to Peyton Highway.



Authorization to Sign: Final Plat and any other documents necessary to carry out the intent of the Board of County Commissioners.

B. APPROVAL CRITERIA

In approving a Final Plat, the BoCC shall find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code ("Code") (as amended):

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is consistent with the purposes of this Code;
- 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;
- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. § 30-28-133(6)(a)] and the requirements of Chapter 8 of this Code (this finding may not be deferred to Final Plat if the applicant intends to seek administrative Final Plat approval);
- 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;
- All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. § 30-28-133(6)(c)];
- Adequate drainage improvements complying with State law [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;
- The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development;
- Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open

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spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;

- Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;
- The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and
- 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;
- 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 subdivision meets other applicable sections of Chapter 6 and 8; and
- The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.]

C. LOCATION

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

D. BACKGROUND

The property was zoned A-4 (Agricultural) on April 13, 1983, when zoning was first initiated for this portion of El Paso County. Due to changes in the nomenclature of the

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Land Development Code, the A-4 zoning district was renamed to RR-5 (Residential Rural) zoning district. The subject property consists of two (2) unplatted parcels, both of which are greater than 35 acres in size. Both parcels are vacant.

E. LAND DEVELOPMENT CODE AND ZONING ANALYSIS

The Final Plat application meets the Final Plat submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the El Paso County Land Development Code (as amended).

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

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

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

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

All the lots are proposed to meet the dimensional standards of the RR-5 zoning district. In order to initiate any new residential uses on the property, the applicant will be required to obtain site plan approval. Any proposed additional structures will require site plan review and will include confirmation that all proposed site improvements will comply with the Dimensional Standards included in Chapter 5 as well as the Development Standards of Chapter 6 of the Code.

F. MASTER PLAN COMPLIANCE

1. Your El Paso Master Plan

a. Placetype Character: Rural

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

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development within the Rural placetype typically covers 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.

Recommended Land Uses:

Primary

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

Supporting

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

Analysis:

The Rural Placetype supports the County's established agricultural and rural identity. This placetype is uniquely sensitive to new development due to limited water access and infrastructure making sustainable growth a priority. 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.*

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

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

The proposed Final Plat is consistent with the Rural placetype. The placetype allows single-family detached residential uses with 5-acre lots or larger as a primary use.

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 proposed Final Plat is not expected to change the character of the area beyond what is expected within the Minimal Change: Undeveloped area of change.

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

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

The property is not located within a priority 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:

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

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

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

The Water Master Plan includes demand and supply projections for central water providers in multiple regions throughout the County. The property is located within Planning Region 4c of the Plan, which is not an area anticipated to experience significant growth by 2040. See the Water section below for a summary of the water findings and recommendations for the proposed subdivision.

3. Other Master Plan Elements

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

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

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

Geologic conditions were discovered during the review of the Final Plat. Geologic constraints include areas of artificial fill, potentially expansive soils, hydrocompactive soils, potentially seasonal shallow groundwater areas, and floodplains. The Colorado Geological Survey was sent a referral for the proposed Final Plat and recommended that individual investigations for new building sites and septic systems be conducted prior to construction for all lots. These recommendations are included in notes on the plat to provide mitigation for geologic constraints.

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2. **Floodplain:** The property is partially located within a 100-year floodplain as determined by a review of the Federal Insurance Rate Map number 08041C0805G, effective December 7th, 2018. The floodplain area within the property is Zoned “AE” with surveyed floodplain elevations as permitted under FEMA Letter or Map Revision (LOMR) # 20-08-0369P effective February 16th, 2021. The floodplain areas will be designated as a no build easement with base flood zone elevations depicted on the plat.
3. **Drainage and Erosion:** The property is in the Haegler Ranch drainage basin. Drainage basin fees in the amount \$57,444.53 and bridge fees in the amount of \$8,476.65 will be due at time of plat recordation. Drainage on the parcels generally flows in a southeasterly direction along the southern portion of property into the Haegler channel and then the West Fork of the Black Squirrel Creek. No public drainage improvements are proposed or required with the plat due to the large lot development type. Private roads constructed as part of the planned development will include a privately maintained sand filter water quality pond. A drainage report prepared by HR Green was included with this application. The drainage report concluded that the proposed development with respect to stormwater runoff will not negatively impact adjacent and downstream properties.
4. **Transportation:** The property is located approximately 600 feet east of Peyton Highway. Peyton Highway is a County maintained paved highway classified as a rural major collector. The property will gain access to Peyton Highway from Joyful View, a private rural gravel road constructed as part of the development. A waiver was submitted for the private road design. The off-site segment of Joyful View, which is a proposed as a private road, is located within an existing 30-foot access easement. The access easement widens to 60 feet within the boundary of the proposed subdivision. Ellas Way, a proposed internal private road, is located within a 30-foot-wide access easement. Two turnaround points were incorporated into the private road design as requested by the Fire District. The Ellicott Fire District did not object to the private road design or cul-de-sac length. The development is expected to add approximately 110 daily trips to the surrounding road network. The property is subject to the El Paso County Road Impact Fee program. No public road improvements are proposed with the plat. Development Services Engineering has concerns with the private road not meeting Engineering Criteria Manual standards.



H. SERVICES

1. Water

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

2. Sanitation

Wastewater is provided by individual onsite wastewater treatment systems (OWTS). The applicant submitted an OWTS report which indicated that the lots are suitable for the construction of these systems, pursuant to the plat notes addressing the geologic constraints.

3. Emergency Services

The property is within the Ellicott Fire Protection District. The District was sent a referral and provided a response, indicating that a cistern is required for on-site fire suppression. The applicant is proposing to install the cistern on the property. The cistern will be located within an easement for access by the Fire District.

4. Utilities

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

5. Metropolitan Districts

The property is located within the boundary of the Ellicott Metropolitan District, a municipal water and wastewater provider. However, because the applicant is proposing to use wells and onsite wastewater treatment systems, the District will not be providing services to the site. The District was sent a referral and did not provide a response.



6. Parks/Trails

Fees in lieu of park land dedication in the amount of \$4,140.00 for regional fees will be due at the time of recording the Final Plat. Urban park fees are not applicable to this application.

7. Schools

Fees in lieu of school land dedication in the amount of \$1,665.00 shall be paid to El Paso County for the benefit of Ellicott School District No. 22 at the time of recording the Final Plat.

I. APPLICABLE RESOLUTIONS

See attached resolution.

J. STATUS OF MAJOR ISSUES

There are no major issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code ("Code") (As Amended) staff recommends the following conditions and notations:

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.

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4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
7. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the Final Plat is recorded.
8. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at Final Plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
9. Drainage fees in the amount of \$57,444.53 and bridge fees in the amount of \$8,476.65 shall be paid for the Haegler Ranch drainage basin at the time of plat recordation.
10. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 8/1/2023, as provided by the County Attorney's Office.

NOTATIONS

1. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with

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Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified four (4) adjoining property owners on January 31, 2024, for the Planning Commission and Board of County Commissioner meetings. Responses will be provided at the hearing.

M. ATTACHMENTS

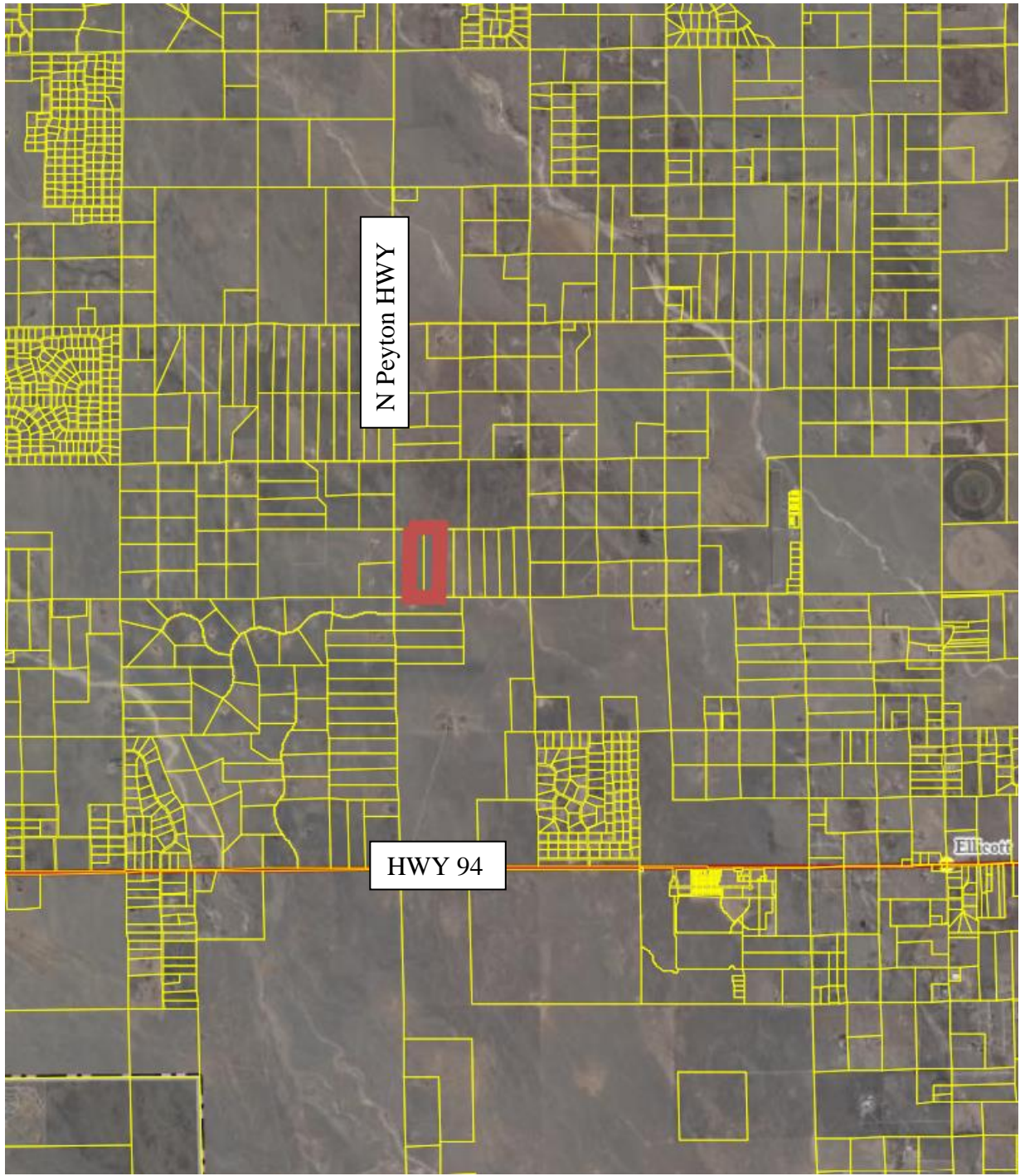
Map Series
Letter of Intent
Plat Drawing
County Attorney's Letter
Public Comment
Draft Resolution

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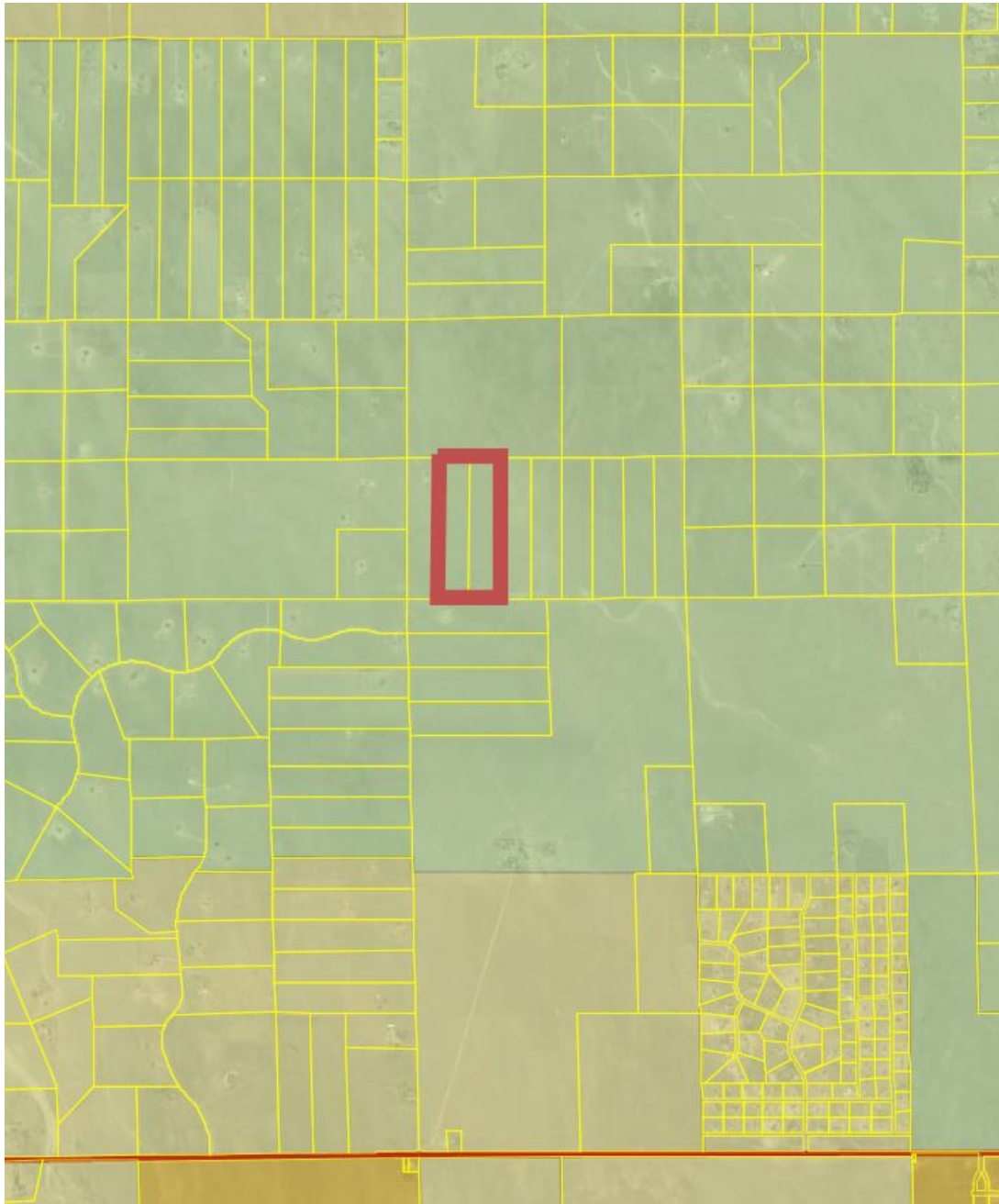


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






Map Exhibit #1: Context



Map Exhibit #2: Placetype

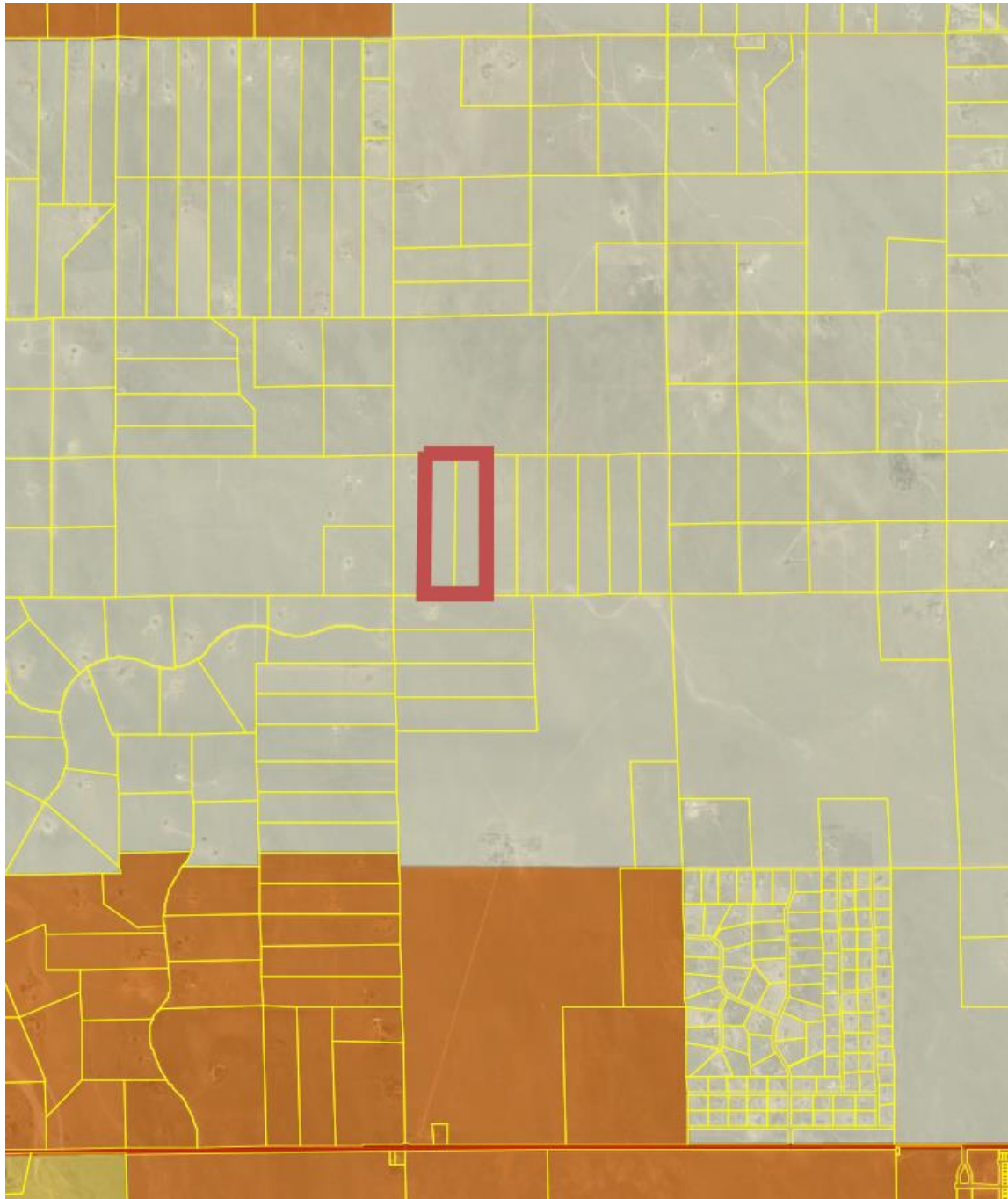


Legend

 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 #3: Area of Change



Legend

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



Joyful View
Subdivision
Letter of Intent

November 21, 2022



The O'Neil Group
117 S Wahsatch Avenue
Colorado Springs, CO 80903

Owner/ Applicant: OGC RE2 LLC
PO BOX 1385
Colorado Springs, CO 80901
Office: (719) 445-5050

Planner: Vertex Consulting Services
455 E Pikes Peak Avenue, Suite 101
Colorado Springs, CO 80903
719-733-8606 ext. 6606

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 (OWTS). 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 ‘over lot’ 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. 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.

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. Please review the submitted construction drawings for further information regarding the specific design of the private roadways. The Traffic Impact Study prepared by LSC Transportation Consultants, Inc. provides a detailed analysis of how the proposed private roadway meets sight-distance requirements and that the proposed subdivision will not result in the need for roadway improvements to Peyton Highway.

Justification:

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:

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 and the only access point being a private road. If Joyful View were a public roadway, no waiver request would be required because the proposed roadway would qualify as a public roadway and be constructed to County standards.

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.

Please see the Master Plan Section.

Section 8.4.4.E.3 provides limitations as to what aspects of the roadway standards can be waived:

Generally, private roads shall be constructed and maintained to ECM standards except as may be otherwise determined in the waiver. Private road waivers may only include design standards for the following:

- *Right-of-way width where suitable alternative provisions are made for pedestrian walkways and utilities;*

Pedestrian walkways are not required for local rural roads, which is the standard being waived. Utility easements have been provided on the plat drawing.

- *Design speed where it is unlikely the road will be needed for use by the general public;*

The road will not be utilized by the general public as it is a private road to serve this subdivision alone along with those few lots already gaining access onto Joyful View.

- *Standard section thickness minimums and pavement type where suitable and perpetual maintenance provisions are made;*

Not applicable.

- *Maximum and minimum block lengths; and*

Not applicable.

- *Maximum grade.*

Not applicable.

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 quantity, quality 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 OWTS 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 areas are the floodplain and potentially seasonal wet areas, which have been designated as no-build.

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 Chapters 6 and 8,

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

Please review the Traffic Impact Study prepared by LSC for information regarding compliance with

the MTCP. 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.

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, OGC RE2 LLC, a Colorado limited liability company, being the owner of the following described tract of land:

TO WIT (DEED DESCRIPTION):

Tract 2:
A tract of land located in the Southwest 1/4 of Section 33, Township 13 South, Range 63 West of the 6th Principal Meridian, El Paso County, State of Colorado, described as follows:

Commencing at the Southwest corner of Said Section 33; thence South 89°29'18" East coincident with the South line of said Section 33, a distance of 583.72 feet to the Point of Beginning of a tract of land described herein; thence
North 00°52'15" East, a distance of 2633.76 feet; thence
South 89°29'18" East, a distance of 577.00 feet; thence
South 00°43'29" West, a distance of 2633.72 feet; thence
North 89°29'18" West coincident with the South line of said Section 33, a distance of 583.72 feet to the Point of Beginning, County of El Paso, State of Colorado.

Tract 3:
A tract of land located in the Southwest 1/4 of Section 33, Township 13 South, Range 63 West of the 6th principal meridian, El Paso County, State of Colorado, described as follows:

Commencing at the Southwest corner of said Section 33; thence South 89°29'18" East coincident with the South line of said Section 33, a distance of 1167.44 feet to the Point of Beginning; thence North 00°43'29" East, a distance of 2633.72 feet; thence
South 89°29'18" East, a distance of 577.00 feet; thence
South 00°34'42" West, a distance of 2633.71 feet; thence
North 89°29'18" West coincident with the South line of said Section 33, a distance of 583.72 feet to the Point of Beginning, County of El Paso, State of Colorado.

DEDICATION:

The undersigned, being all the Owners, Mortgages, Beneficiaries of Deeds of Trust and holders of other interests in the land described herein, have laid out, subdivided, and platted said lands into lots and easements as shown hereon under the name and subdivision of "JOYFUL VIEW". The utility easements shown hereon are hereby dedicated for public utilities and communication systems and other purposes as shown hereon. The entities responsible for providing the services for which the easements are established are hereby granted the perpetual right of ingress and egress from and to adjacent properties for installation, maintenance, and replacement of utility lines and related facilities.

IN WITNESS WHEREOF:

The aforementioned Kevin O'Neil, as Owner of OGC RE2 LLC, a Colorado limited liability company, has executed this instrument this _____ day of _____, 2023 A.D.

Kevin O'Neil, Owner

NOTARIAL:

STATE OF COLORADO)
COUNTY OF EL PASO) SS

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 A.D. by Kevin O'Neil

Witness my hand and seal _____

Address _____

My Commission expires _____

SURVEYOR'S CERTIFICATE:

I, Tim Sloan, a duly registered Professional Land Surveyor in the State of Colorado, do hereby certify that this plat truly and correctly represents the results of a survey made on March 16, 2023, by me or under my direct supervision and that all monuments exist as shown hereon; that mathematical closure errors are less than 1:10,000 ; and that said plat has been prepared in full compliance with all applicable laws of the State of Colorado dealing with monuments, subdivision, or surveying of land and all applicable provisions of the El Paso County Land Development Code.

I attest on this _____ day of _____, 20__.

Tim Sloan, Professional Land Surveyor _____ Date _____

Colorado Registered PLS # _____

BOARD OF COUNTY COMMISSIONERS CERTIFICATE:

This Plat JOYFUL VIEW SUBDIVISION was approved for filing by the El Paso County, Colorado Board of County Commissioners on the _____ day of _____, 2023, subject to any notes specified hereon and any conditions included in the resolution of approval.

Chair, Board of County Commissioners	Date
Director, Planning and Community Development Department	Date

RECORDINGS:

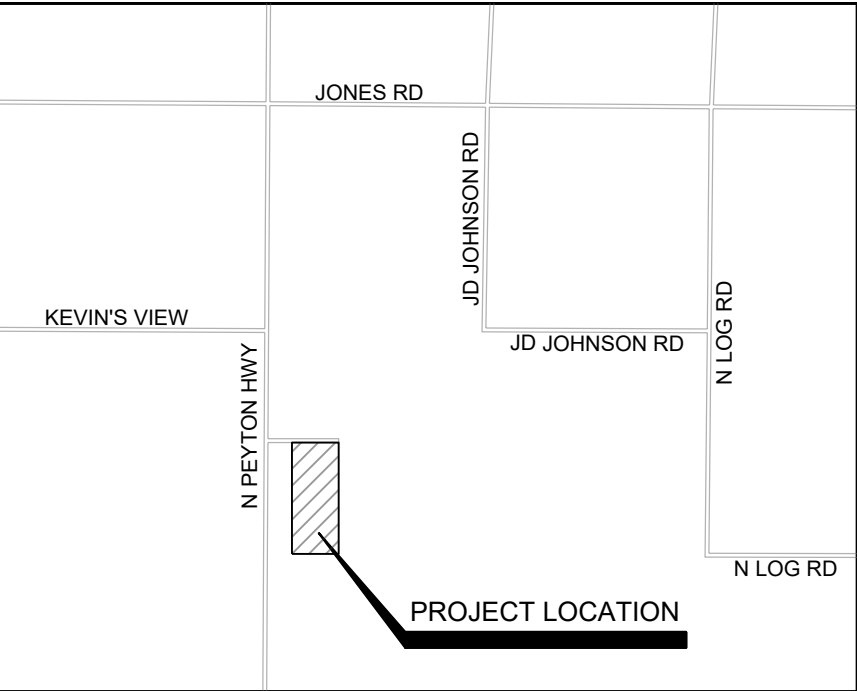
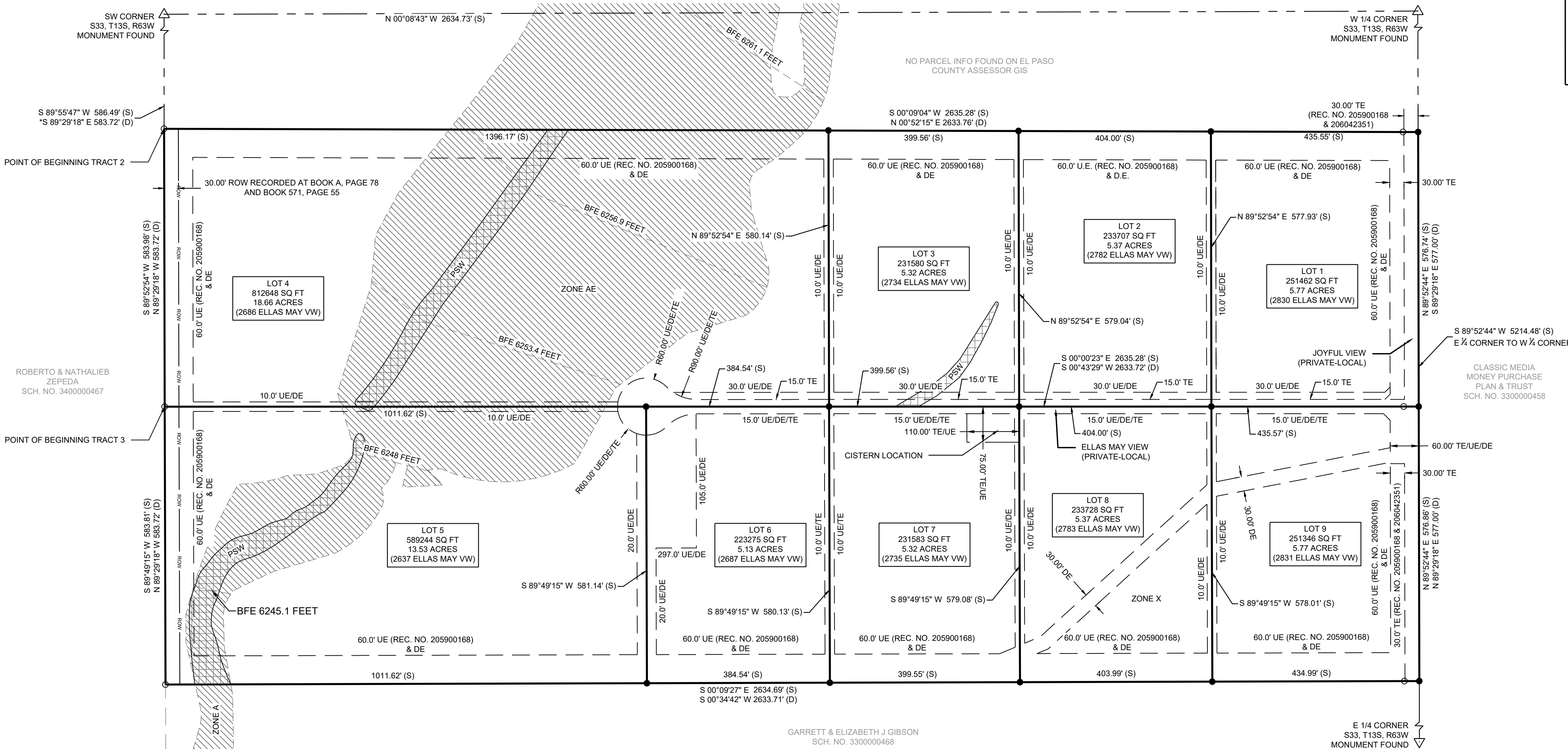
STATE OF COLORADO)
COUNTY OF EL PASO) SS

I hereby certify that this instrument was filed for record in my office at _____ O'clock ____ M. this _____ day of _____, 2023 A.D., and is duly recorded under Reception Number _____

_____ of the records of El Paso County, State of Colorado.

By: _____
El Paso County Clerk and Recorder _____ Date _____

Final Plat
JOYFUL VIEW SUBDIVISION
A PART OF THE SOUTHWEST 1/4 OF SECTION 33, TOWNSHIP 13 SOUTH, RANGE 63 WEST
OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO



VICINITY MAP
(NOT TO SCALE)

LEGEND	
○	Monument Found (1/2" Rebar).
●	1/2"x24" Rebar w/PLS38374 Cap Set
△	Section Corner, NOTE: All section corner monument origins are unknown unless otherwise noted.
*	Assumed Bearing
(D)	Deed Dimension
(S)	Surveyed Dimension
DE	Drainage Easement
UE	Public Utility Easement
TE	Travel Easement
PSW	Potentially Shallow Groundwater Area
	Floodplain / No Build Area / Drainage Easement
	PSW / No Build Area
BFE	Base Flood Elevation

LINETYPE LEGEND	
---	Adjacent Property Line
---	Property Line
---	Section Line
---	Easement
---	Flood Plain Boundary
---	Right of Way Line

NOTES:

- NO GAPS OR OVERLAPS EXIST.
- THERE ARE NO LINES OF POSSESSION THAT AFFECT THIS SURVEY.
- PARENT TRACT IS RECORDED AS INSTRUMENT #205900168, CLERK & RECORDERS OFFICE, EL PASO COUNTY, COLORADO.
- ALL BUILDING SETBACK REQUIREMENTS SHALL BE DETERMINED BY THE ZONING DISTRICT, UNLESS OTHERWISE NOTED.
- THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY SMH CONSULTANTS, TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD, FOR INFORMATION REGARDING EASEMENTS, AND RIGHT OF WAY, SMH CONSULTANTS RELIED UPON THE TITLE POLICY PREPARED BY HERITAGE TITLE COMPANY INC., DATED _____.
- BASIS OF BEARINGS IS THE SOUTH LINE OF SECTION 33, TOWNSHIP 13 SOUTH, RANGE 65 WEST, MONUMENTED AS SHOWN AND ASSUMED TO BEAR NORTH 89 DEGREES 29 MINUTES 18 SECONDS WEST, 583.72 FEET.
- SEWAGE TREATMENT IS THE RESPONSIBILITY OF EACH INDIVIDUAL PROPERTY OWNER. THE EL PASO COUNTY PUBLIC HEALTH DEPARTMENT MUST APPROVE EACH SYSTEM AND, IN SOME CASES, THE DEPARTMENT MAY REQUIRE AN ENGINEER-DESIGNED SYSTEM PRIOR TO PERMITTING APPROVAL.
- INDIVIDUAL WELLS ARE THE RESPONSIBILITY OF EACH PROPERTY OWNER. PERMITS FOR INDIVIDUAL WELLS MUST BE OBTAINED FROM THE STATE ENGINEER WHO BY LAW HAS THE AUTHORITY TO SET CONDITIONS FOR THE ISSUANCE OF THESE PERMITS.
- WATER IN THE DENVER WATER BASIN AQUIFERS IS ALLOCATED BASED ON A 100-YEAR AQUIFER LIFE, HOWEVER, FOR EL PASO COUNTY PLANNING PURPOSES, WATER IN THE DENVER BASIN AQUIFERS IS ELATED BASED ON A 300-YEAR AQUIFER LIFE. APPLICANTS, THE HOME OWNERS ASSOCIATION, AND ALL FUTURE OWNERS IN THE SUBDIVISION SHOULD BE AWARE THAT THE ECONOMIC LIFE OF A WATER SUPPLY BASED ON WELLS IN A GIVEN DENVER BASIN AQUIFER MAY BE LESS THAN EITHER THE 100 YEARS OR 300 YEARS INDICATED DUE TO ANTICIPATED WATER LEVEL DECLINES. FURTHERMORE, THE WATER SUPPLY PLAN SHOULD NOT RELY SOLELY UPON NON-RENEWABLE AQUIFERS. ALTERNATIVE RENEWABLE WATER RESOURCES SHOULD BE ACQUIRED AND INCORPORATED IN A PERMANENT WATER SUPPLY PLAN THAT PROVIDES FUTURE GENERATIONS WITH A WATER SUPPLY.
- THE OWNER, ITS SUCCESSORS AND ASSIGNS SHALL ADVISE THE FUTURE OWNERS OF THESE LOTS OF ALL APPLICABLE REQUIREMENTS OF THE DETERMINATION OF WATER RIGHT 1940-80.
- ALL PROPERTY OWNERS ARE RESPONSIBLE FOR MAINTAINING PROPER STORMWATER DRAINAGE IN AND THROUGH THEIR PROPERTY. PUBLIC DRAINAGE EASEMENTS AS SPECIFICALLY NOTED ON THE PLAT SHALL BE MAINTAINED BY THE INDIVIDUAL LOT OWNERS UNLESS OTHERWISE INDICATED. STRUCTURES, FENCES, MATERIALS OR LANDSCAPING THAT COULD IMPEDE THE FLOW OF RUNOFF SHALL NOT BE PLACED IN DRAINAGE EASEMENTS.
- ACCESS TO LOTS 1-9 SHALL BE VIA A PRIVATE ROAD LOCATED WITHIN THE TRAVEL EASEMENT SHOWN ON THE PLAT. THE RESPONSIBILITY AND MAINTENANCE OF SAID PRIVATE ROAD IS SUBJECT TO THE MAINTENANCE AGREEMENT AND ALL COVENANTS AND RESTRICTIONS CONTAINED THEREIN, AS RECORDED AT RECEPTION NO. _____ OF THE RECORDS OF EL PASO COUNTY CLERK AND RECORDER.
- NO DRIVEWAY SHALL BE ESTABLISHED UNLESS AN ACCESS PERMIT HAS BEEN GRANTED BY EL PASO COUNTY. INDIVIDUAL LOT PURCHASERS ARE RESPONSIBLE FOR CONSTRUCTING DRIVEWAYS, INCLUDING NECESSARY DRAINAGE CULVERTS FROM ELLAS WAY PER LAND DEVELOPMENT CODE SECTION 6.3.3.C.2 AND 6.3.3.C.3.
- DUE TO THEIR LENGTH, SOME OF THE DRIVEWAYS WILL NEED TO BE SPECIFICALLY APPROVED BY THE ELLICOTT FIRE PROTECTION DISTRICT.
- NO STRUCTURES OR MAJOR MATERIAL STORAGE ACTIVITIES ARE PERMITTED WITHIN THE DESIGNATED DRAINAGE EASEMENTS, EXCEPT FENCES. FENCES SHALL NOT IMPEDE RUNOFF FROM REACHING DRAINAGE SWALES.
- THE SUBDIVIDER(S) AGREES ON BEHALF OF HIM/HERSELF AND ANY DEVELOPER OR BUILDER SUCCESSORS AND ASSIGNEES THAT SUBDIVIDER AND/OR SAID SUCCESSORS AND ASSIGNS SHALL BE REQUIRED TO PAY TRAFFIC IMPACT FEES IN ACCORDANCE WITH EL PASO COUNTY ROAD IMPACT FEE PROGRAM RESOLUTION (RESOLUTION NO. 18-071), OR ANY AMENDMENTS THERETO, AT OR PRIOR TO THE TIME OF BUILDING PERMIT SUBMITTALS. THE FEE OBLIGATION, IF NOT PAID AT FINAL PLAT RECORDING, SHALL BE DOCUMENTED ON ALL SALES DOCUMENTS AND PLAT NOTES TO ENSURE THAT A TITLE SEARCH WOULD FIND THE FEE OBLIGATION BEFORE SALE OF THE PROPERTY.
- MAILBOXES SHALL BE INSTALLED IN ACCORDANCE WITH ALL EL PASO COUNTY AND UNITED STATES POSTAL SERVICE REGULATIONS.
- THE FOLLOWING REPORTS HAVE BEEN SUBMITTED IN ASSOCIATION WITH THE FINAL PLAT FOR THIS SUBDIVISION AND ARE ON FILE AT THE EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT: DRAINAGE REPORT, WATER RESOURCES REPORT, WASTEWATER DISPOSAL REPORT, GEOLOGY AND SOILS REPORT, FIRE PROTECTION REPORT, NATURAL FEATURES REPORT, ON-SITE WASTEWATER TREATMENT SYSTEM REPORT, AND TRAFFIC STUDY.
- THE ADDRESSES EXHIBITED ON THIS PLAT ARE FOR INFORMATIONAL PURPOSES ONLY. THEY ARE NOT THE LEGAL DESCRIPTION AND ARE SUBJECT TO CHANGE.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY COMMITTS A CLASS TWO (2) MISDEMEANOR PURSUANT TO C.R.S. § 18-4-508.
- A LOT-SPECIFIC SUBSURFACE SOIL INVESTIGATION WILL BE REQUIRED FOR ALL PROPOSED STRUCTURES INCLUDING (BUT NOT LIMITED TO) RESIDENCES, RETAINING WALLS ETC. AND SEPTIC SYSTEMS. NO BASEMENTS OR INHABITABLE BELOW-GRADE AREAS ARE ALLOWED UNLESS GROUNDWATER MONITORING (THROUGH THE ANNUAL SEASONAL FLUCTUATIONS) BEFORE CONSTRUCTION DEMONSTRATES THAT BELOW-GRADE AREAS CAN MAINTAIN 3-5 FEET BETWEEN THE BOTTOM OF THE FOUNDATION AND THE GROUNDWATER, OR SITE GRADING INDICATES THAT IT WILL MITIGATE THE DEPTH TO GROUNDWATER.
- ALL PROPERTY WITHIN THIS SUBDIVISION IS SUBJECT TO A DECLARATION OF COVENANTS AS RECORDED AT RECEPTION NO. _____ OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER.
- THE PRIVATE ROADS SHOWN ON THIS PLAT WILL NOT BE MAINTAINED BY EL PASO COUNTY UNTIL AND UNLESS THE STREETS ARE CONSTRUCTED IN COMPLIANCE WITH EL PASO COUNTY STANDARDS IN EFFECT AT THE DATE OF THE REQUEST FOR DEDICATION AND MAINTENANCE.
- STRUCTURAL FOUNDATIONS ON ALL LOTS IN THIS SUBDIVISION SHALL BE DESIGNED BY A COLORADO REGISTERED PROFESSIONAL ENGINEER.

GEOLOGIC HAZARD NOTE:

THE FOLLOWING LOTS HAVE BEEN FOUND TO BE IMPACTED BY GEOLOGIC HAZARDS. MITIGATION MEASURES AND A MAP OF THE HAZARD AREA CAN BE FOUND IN THE SOILS & GEOLOGY REPORT BY ENTECH ENGINEERING, INC. DATED NOVEMBER 16, 2023 IN FILE SF22-31 AVAILABLE AT THE EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT:
*DOWNSLOPE CREEP:
*ROCKFALL SOURCE
*ROCKFALL RUNOUT ZONE:
*POTENTIALLY SEASONALLY HIGH GROUNDWATER: LOTS 3, 4, & 5
*OTHER HAZARD: ARTIFICIAL FILL AREA: LOT 5

IN AREAS OF HIGH GROUNDWATER:
DUE TO HIGH GROUNDWATER IN THE AREA, ALL FOUNDATIONS SHALL INCORPORATE AN UNDERGROUND DRAINAGE SYSTEM.

ENVIRONMENTAL:

DEVELOPER SHALL COMPLY WITH FEDERAL AND STATE LAWS, REGULATIONS, ORDINANCES, REVIEW AND PERMIT REQUIREMENTS, AND OTHER AGENCY REQUIREMENTS, IF ANY, OF APPLICABLE AGENCIES, INCLUDING, BUT NOT LIMITED TO, THE COLORADO DIVISION OF WILDLIFE, COLORADO DEPARTMENT OF TRANSPORTATION, U.S. ARMY CORPS OF ENGINEERS AND THE U.S. FISH & WILDLIFE SERVICE REGARDING THE ENDANGERED SPECIES ACT, PARTICULARLY AS IT RELATES TO THE LISTED SPECIES (E.G., PREBLE'S MEADOW JUMPING MOUSE).

FLOODPLAIN NOTE:

THIS PROPERTY IS LOCATED WITHIN ZONE AE (SPECIAL FLOOD HAZARD AREAS WITH BASE FLOOD ELEVATIONS) AND ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOOD PLAN) AS DETERMINED BY THE FLOOD INSURANCE RATE MAP NUMBER 08041C0805G, EFFECTIVE DATE DECEMBER 7, 2018 AND AS AMENDED BY THE FEMA APPROVED LETTER OF MAP REVISION (LOMR) CASE NUMBER 20-08-0369 DATED FEBRUARY 16, 2021. NO STRUCTURES, STORAGE, OR FENCES ARE PERMITTED WITHIN THE DESIGNATED FLOOD PLAIN AREAS.

EASEMENTS:
UNLESS OTHERWISE INDICATED, ALL SIDE, FRONT, AND REAR LOT LINES ARE HEREBY PLATTED ON EITHER SIDE WITH A 10-FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT. UNLESS OTHERWISE INDICATED, ALL EXTERIOR SUBDIVISION BOUNDARIES ARE HEREBY PLATTED WITH A 20-FOOT PUBLIC UTILITY AND DRAINAGE EASEMENT. THE SOLE RESPONSIBILITY FOR THE MAINTENANCE OF THESE EASEMENTS IS HEREBY VESTED WITH THE INDIVIDUAL PROPERTY OWNERS.

UTILITY NOTES:

ANY UTILITY COMPANY THAT LOCATES FACILITIES IN ANY EASEMENT SHALL HAVE THE RIGHT TO PRUNE, REMOVE, ERADICATE, CUT AND CLEAR AWAY ANY TREES, LIMBS, VINES, AND BRUSH ON THE UTILITY EASEMENT NOW OR AT ANY FUTURE TIME AND PRUNE AND CLEAR AWAY ANY TREE LIMBS, VINES, AND BRUSH ON LANDS ADJACENT TO THE UTILITY EASEMENT WHENEVER, IN THE UTILITY COMPANIES JUDGMENT, SUCH MAY INTERFERE WITH OR ENDANGER THE CONSTRUCTION, OPERATION, OR MAINTENANCE OF ITS FACILITIES. TOGETHER WITH THE RIGHT OF INGRESS TO AND EGRESS FROM THE UTILITY EASEMENT AND CONTIGUOUS LAND SUBJECT TO THIS PLAT FOR THE PURPOSE OF SURVEYING, ERECTING, CONSTRUCTING, MAINTAINING, INSPECTING, REBUILDING, REPLACING, AND WITH OR ENDANGERING THE CONSTRUCTION, OPERATION OR MAINTENANCE OF SAID FACILITIES.

NOTICE:

ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF CERTIFICATION SHOWN HEREON.

SERVICE PROVIDERS: ELICUTT FIRE PROTECTION DISTRICT MOUNTAIN VIEW ELECTRIC ASSOC. PROPANE SERVICE DOMESTIC WELLS INDIVIDUAL SEWAGE DISPOSAL SYSTEMS							
FEES: REGIONAL AREA 4 PARK FEE: \$4,100.00 COMMUNITY PARK FEE: \$0.00 NEIGHBORHOOD PARK FEE: \$0.00 ELICUTT SCHOOL DISTRICT 22 FEE: \$1,665.00 DRAINAGE FEE: \$57,444.53 BRIDGE FEE: \$8,476.65							
<table><tr><td>DATE SUBMITTED: 6/2/2023</td></tr><tr><td>REVISIONS:</td></tr><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr></table>		DATE SUBMITTED: 6/2/2023	REVISIONS:				
DATE SUBMITTED: 6/2/2023							
REVISIONS:							
OWNER: OGC RE2 LLC PO BOX 1385 COLORADO SPRINGS, CO 80901 719-445-5050							
SURVEYOR: TIM SLOAN, VICE-PRESIDENT SMH CONSULTANTS, P.A. 411 SOUTH TEJON STREET, SUITE I COLORADO SPRINGS, CO 80903 719-465-2145							
ENGINEER: BRETT LOUK SMH CONSULTANTS, P.A. 411 SOUTH TEJON STREET, SUITE I COLORADO SPRINGS, CO 80903 719-465-2145							
TOTAL ACREAGE: LOT 1 = 5.77 ACRES LOT 2 = 5.37 ACRES LOT 3 = 5.32 ACRES LOT 4 = 18.66 ACRES LOT 5 = 13.53 ACRES LOT 6 = 5.13 ACRES LOT 7 = 5.32 ACRES LOT 8 = 5.37 ACRES LOT 9 = 5.77 ACRES TOTAL = 70.24 ACRES							



SMH
CONSULTANTS

Civil Engineering • Land Surveying • Landscape Architecture
www.smhconsultants.com
Manhattan, KS - HQ P: (785) 776-0541 • Dodge City, KS P: (620) 255-1952
Overland Park, KS P: (913) 444-9615 • Colorado Springs, CO P: (719) 465-2145
Survey Prepared March 16, 2023

Drawn By: JAM Project #2303-0082 DD # PCD File #SF22-31

DECEMBER 2023

County Attorney

Kenneth R. Hodges, County Attorney

719-520-6485
Centennial Hall
200 S. Cascade, Suite 150
Colorado Springs, CO 80903
www.ElPasoCo.com

Board of County Commissioners

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

August 1, 2023

SF-22-31 Joyful View Subdivision
Final Plat

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

WATER SUPPLY REVIEW AND RECOMMENDATIONS

Project Description

1. This is a proposal for approval of the Joyful View Subdivision, a subdivision application by OGC RE2, LLC ("Applicant") for a 9-lot subdivision on a parcel of 70.2 acres of land (the "property"). The property is zoned RR-5 (Rural Residential).

Estimated Water Demand

2. Pursuant to the *Water Supply Information Summary* ("WSIS"), the water demand for the subdivision of 70.2 acres into 9 residential lots is comprised of 0.26 acre-feet of indoor household use per home for a total of 2.34 acre feet for the nine lots; 0.17 acre-feet per lot for irrigation for a total of 1.53 acre-feet for the 9 lots (with a maximum of 3,000 square feet per lot); stock watering of two per lot at .013 acre-feet per lot per year for a total of .24, for a total demand of .456 acre-feet per year per lot or 4.11 acre-feet per year total for the 9 lots. Based on this total demand, Applicant must be able to provide a supply of 1,233 acre-feet of water (4.11 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement.

Proposed Water Supply

The Applicant has provided for the source of water to derive from one or more individual on-lot wells withdrawing from the not-nontributary Arapahoe aquifer as provided in Determination of Water Right No. 1940-BD ("Determination"). The Determination allocated 27.8 annual acre-feet of water in the Arapahoe aquifer to Grand View Partners, LLC. On April 2, 2018, Grand View Partners

ASSISTANT COUNTY ATTORNEYS

NATHAN J. WHITNEY
CHERYL L. STRID
BOCC Report Packet

STEVEN A. KLAFFKY
TERRY A. SAMPLE

LORI L. SEAGO
DOREY L. SPOTTS

BRYAN E. SCHMID
STEVEN W. MARTYN

executed a Bargain and Sale Deed to Applicant conveying water rights described as one half of the determination from 1940-BD minus one acre-foot. The Determination allowed an average annual amount of withdrawal from the Arapahoe aquifer at 27.8 acre-feet for a 100-year allocation. Dividing in half and then subtracting one acre-foot leaves approximately 12.9 acre-feet annually, allocated over 100 years for this 70.2 acre subdivision. Further, as El Paso County requires a 300-year supply, 12.9 acre-feet is divided by 3, leaving 4.3 acre-feet per year of available Arapahoe aquifer withdrawals available for this subdivision. This results in approximately 0.477 acre-feet of water available per year per lot for the following uses: domestic, commercial, industrial, irrigation, stock watering, and replacement supply.

The Determination requires that at least 4% of the amount of water withdrawn annually be returned to the uppermost aquifer in the vicinity of the points of withdrawal.

State Engineer's Office Opinion

4. In a letter dated November 1, 2022, the State Engineer stated that "[t]he nine (9) lots will be serviced by individual on-lot wells producing from the not-nontributary (4% replacement) Arapahoe aquifer that will operate pursuant to the Determination of Water Right No. 1940-BD." The allowed average annual amount of withdrawal for the subdivision shall not exceed 4.63 acre-feet¹ for a maximum of 300 years.

Finally, the State Engineer provided their opinion, ". . . pursuant to 30-28-136(1)(h)(I), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights."

Recommended Findings

5. Quantity and Dependability. Applicant's water demand for Joyful View Subdivision is 4.11 (0.456 acre-feet per lot per year) acre-feet per year for a total demand of 1,233 acre-feet for the subdivision for 300 years. Under Determination of Water Right No. 1940-BD and the Bargain and Sale Deed from Grand View Partners, Applicant owns the right to withdraw up to 4.3 acre-feet per year from the Arapahoe aquifer based on a 300-year allocation for use within the subdivision.

Based on the water demand of 4.11 acre-feet/year for the Joyful View Subdivision and the right to withdraw up to 4.3 acre-feet per year, the County Attorney's Office recommends a finding of sufficient water quantity and dependability for the Joyful View Subdivision.

6. The water quality requirements of Section 8.4.7.B.10.g. of the El Paso County Land Development Code must be satisfied. **El Paso County Public Health shall provide a recommendation as to the sufficiency of water quality.**

¹ The State Engineer's Office neglected to subtract the one acre-foot per year that was reserved by Grand View Partners in the deed to Applicant; therefore, their annual allocation is a bit higher than otherwise allowed.

7. Basis. The County Attorney's Office reviewed the following documents in preparing this review: a *Water Resources Report* dated February 10, 2022, the Water Supply Information Summary, the State Engineer's Office Opinion dated November 1, 2022 and Determination of Water Right No. 1940-BD entered on December 22, 2008. The recommendations herein are based on the information contained in such documents and on compliance with the requirements set forth below. ***Should the information relied upon be found to be incorrect, or should the below requirements not be met, the County Attorney's Office reserves the right to amend or withdraw its recommendations.***

REQUIREMENTS:

A. Applicant and its successors and assigns shall comply with all requirements of the Colorado Ground Water Commission Determination of Water Right No. 1940-BD, including that water withdrawn from the Arapahoe aquifer shall not exceed 4.11 acre-feet total per year. The allowed annual amount of groundwater to be withdrawn from each well is .456 acre-feet (4.11 acre-feet total).

B. Applicant must create a homeowners' association ("HOA") for the purpose of enforcing covenants and assessing any necessary fees related to compliance with the water determinations for the property.

C. Applicant shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision, their successors and assigns, and the HOA regarding all applicable requirements of Determination of Water Right No. 1940-BD.

Covenants shall specifically address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 1,233 acre-feet of not-nontributary Arapahoe aquifer water pursuant to Determination of Water Right No. 1940-BD to satisfy El Paso County's 300-year water supply requirement for the 9 lots of the Joyful View Subdivision. The Covenants shall further identify that 137 acre-feet (0.456 acre-feet/year) of Arapahoe aquifer water is allocated to each residential lot.

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

3) Require and reserve return flows. The Covenants shall require each lot owner to return at least four percent (4%) of the amount of water withdrawn annually to the uppermost aquifer in the vicinity of the permitted points of withdrawal. Determination of Water Right No. 1940-BD does not specify the manner in which the return flows are generated or

applied. The Covenants shall also include the following or similar language to ensure that such return flows shall only be used for replacement purposes: "Return flows shall only be used for replacement purposes, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose. Lot owners must follow all applicable laws, rules, regulations, court orders, and permit conditions related to return flows."

4) Address future lot conveyances. The following or similar language shall be included in the Covenants to address future conveyances of the lots subsequent to the initial conveyance made by Applicant/Declarant:

"The water rights referenced herein shall be explicitly conveyed; however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not Determination of Water Right No. 1940-BD and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

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

6) Address amendments to the covenants. The Covenants shall address amendments using the following or similar language:

"Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Joyful View Subdivision pursuant to Determination of Water Right No. 1940-BD. Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney's Office. Any amendments must be pursuant to the Colorado Ground Water Commission approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such determination."

7) Address termination of the covenants. The Covenants shall address termination using the following or similar language:

“These Covenants shall not terminate unless the requirements of Determination of Water Right No. 1940-BD are also terminated by the Colorado Ground Water Commission and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

D. Applicant and its successors and assigns shall reserve in any deeds of the Property Arapahoe aquifer water in the decreed amount of 137 acre-feet (0.456 acre-feet annually) per residential lot, equating to 4.11 acre-feet annually for the subdivision for a period of 300 years. Said reservation shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply.

E. Applicant and its successors and assigns shall convey by recorded warranty deed these reserved Arapahoe aquifer water rights at the time of lot sales. Specifically, Applicant and future lot owners shall convey sufficient water rights in the Arapahoe aquifer underlying the respective lots to satisfy El Paso County’s 300-year water supply requirement. Sufficient water rights are 137 acre-feet (0.456 acre-feet/year x 300 years) from the Arapahoe aquifer for each residential lot.

Any and all conveyance instruments shall also recite as follows:

For the water rights and return flows conveyed for the primary supply (Arapahoe aquifer): “These water rights conveyed, and the return flows therefrom, are intended to provide a 300-year water supply, and replacement during pumping, for each of the lots of the Joyful View Subdivision. The water rights so conveyed and the return flows therefrom shall be appurtenant to each of the respective lots with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned, or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title.”

F. Applicant and its successors and assigns shall submit a Declaration of Covenants, Conditions, and Restrictions, form deeds, and any plat notes required herein to the Planning and Community Development Department and the County Attorney’s Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney’s Office prior to recording the final plat. Said Declaration shall cross-reference Determination of Water Right No. 1940-BD and shall identify the obligations of the individual lot owners thereunder.

G. Applicant and its successors and assigns shall record all applicable documents, including but not limited to Determination of Water Rights No. 1940-BD, agreements, assignments,

and warranty deeds regarding the water rights, and Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

H. Applications for well permits submitted by persons other than the Applicant must include evidence that the permittee has acquired the right to the portion of the water being requested.

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

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

cc: Ryan Howser, Project Manager, Planner

From: Herb Zimmerman <hrzim@aol.com>
Sent: Saturday, November 19, 2022 12:30 PM
To: Kari Parsons
Cc: meisnerml@aol.com
Subject: Joyful View Proposed Subdivision File # SF2231

CAUTION: This email originated from outside the El Paso County technology network. Do not click links or open attachments unless you recognize the sender and know the content is safe. Please call IT Customer Support at 520-6355 if you are unsure of the integrity of this message.

Ms. Parsons,

My name is Herb Zimmerman. I live at and own, along with Maureen Meisner, the property at 19805 Joyful View, Peyton, CO 80831. It has come to my attention that the owner(s) of the 70 acres directly east of me are planning to sub divide the two 35-acre parcels into nine separate parcels. We are opposed to this division.

I received a letter from Vertex Consulting Services of Colorado Springs outlining the owner(s) wishes to upgrade Joyful View to rural county roadway standards. They want to dedicate the roadway to El Paso County for ongoing maintenance. The letter said this can't be done without my approval. I have no interest in upgrading the current roadway. The letter prompted me to call El Paso County Planning and Community Development.

I spoke with the planner of the day, Dan Feuerbach. I was wondering what rights I have regarding my opposition to the project and what notifications I will receive as the request goes through El Paso County. Mr. Feuerbach said I would be best served by contacting you, as you are the project manager.

Please consider this email as notification that I want to be as involved in the process as I am legally allowed to be.

Thank you,

Herb Zimmerman
198025 Joyful View
Peyton, CO 80831 Physical Address
19805 Joyful View
Calhan, CO 80808 Mailing Address
Hrzim@aol.com
719-429-5771

RESOLUTION NO. 24-

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

APPROVAL OF FINAL PLAT
JOYFUL VIEW SUBDIVISION (SF2231)

WHEREAS, OGC RE2, LLC did file an application with the El Paso County Planning and Community Development Department for the approval of a Final Plat for the Joyful View Subdivision for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on February 15, 2024, upon which date the Planning Commission did by formal resolution recommend approval of the Final Plat application; and

WHEREAS, a public hearing was held by the El Paso County Board of County Commissioners on March 14, 2024; and

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

1. 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.
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 Final Plat, the Planning Commission and Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 7.2.1.D.3.f of the Land Development Code ("Code") (as amended):

1. The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
2. The subdivision is in substantial conformance with the approved Preliminary Plan;
3. 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;
4. Either 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, or, with respect to applications for administrative final plat approval, such finding was previously made by the BoCC at the time of preliminary plan approval;
5. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. § 30-28-133(6)(b)] and the requirements of Chapter 8 of the Code;

6. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions [C.R.S. § 30-28-133(6)(c)];
7. Adequate drainage improvements are proposed that comply with State Statute [C.R.S. § 30-28-133(3)(c)(VIII)] and the requirements of the Code and the ECM;
8. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with the Code and the ECM;
9. Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;
10. The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of the Code;
11. Off-site impacts were evaluated and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8 of the Code;
12. 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;
13. The subdivision meets other applicable sections of Chapter 6 and 8 of the Code; and
14. The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§ 34-1-302(1), et seq.].

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

NOW, THEREFORE, BE IT RESOLVED the Board of County Commissioners of El Paso County, Colorado, hereby approves the final plat application for the Joyful View Subdivision;

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

CONDITIONS

1. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the appropriate El Paso County staff.
7. Collateral sufficient to ensure that the public improvements as listed in the approved Financial Assurance Estimate shall be provided when the final plat is recorded.
8. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 19-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all

sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

9. Drainage fees in the amount of \$57,444.53 and bridge fees in the amount of \$8,476.65 shall be paid for the Haegler Ranch drainage basin at the time of plat recordation.
10. Applicant shall comply with all requirements contained in the Water Supply Review and Recommendations, dated 8/1/2023, as provided by the County Attorney's Office.

NOTATIONS

1. Final Plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired unless an extension is approved.
2. Site grading or construction, other than installation or initial temporary control measures, may not commence until a Preconstruction Conference is held with Planning and Community Development Inspections and a Construction Permit is issued by the Planning and Community Development Department.

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

DONE THIS 14TH day of March 2024 at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

JOYFUL VIEW SUBDIVISION

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 13 SOUTH, RANGE 63 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 33;
THENCE N00°30'32"E ON THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 33 A
DISTANCE OF 2633.71 FEET;
THENCE S89°29'18"E PARALLEL WITH THE SOUTH LINE OF SAID SECTION 33 A DISTANCE OF 600.35
FEET TO THE POINT OF BEGINNING OF THE TRACT DESCRIBED HEREIN;
THENCE CONTINUE S89°29'18"E PARALLEL WITH THE SOUTH LINE OF SAID SECTION 33 A DISTANCE
OF 1154.00 FEET;
THENCE S00°34'43"W A DISTANCE OF 2633.71 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION
33;
THENCE N89°29'18"W ON THE SOUTH LINE OF SAID SECTION 33 A DISTANCE OF 1167.44 FEET;
THENCE N00°52'15"E A DISTANCE OF 2633.76 FEET TO THE POINT OF BEGINNING.

THE DESCRIBED TRACT CONTAINING 70.179 ACRES, MORE OR LESS.

THIS PROPERTY IS ALSO DESCRIBED AS TRACTS 2 AND 3, GRAND VIEW ESTATES III, EL PASO
COUNTY, COLORADO AND SHOWN ON THE LAND SURVEY PLAT UNDER DEPOSIT NUMBER 205900168
OF THE EL PASO COUNTY RECORDS.