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El Paso County Planning & Community Development
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 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

TO: El Paso County Planning Commission
Stan VanderWerf, Chair

FROM: Kylie Bagley, Planner II
Ed Schoenheit, IE Engineer I
Kevin Mastin, Interim Executive Director

RE: Project File #: P-22-006
Project Name: McDaniels Rezone
Parcel No.: 34000-00-295

OWNER:	REPRESENTATIVE:
Z Investments LLC PO Box 50005 Colorado Springs, CO 80949	William Guman and Associates Bill Guman 731 North Weber Street Colorado Springs, CO 80903

Commissioner District: 4

Planning Commission Hearing Date:	11/3/2022
Board of County Commissioners Hearing Date:	11/15/2022

EXECUTIVE SUMMARY

A request by William Guman and Associates for approval of a map amendment (rezoning) from A-35 (Agricultural) to RR-5 (Residential Rural). The 40-acre property is located directly southwest of the intersection of McDaniels Road and North Log Road and within Section 11, Township 14 South, Range 63 West of the 6th P.M.

A. REQUEST/WAIVERS/DEVIATIONS/ AUTHORIZATION

Request: A request by William Guman and Associates for approval of a map amendment (rezoning) 40 acres from A-35 (Agricultural) to RR-5 (Residential Rural).

Waiver(s)/Deviation(s): There are no waivers or deviations as part of this request.

Authorization to Sign: There are no documents associated with this application that require signing.

B. Planning Commission Summary

Request Heard: As a called-up consent item at the November 3rd, 2022, hearing.

Recommendation: No recommendation is made by Planning Commission.

Waiver Recommendation: N/A

Vote: 4 - 4

Vote Rationale: 4 no votes: **CARLSON** did not believe the application met review criteria of general compliance with Master Plan or being compatible with the existing character of the surrounding area. He thinks this is leapfrog zoning. **MERRIAM** stated water would be a concern and thinks agriculture and farming should be protected. **FULLER** thinks this is leapfrog zoning and dislikes that there is no similar zoning nearby. **WHITNEY** also thinks it is leapfrog zoning and has no buffers of similar zoning.

Summary of Hearing: The Planning Commission draft minutes are attached.

Legal Notice: Advertised in *Shopper's Press* on October 26th, 2022.

C. APPROVAL CRITERIA

In approving a map amendment (rezoning), the Planning Commission and the Board of County Commissioners shall find that the request meets the criteria for approval outlined in Section 5.3.5 (Map Amendment, Rezoning) of the El Paso County Land Development Code (2019):

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

D. LOCATION

North:	A-35 (Agricultural)	Single-Family Residential
South:	A-35 (Agricultural)	Single-Family Residential
East:	A-35 (Agricultural)	Single-Family Residential
West:	A-35 (Agricultural)	Single-Family Residential

E. BACKGROUND

The property was zoned A-35 (Agricultural) on March 24, 1999, when zoning was first initiated for this portion of the County. The property has not been rezoned since zoning was initiated.

The applicant is seeking a rezone from A-35 (Agricultural) to RR-5 (Residential Rural) with the intent to subdivide the property from one lot to four single-family residential lots.

F. ANALYSIS

1. Land Development Code Analysis

The applicant is proposing to rezone the property from A-35 (Agricultural) to RR-5 (Residential Rural) Section 3.2 of the Code states the following as the intent of the RR-5 zoning district:

“The RR-5 zoning district is a 5-acre district intended to accommodate low-density, rural, single-family residential development.”

The applicant intends to use the property for low-density, rural, single family residential purposes, which is consistent with the intent of the RR-5 zoning district.

2. Zoning Compliance

The subject parcel is zoned RR-5 (Residential Rural). 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 percent
- 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.

In order to initiate any new residential uses on the property, the applicant will need to obtain site plan approval. The applicant intends to submit a subdivision application. The subdivision will be reviewed to ensure that all proposed structures will comply with the

zoning district dimensional standards as well as the General Development Standards of the Code and Engineering Criteria Manual requirements.

G.MASTER PLAN ANALYSIS

1. Your El Paso Master Plan

a. Placetype: Rural

Placetype Character: 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.

Recommended Land Uses:

Primary

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

Supporting

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

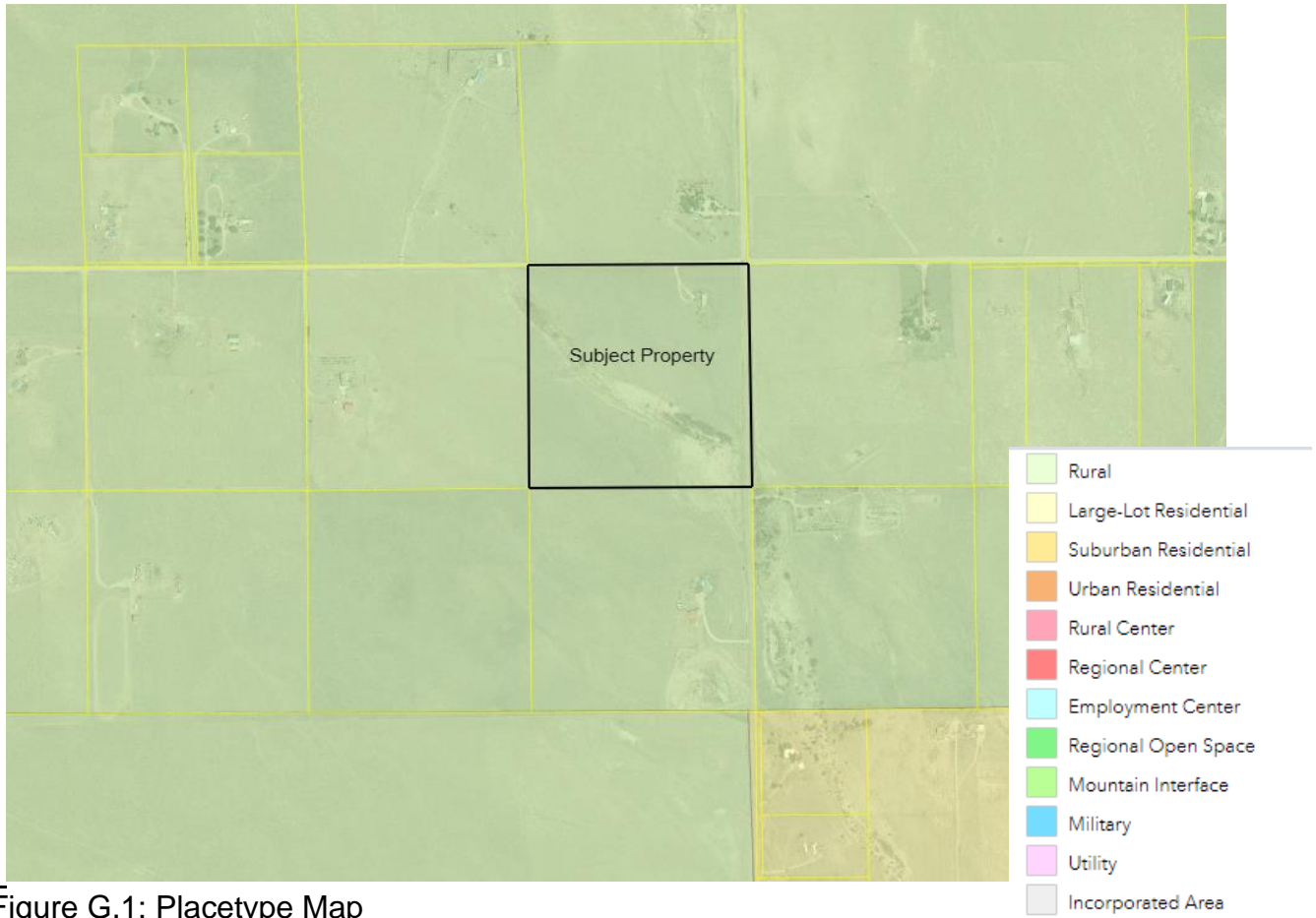


Figure G.1: Placetype Map

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.

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

The proposed rezone would reallocate approximately 40-acres of vacant land from the A-35 zoning district to the RR-5 zoning district, which would support the single-family detached residential density within the Rural placetype. The

placetype allows single-family detached residential 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.

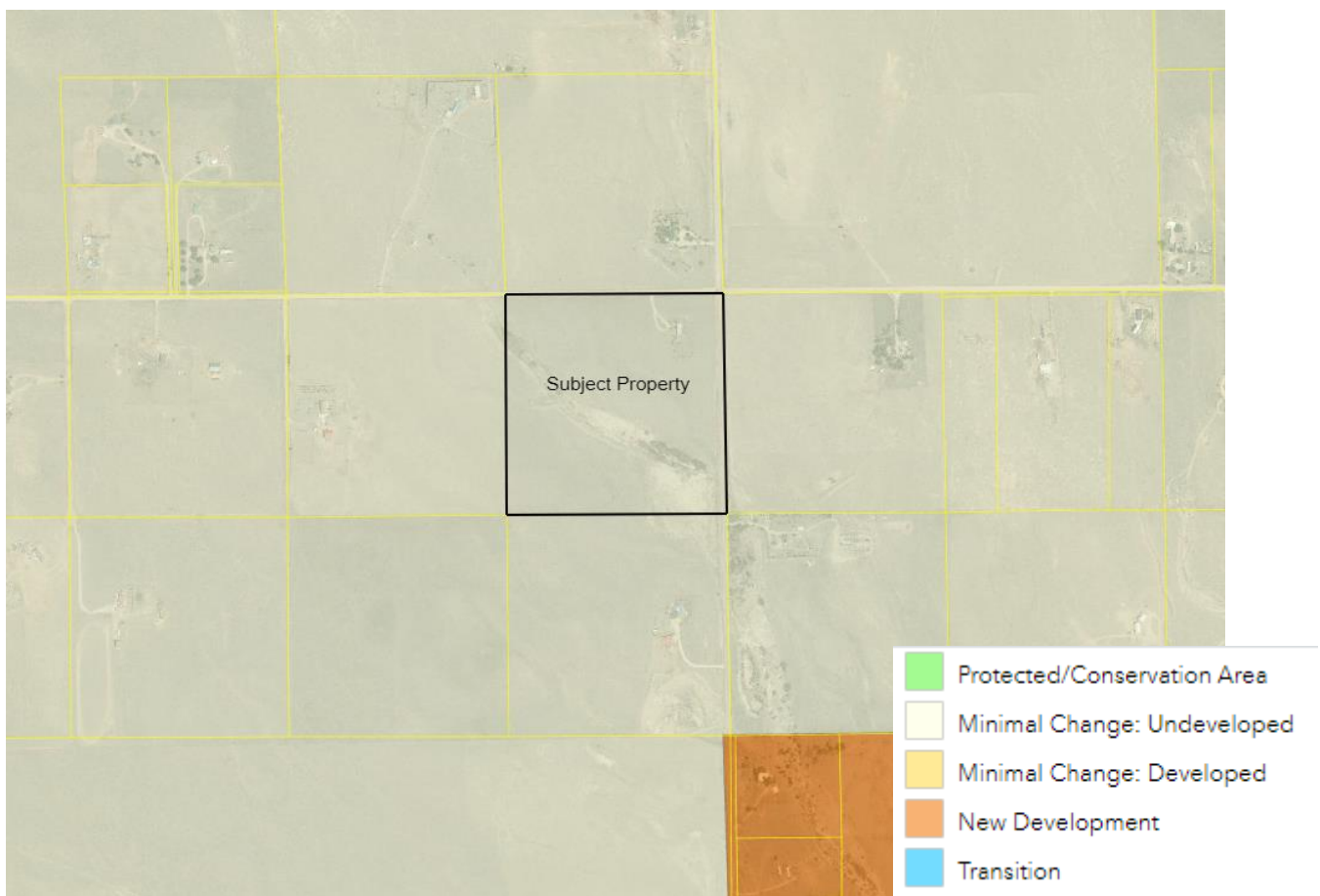


Figure G.2: Area of Change Map

Analysis:

The proposed rezone is not located in an area which is expected to significantly change in character. The proposed map amendment (rezoning) is not likely to change the character of the area.

c. Key Area Influences

The subject property is not located within a Key Area.

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

The subject property is not located within a Priority Development Area.

3. Water Master Plan Analysis

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

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

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

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

The property is located within Region 4c of the El Paso County Water Master Plan. The Plan identifies the current demands for Region 4c to be 2,970 acre-feet per year (AFY) (Figure 5.1) with a current supply of 2,970 AFY (Figure 5.2). The projected demand in 2040 is at 3,967 AFY (Figure 5.1) with a projected supply in 2040 of 3,027 AFY (Figure 5.2). The projected demand at build-out in 2060 is at 4,826 AFY (Figure 5.1) with a projected supply in 2060 of 3,027 AFY (Figure 5.2). This means that by 2060 a deficit of 1,799 AFY is anticipated for Region 4c.

A finding of water sufficiency is not required with a map amendment (rezone) but will be required with any future subdivision request. A finding of water sufficiency is required with subsequent plat application(s). The area subject to the proposed map amendment (rezone) is proposed to be served by on-site wells. Should the request be approved, a site plan application will be required to initiate any new residential use on the property.

4. 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 Eolian Deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, no severed mineral rights exist.

H. PHYSICAL SITE CHARACTERISTICS

1. Hazards

The property has a special flood hazard area that runs across the property which encompasses approximately 12 acres.

2. Floodplain

The 40-acre parcel is impacted by a designated surveyed 100-year floodplain (Zone AE) as indicated by FEMA Flood Insurance Rate Map panel number 08041C0810G which has an effective date of December 7, 2018. Base Flood Elevations (BFE) are required to be shown on the Rezoning Map and the Final Plat. The special flood hazard area across the property will impact lot layout, size, and overall accessibility. The applicant will be required to adhere to all requirements and restrictions detailed in the Land Development Code Section 8.4.2 pertaining to development near a designated floodplain. The floodplain area will be required to be contained in an easement or tract with specified maintenance and “No Build”, “No Storage of Materials” restrictions as applicable.

3. Drainage and Erosion

The property is located within the Ellicott Consolidated (CHBS1200) drainage basin. This basin is unstudied and is not currently included in El Paso County Drainage Basin Fee program so drainage basin fees would not be applicable at time of plat. Drainage fees are not assessed with map amendment (rezone) requests. Prior to future development, a drainage report will be required to be submitted and approved by EPC. The drainage report provides hydrologic and hydraulic analysis to identify and mitigate drainage impacts to the surrounding properties. The drainage report will also need to include information for any necessary improvements or stabilization of the channel within the floodplain area.

4. Transportation

The property is located west of the intersection of Log Road and McDaniels Road. The new lots will all gain individual driveway access from McDaniels Road which is a County maintained local gravel road.

Log Road is planned for road improvements as part of the El Paso County 2016 Major Transportation Corridors Plan Update. The property is subject to the El Paso County Road Impact Fee program (Resolution 19-471), as amended.

I. SERVICES

1. Water

Water is provided by existing wells for existing residential uses. Proposed residential uses will be required to obtain the proper well permits prior to development.

2. Sanitation

Wastewater is provided by existing on-site wastewater treatment systems (OWTS) for existing residential uses. A report evaluating feasibility of future OWTS systems will be required with any future subdivision request.

3. Emergency Services

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

4. Utilities

Electrical service is provided by Mountain View Electric Association (MVEA) and natural gas service is provided by Black Hills Energy. Both MVEA and Black Hills Energy were sent referrals and have no outstanding comments

5. Metropolitan Districts

The property is not located within the boundaries of a metropolitan district.

6. Parks/Trails

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

7. Schools

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

J. APPLICABLE RESOLUTIONS

See attached resolution.

K. STATUS OF MAJOR ISSUES

There are no major issues.

L. RECOMMENDED CONDITIONS AND NOTATIONS

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

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of

Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.

2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

M. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified eight adjoining property owners on October 18, 2022, for the Planning Commission meeting. Responses will be provided at the hearing.

N. ATTACHMENTS

Vicinity Map
Letter of Intent
Rezone Map
Draft PC 11/3/2022 Minutes
Draft BOCC Resolution

TSN 340000280
 Lowell Lambrecht
 22550 McDaniels Rd.
 Calhan, CO 80808
 Zoning: A-35

TSN 340000237
 Robinson Family Living Trust
 1550 N. Log Rd.
 Calhan, CO 80808
 Zoning: A-35

TSN 340000187
 Ora Owen Wheeler Jr.
 16215 E. McCara Ct.
 Peyton, CO 80831
 Zoning: A-35

LEGAL DESCRIPTION:

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., COUNTY EL PASO, STATE OF COLORADO.

SAID TRACT CONTAINS 39.67 ACRES OF LAND, MORE OR LESS.

PROJECT BENCHMARK: CONTROL POINTS AS SHOWN HEREON. ALL ELEVATIONS ARE DERIVED UPON AN OPUS SOLUTION ON SURVEY CONTROL POINT BASE 99 ELEV.=6093.02' NAVD88 VERTICAL DATUM.

ALL LINEAL UNITS DEPICTED ON THIS ALTA/NSPS LAND TITLE SURVEY ARE U.S. SURVEY FEET.

TSN 341200022
 Rodney J. Fannin
 23155 McDaniels Rd.
 Calhan, CO 80808
 Zoning: A-35

NOTES:

- 1). ALL BEARINGS USED HEREIN ARE BASED UPON AN ASSUMED BEARING OF N00°22'53"W, A DISTANCE OF 2652.44 FEET BETWEEN THE SOUTHEAST CORNER OF SECTION 11, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., AS MONUMENTED BY A 3/4" SQUARE IRON PIN IN A RANGE BOX AND THE NORTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 11, AS MONUMENTED BY A 2-1/2" ALUMINUM CAP STAMPED "PLS 10384".
- 2). THIS PLAT DOES NOT CONSTITUTE A TITLE SEARCH BY RAMPART SURVEYS FOR EITHER OWNERSHIP OR EASEMENTS OF RECORD. FOR EASEMENTS OF RECORD SHOWN HEREON, RAMPART SURVEYS RELIED ON AN ALTA COMMITMENT ISSUED BY STEWART TITLE GUARANTY COMPANY, COMMITMENT NUMBER: 204165 AMENDED NO. 3 (COMMITMENT DATE: DECEMBER 23, 2020 AT 8:00 A.M.) AS PROVIDED TO RAMPART SURVEYS BY THE CLIENT, FOR ALL MATTERS OF RECORD. NO OTHER EASEMENTS OF RECORD ARE SHOWN EXCEPT AS FOUND THEREIN. THE NUMBERS USED BELOW CORRESPOND WITH THE NUMBERS USED ON SCHEDULE B, PART II EXCEPTIONS IN THE ABOVE REFERENCED COMMITMENT:
 1. THRU 8. STANDARD EXCEPTIONS - RAMPART SURVEYS DID NOT ADDRESS THESE ITEMS.
 9. THE PROPERTY IS SUBJECT TO A RIGHT OF WAY AND EASEMENT GRANTED TO EL PASO COUNTY TELEPHONE COMPANY IN INSTRUMENT RECORDED MAY 17, 1971 IN BOOK 2408 AT PAGE 849. (NOT PLOTTABLE)
 10. THE PROPERTY IS SUBJECT TO A RIGHT OF WAY AND EASEMENT GRANTED TO EL PASO COUNTY TELEPHONE COMPANY IN INSTRUMENT RECORDED NOVEMBER 24, 2003 AT RECEPTION NO. 203274858. (AS SHOWN HEREON)
 11. THE PROPERTY IS SUBJECT TO A RIGHT OF WAY AND EASEMENT GRANTED TO MOUNTAIN VIEW ELECTRIC ASSOCIATION, INC. IN INSTRUMENT RECORDED FEBRUARY 9, 2004 AT RECEPTION NO. 204022897. (AS SHOWN HEREON)
- 3). ALL LINEAL UNITS DEPICTED ON THIS ALTA/NSPS LAND TITLE SURVEY ARE U.S. SURVEY FEET.

LEGEND:

- △ SURVEY CONTROL POINT
- ⊙ SET 3/4" REBAR AND 2-1/2" ALUMINUM CAP STAMPED AS SHOWN
- ⊙ FOUND REBAR AND 2" ALUMINUM CAP STAMPED "PLS 10384"
- ⊙ FOUND REBAR AND 3-1/4" ALUMINUM CAP STAMPED "JR ENG PLS 10377"
- ⊙ FOUND AS SHOWN (1/4 CORNER)
- ⊙ FOUND AS SHOWN (SECTION CORNER)
- ⊙ POWER/UTILITY POLE
- ⊙ ELECTRIC METER
- ⊙ TELEPHONE PEDESTAL
- ⊙ WELL PIT
- ⊙ HOSE HOOKUP
- ⊙ SEPTIC LID
- ⊙ WELL
- ⊙ MAILBOX
- X— BARBED WIRE FENCE
- G— UNDERGROUND GAS
- O— OVERHEAD ELECTRIC / O.H. UTILITY LINE
- ASPHALT
- GRAVEL
- 6090 CONTOUR ELEVATION
- 6090 DETERMINED BASE FLOOD ELEVATIONS (FROM THE FIRM MAP)

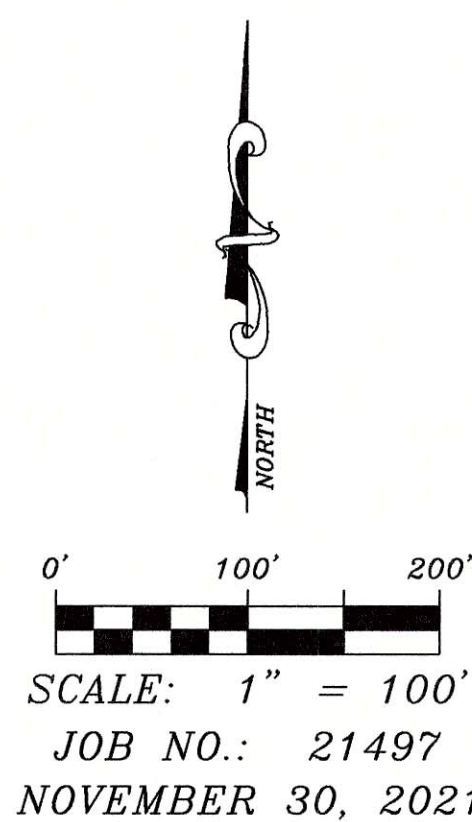
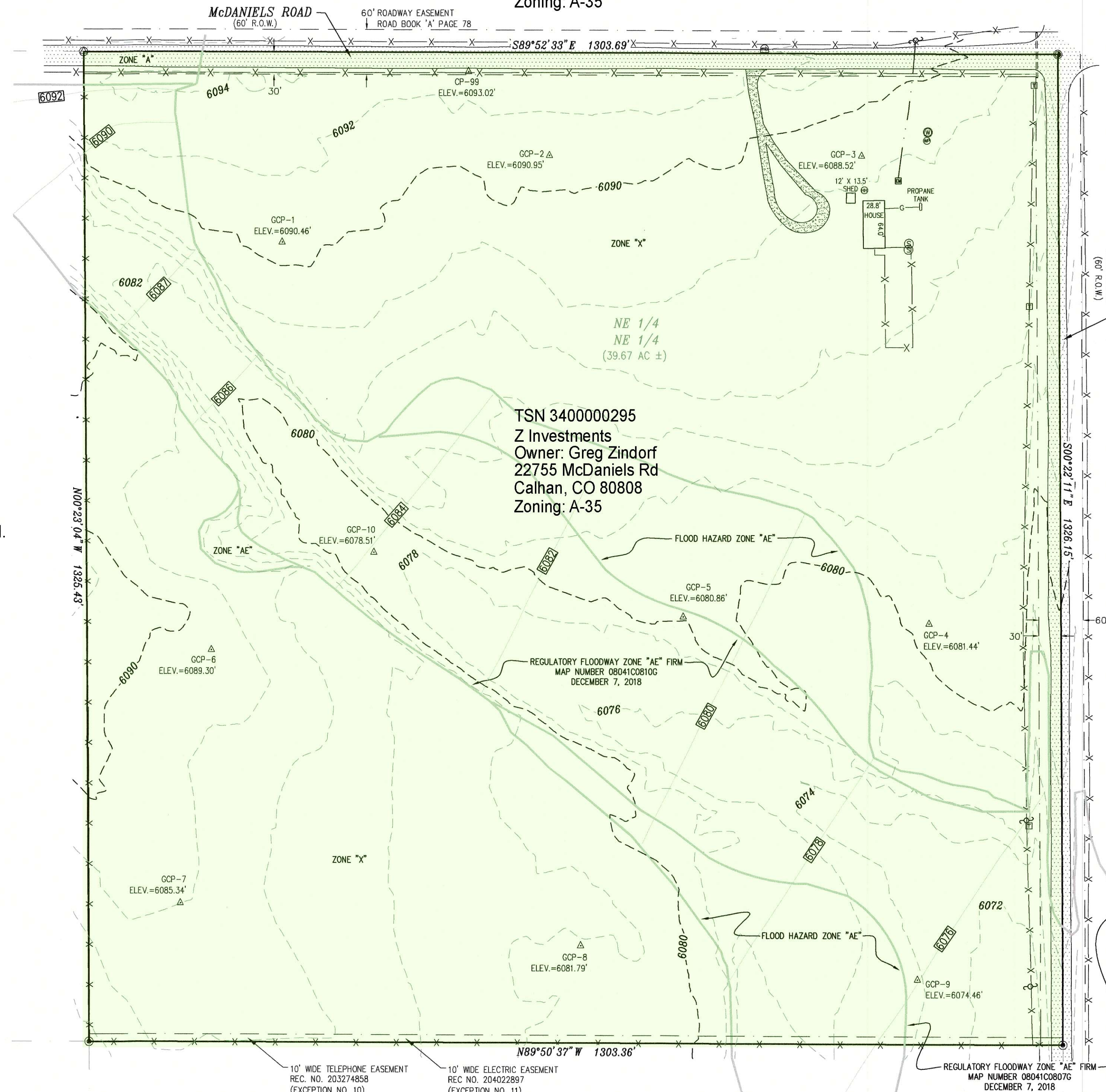
TSN 340000328
 Dennis L. Hughes
 22545 McDaniels Rd.
 Calhan, CO 80808
 Zoning: A-35

TSN 340000295
 Z Investments
 Owner: Greg Zindorf
 22755 McDaniels Rd
 Calhan, CO 80808
 Zoning: A-35

TSN 340000377
 Lee Wol Son
 1857 N. Circle Dr.
 Colorado Springs, CO 80909
 Zoning: A-35

TSN 340000329
 Jason Plumley
 1210 N. Log Rd
 Calhan, CO 80808
 Zoning: A-35

TSN 341200023
 Bobby Stull
 1215 Log Rd.
 Calhan, CO 80808
 Zoning: A-35



This Zoning Map was prepared by Ed Morgan of William Guman and Associates, Ltd.
 No mineral rights claims exist on this property.
 The petitioner is Greg Zindorf for Z Investments LLC, P.O. Box 50005, Colorado Springs, CO 80949.
 Alternative address: 209 South 21st Street, Colorado Springs, CO 80904.



William Guman & Associates, Ltd.

Bill Guman, RLA, ASLA | Principal

Colorado Springs City Councilman 1993-2001
Colorado Springs Planning Commissioner 1992-1993
Regional Building Commissioner 1997-2001

URBAN PLANNING | COMMUNITY DESIGN | LANDSCAPE ARCHITECTURE | ENTITLEMENT

731 North Weber Street, Suite 10 | Colorado Springs, CO 80903 | (719) 633-97

<http://www.gumanitd.com/>

MEMBERS AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS



EL PASO COUNTY

LETTER OF INTENT FOR: 2275 McDANIELS ROAD MINOR SUBDIVISION

TSN # 340000295 REZONE FROM A-35 TO RR-5

PCD FILE NUMBER P-22-006

OWNER/APPLICANT, AND PLANNING CONSULTANT:

Owner/Applicant:

Z Investments, LLC
Greg Zindorf
209 S 21 Street
Colorado Springs, CO 80904
(719) 332-0599

Planner:

William Guman & Associates, Ltd.
Bill Guman, RLA/ASLA
731 North Weber Street, Suite 10
Colorado Springs, CO 80903
(719) 633-9700

El Paso County Planner:

Ryan Howser, AICP, Planner II
El Paso County Development Services
2880 International Circle
Colorado Springs, CO 80910
(719) 520-6049

PROJECT LOCATION/DESCRIPTION AND HISTORY OF PROPERTY:

The 2275 McDaniels Road property for this Final Plat application is located in El Paso County in Peyton, CO, approximately 22 miles east of downtown Colorado Springs, situated west of North Log Road and south of McDaniels Road. The site is bordered by McDaniels Road to the north. It

is approximately 700 feet west of North Log Road, 1 mile west of North Ellicott Highway and 1 mile north of state highway 94.

The site is located in the UESPA Level III Ecoregion: 26 Southwestern Tablelands, Level IV Ecoregion: 26j Foothill Grasslands (Chapman et al, 2006), which is primarily comprised of sub-humid grassland and semiarid rangeland. More specifically, the site is located in the Foothills Grassland sub-region (26j) which is known to contain a mix of grassland types with some small areas of isolated tallgrass prairie species that are more common much farther east. More loamy, gravelly, and deeper soils are able to support more tallgrass and midgrass species than neighboring short-grass ecoregions. Big and little bluestem, yellow indiagrass and switchgrass are known to occur in this ecoregion, along with foothill grassland communities. The annual precipitation of 14 to 20 inches tends to be greater than in regions farther east. Soils are loamy, gravelly, moderately deep, and mesic. Rangeland and pasture uses are common. Urban and suburban development has increased in recent years, expanding out from Colorado Springs.

The CNHP Survey of Critical Biological Resources, El Paso County, Colorado (CNHP, 2001a), Ecoregions of El Paso County figure illustrates that the site is situated within the Central Shortgrass Prairie ecoregion and states that this ecoregion is “characterized by rolling plains and tablelands dissected by streams, canyons, badlands, and buttes and dominated by shortgrass, midgrass, and sand-sage prairie. Small patches of remnant tallgrass prairie occur along the base of the foothills and in other areas where the soils and moisture regime are appropriate.”

The CNHP Potential Conservation Areas in El Paso County reference report does not place the Site within a Potential Conservation Area (PCA). The closest PCAs to the site are the Schriever Playas approximately 6.5 miles to the southwest, overlapping the northwest corner of Schriever Air Force Base and Signal Rock Sandhills approximately 5.25 miles to the southeast. Both of these PCAs are rated as a “B2: Very High Biodiversity Significance”.

The site is generally characterized as gently sloping from northwest to the southeast. Site topography ranges from a high elevation of approximately 6090 feet above mean sea level (AMSL) in the northwestern corner to a low elevation of approximately 6070 feet in the southeast corner.

USGS mapping show an intermittent creek that drains the site in a southeasterly direction. This tributary appears to be primarily a sandy wash with several upland breaks prior its confluence with Black Squirrel Creek farther southeast and offsite. Aerial imagery and on-site observations indicate that this drainage is not an intermittent creek and is better characterized as an ephemeral (precipitation driven) swale. During high precipitation events, portions of this ephemeral swale are likely tributary to Black Squirrel Creek, a perennial stream that flows into Chico Creek and on to the Arkansas River.

According to the environmental impact study authored by Ecosystem Services, a single feature with wetland potential was identified via the Colorado Wetland Inventory Mapping Tool. This was the aforementioned ephemeral swale. Pursuant to this potential finding, an onsite investigation was undertaken.

The ephemeral swale was analyzed at the site, and the seasonally-flooded feature does not meet the criteria to establish it as a wetland. It is isolated and with no defined or continuous surface connection to downstream traditional navigable waters (TNWs) or relatively permanent waters (RPWs).

Ephemeral Drainage: This seasonally-flooded, ephemeral swale does not meet any of the 3 parameters to be considered jurisdictional wetland habitat. It does not meet indicators of hydric soil, wetland vegetation or sustaining hydrology. The soils logs taken along the length of the swale (refer to Figure 7) all indicate well-drained to excessively well-drained sand, gravelly sand and gravelly sandy loam with matrix chroma of 10YR4/2, 6/2 and 6/3 and no mottling or concretions. While riparian-wetland vegetation is present in two isolated patches, this swale supports a 12 greater prevalence of upland, mixed-grass prairie vegetation. Hydrology is obviously precipitation- and seasonally-driven and is insufficient to sustain persistent wetland habitat throughout this excessively well-drained swale.

The swale drains through a culvert under McDaniels Road immediately west of the Site prior to entering the northwestern Site corner. Thereafter, the upper 2/3 of the drainage is well-defined by historic banks until the lower 1/3 becomes nebulous, spreads out into a sandy wash (refer to Figure 7). Even within the upper, defined reach there is no evidence of a low-flow channel, drainage patterns or other field indicators of persistent hydrology. The continuity of this swale downstream is interrupted in several locations, including North Log Road on the southeastern Site boundary, which has no culvert to allow surface flow to pass downstream. Ecos followed this ephemeral drainage downstream to see if it had a continuous connection to Black Squirrel Creek and other WOTUS. We observed and marked several “breaks” in downstream continuity (refer to Figure 8 – WOTUS Breaks Map) where the channel loses a define bed or bank. If this swale did meet the 3 criteria to be deemed jurisdictional wetland habitat, ecos believes it would still be isolated WOTUS because of the upland breaks between the Site and the downstream receiving TNW and/or RPWs of Black Squirrel Creek, Chico Creek and the Arkansas River.

The ephemeral swale does not meet the criteria that the USACE uses to assert jurisdiction, as it does not constitute:

- Traditional navigable waters;
- Wetlands adjacent to traditional navigable waters;
- Non-navigable tributaries of traditional navigable waters that are relatively permanent where the tributaries typically flow year-round or have continuous flow at least seasonally (e.g., typically three months); and

- Wetlands that directly abut such tributaries.

Furthermore, this ephemeral swale is not considered to be jurisdictional “tributary”, as “a tributary includes natural, man-altered, or man-made water bodies that carry flow directly or indirectly into a traditional navigable waters.”

According to Federal Emergency Management Agency (FEMA), the swale which cuts across the property is considered as a special flood hazard area. According to FEMA Flood Map 08041CO81OG, the swale is a regulatory floodway, Zone AE (1% annual chance of flooding), without Base Flood Elevation (BFE). The preliminary plan recognizes and notes the floodway boundary as a no-build area. There is no intention of impact or construction within the floodway. The infrequency of flood events will likely allow the area to be used for passive recreation (e.g. hiking, horseback riding.)

Regarding protected species Ecosystem Services ran an assessment of Federal Listed Species. The site specific analysis looked at the probability of Federal Listed Species on this site. It was found that the likelihood of the site directly or indirectly (by the effects of the project) affecting a Federal Listed Species is very low to none.

- Greenback cutthroat trout – threatened status, no probability of impact by project due to no suitable habitat existing on-site.
- Pallid sturgeon – endangered, no probability of impact by project, the proposed project is not within the watershed for any of the listed river basins.
- Eastern Black Rail-threatened, no probability of impact by project, the proposed project is not within the watershed for any of the listed river basins.
- Piping plover-threatened, no probability of impact by project, the proposed project is not within the watershed for any of the listed river basins.
- Whooping crane-endangered, no probability of impact by project, the proposed project is not within the watershed for any of the listed river basins.
- Preble’s meadow jumping mouse-threatened, no probability of impact by project due to no suitable habitat existing on-site.
- Ute ladies tresses orchid-threatened, very low probability of impact as the site does not support the quality of palustrine emergent wetland habitat in which this species is found (i.e., the sustaining hydrology is absent). However, surveys in the 2 isolated riparian wetland patches within the ephemeral swale should be implemented during the blooming period if and only if these areas will be subject to disturbance during the subdivision process.
- Western prairie fringed orchid-threatened, no probability of impact by project as it will not alter or deplete flows to the South Platte.

According to the 2021 Your El Paso County Master Plan, the Placetype of this development is “Rural”. 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 covers 35 acres or more per two units with the minimum lot area consisting of 5 acres per unit. This Rural Placetype covers most of the eastern half of the county.

The applicant proposes to develop the site as four (4) new lots. A single-family detached residential dwelling unit that recognizes and respects the character of the surrounding rural area will be provided on each. The total acreage of the proposed 22755 McDaniels Road development is approximately forty (40) acres.

Infrastructure to serve the new lots, including driveways, drainage improvements, and utilities will all be constructed in compliance with applicable county standards, regulations and criteria in effect at the time of this application. This is in keeping with the rural character of the surrounding Calhan, Ellicott and Falcon communities.

Surrounding properties are rural, single family homesites and farm homesteads. Land use within these properties has traditionally been used as ranchland, with some farming. Two parcels one half mile to the east are A-5 zoning with single family homes on the property, an exception to the general A-35 zoning predominant in the area.

DEVELOPMENT REQUEST

The Owner and Applicant request approval of a Final Plat for the development of 4 rural residential single family residential lots on approximately 40 acres (e.g. .1 DU/Acre density).

TOTAL NUMBER OF ACRES IN THE PRELIMINARY PLAN AREA: 40 acres single family residential.

TOTAL NUMBER OF ACRES WITHIN THIS APPLICATION: 40 acres.

JUSTIFICATION FOR REQUEST

This request is consistent with the purposes of the Your El Paso Master Plan. The Preliminary Plan is in conformance with subdivision design standards and establishes an adequate level of compatibility with surrounding areas of the site already constructed and other known surrounding areas currently proposed for development.

EXISTING AND PROPOSED IMPROVEMENTS

Proposed improvements will include the construction of drainage and storm water detention facilities will be constructed and maintained in conformance with County standards and specifications. Electric and telecommunication service points-of-connection will be extended from the roadways up 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 via wells. Individual septic systems will be provided via an On Site Wastewater Treatment system (OSWT) prepared by the Owner in accordance with El Paso County Department of Health policy guidelines.

Grading and earthmoving activities will be limited to residential driveways, drainage and utility construction areas. Individual lot owners will assume responsibility for grading their respective lot; no 'overlot' grading is proposed to occur over most of the site.

As such, prior to construction of proposed residences, lot-specific subsurface soil investigations will be performed to determine whether or not shallow groundwater, hydro-compacted soils, and/or potentially expansive soils are present on the lot, and to determine an appropriate foundation design, basement or crawl-space suitability, and/or lot-specific recommendations are necessary to mitigate these conditions. Language requiring lot-specific subsurface soil investigation will appear as a Note on the Final Plat.

As stated previously, the preliminary plan recognizes and notes the floodway boundary as a no-build area. FEMA considers the swale which cuts across the property as a special flood hazard area, Zone AE, with a 1% annual chance of flooding. There is no intention of impact or construction within the floodway. The infrequency of flood events will likely allow the area to be used for passive recreation (e.g. hiking, horseback riding) by the property owners.

ADHERENCE WITH THE 2021 YOUR EL PASO MASTER PLAN, AND WATER MASTER PLAN

Land Use & Development, Core Principle: Manage growth to ensure a variety of compatible land uses that preserve all character areas of the County.

The 2021 Your El Paso Master Plan (the "Master Plan") addresses issues directly related to the Preliminary Plan and development of the *22755 McDaniels Road* development. The policies specifically related to the Preliminary Plan request include:

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

The Preliminary Plan proposed for the new single family rural residential lots is compatible with the existing adjacent rural residential lots in the McDaniels Road corridor. New lots will be similar in character to existing lots and roads serving the new lots will be compatible with the types of rural roadways in nearby adjacent neighborhoods.

Goal 1.4 – *Continue to encourage policies that ensure "development pays for itself"*.

22755 McDaniels Road is proposed as a development of single family rural residences within a non-urban density area (Rural Placetype) of the Elbert community. Utilities and road

infrastructure needed to serve the new lots, such as new roads, drainage and detention facilities, erosion control, etc. will be constructed as part of this development.

Housing & Communities, Core Principle: Preserve and develop neighborhoods with a mix of housing types.

Goal 2.2 – *Preserve the character of rural and environmentally sensitive areas.*

The Preliminary Plan with RR-5 zoning for the site is harmonious and compatible with the rural character of adjacent and nearby neighborhoods that are zoned A-35, and A-5. The Applicant proposes to avoid overlot grading across the 40 acre site, and instead will limit grading to driveways and drainage infrastructure in keeping with the established land use character of surrounding sub-areas of the county. Low density will help to sustain the appearance and unique environmental conditions of adjacent properties.

Transportation & Mobility, Core Principle: Connect all areas of the County with a safe and efficient multimodal transportation system.

Goal 4.1-*Establish a transportation network that connects all areas to one another, emphasizing east-west routes, reducing traffic congestion, promoting safe and efficient travel.*

The design of this subdivision will relocate the existing home's driveway to the east of its existing access point. While this will maintain its access from McDaniels Road, the slight shift east will allow the development of four equally sized lots for the residents. *No access is sought from Log Road.* The three (3) proposed residences will have driveways off McDaniels Road for access.

Per the El Paso County Engineering Criteria Manual, appendix B.1.2.D, no Traffic Impact Study (TIS) is required if all of the criteria below are satisfied:

- Vehicular Traffic: (1) Daily vehicle trip-end generation is less than 100 or the peak hour trip generation is less than 10; (2) there are no additional proposed minor or major roadway intersections on major collectors, arterials, or State Highways; (3) the increase in the number of vehicular trips does not exceed the existing trip generation by more than 10 peak hour trips or 100 daily trip ends; (4) the change in the type of traffic to be generated (i.e., the addition of truck traffic) does not adversely affect the traffic currently planned for and accommodated within, and adjacent to, the property; (5) acceptable LOS on the adjacent public roadways, accesses, and intersections will be maintained; (6) no roadway or intersection in the immediate vicinity has a history of safety or accident problems; and (7) there is no change of land use with access to a State Highway.

- Pedestrian Traffic: Paved pedestrian facilities exist or will be constructed on, or adjacent to, the site; or, the proposed use will not generate any new pedestrian traffic.

With the above criteria in mind, the addition of three new homesites fall below the threshold to generate a TIS.

County Road Impact Fees will be paid at time of building permit.

Community Facilities & Infrastructure, Core Principle: Continue to coordinate with local and regional agencies to provide well-managed, high-quality community facilities and services.

Goal 5.3 – Ensure adequate provision of utilities to manage growth and development.

Concerning utilities, 22755 McDaniels Road has been provided a commitment letter for delivery of electrical service by Mountain View Electrical Association. Individual propane tanks will provide natural gas to the homes. On-site wells will provide water. Wastewater will be accommodated by individual on-site wastewater treatment systems. Based upon evaluation by our environmental and geotechnical engineers, it has been determined that the site is suitable for individual on-site wastewater treatment systems without contamination of surface and subsurface water systems.

Goal 5.4-Use best management practices to protect water quality, conserve water, minimize impacts of flooding, and beautify El Paso County.

The submitted drainage report specifically details a four step process to minimize adverse impacts of development. The process includes reducing runoff volume, stabilizing drainageways, treating the water quality capture volume (WQCV), and consider the need for best management practices (BMPs). A grading and erosion control plan and a stormwater management report have been submitted with the FDR.

As stated previously, the preliminary plan recognizes and notes the floodway boundary as a no-build area. FEMA considers the swale which cuts across the property as a special flood hazard area, Zone AE, with a 1% annual chance of flooding. There is no intention of impact or construction within the floodway. The infrequency of flood events will likely allow the area to be used for passive recreation (e.g. hiking, horseback riding) by the property owners.

Per Section 8.4.2. of the El Paso County Land Development Code, Environmental Considerations subsection (B)(1) (b) Minimize Flood Damage, Divisions of land shall be designed and constructed to minimize potential flood damage to properties and public utilities and facilities such as sewer, gas, electrical, and water systems. Development in the floodplain shall be limited to uses compatible with the flood hazard and shall specifically exclude residential uses, sewage and water treatment plants, commercial shopping areas,

and industrial sites. All residences on the lot layout are outside of the floodplain, and the plan specifies the area as a “no-build” area. The area will be used for light recreation by the residents.

Per 8.4.2. (B)(1)(d) Lots Greater than 2.5 Acres in Size. Lots 2.5 acres and larger are required to provide drainage easements for the 100-year floodplain with the restriction of "No Build" and "No Storage of Materials". As mentioned prior, the plan designates the area as “no-build” on our plans. Drainage easement shall be provided for this area.

Environment & Natural Resources, Core Principle: Prioritize and protect the County’s natural environment.

Goal 9.2- *Promote sustainable best practices with regard to development and infrastructure.*

The surrounding area of the Preliminary Plan has sufficient carrying capacity to support the new development with regard to roadway capacity, water supply, septic suitability, educational facilities, and organized structural fire protection. Commitment Letters from entities that would supply this development with essential services have been submitted with this Preliminary Plan application.

The Preliminary Plan design, which includes 9.7 acre home sites, ensures that development of this site will remain compatible and contiguous with existing rural residential areas. With a density of .1 DU/Ac, 22755 McDaniels Road is compatible with numerous other subdivisions adjacent to and within a 2 mile radius of the property.

WATER DEPENDABILITY

The following information was provided by request of El Paso County per the El Paso County Water Master Plan, Chapter 7, Implementation:

A water resources report and water supply information summary have been provided to the County for this development.

The water resource report provides data for the Planning Commission and the Board of County Commissioners (BoCC) to determine whether the proposed water supply is sufficient in terms of quality, quantity and dependability for the proposed subdivision. The report includes adequate documentation that the proposed water supply is sufficient in terms of quantity, dependability and quality for the proposed subdivision.

Gas service:

Gas service will be provided by individual propane tanks adjacent to residences.

Water Service:

Water shall be provided via four on-site wells.

The on-site existing well case number is 227502 Arapahoe (existing – serves existing residence). The designated basin is the Upper Black Squirrel within the Upper Black Squirrel Management District. The water source on-site originates from the Upper Arapahoe (NNT) and Laramie-Fox Hills (NNT).

- The Upper Arapahoe provides a total appropriated volume of 578 acre feet, with a 100 year annual appropriation of 5.78 acre feet per year. The 300 year annual appropriation is 1.93 acre feet per year.
- The Laramie-Fox Hills provides a total appropriated volume of 1176 acre feet, with a 100 year annual appropriation of 11.76 acre feet per year. The 300 year annual appropriation is 3.92 acre feet per year.

Based on the 300 year annual appropriation:

Water Supply and Demand Summary

LOTS	Total Supply (AF/Year)	Total Demand (AF/Year)
4	5.85	1.34

Water Quality:

The water quality in the Arapahoe aquifer in this area has been typically suitable for residential potable use. Water samples were obtained from the existing well (well permit #227502) constructed via an exterior water tap serving the existing residence (22755 McDaniels Road). Water samples were obtained from this tap on July 16th 2021, with the water quality testing performed by Colorado Analytical Laboratories and ACZ Laboratories, per the El Paso County Land Development Code section 8.4.7(B). Final results from this water quality testing were received on August 26th, 2021. All results were found to be below primary and secondary Maximum Contaminant Limits (MCLs).

Because of the absence of any and all evidence of fecal contamination in the form of *E. Coli* or Total Coliform, or that all sampled and analyzed constituents were below all primary and secondary standards the proposed water source emanating from the Arapahoe Aquifer is deemed safe for public consumption.

END

TSN 340000280
 Lowell Lambrecht
 22550 McDaniels Rd.
 Calhan, CO 80808
 Zoning: A-35

TSN 340000237
 Robinson Family Living Trust
 1550 N. Log Rd.
 Calhan, CO 80808
 Zoning: A-35

TSN 340000187
 Ora Owen Wheeler Jr.
 16215 E. McCara Ct.
 Peyton, CO 80831
 Zoning: A-35

LEGAL DESCRIPTION:

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., COUNTY EL PASO, STATE OF COLORADO.

SAID TRACT CONTAINS 39.67 ACRES OF LAND, MORE OR LESS.

PROJECT BENCHMARK: CONTROL POINTS AS SHOWN HEREON. ALL ELEVATIONS ARE DERIVED UPON AN OPUS SOLUTION ON SURVEY CONTROL POINT BASE 99 ELEV.=6093.02' NAVD88 VERTICAL DATUM.

ALL LINEAL UNITS DEPICTED ON THIS ALTA/NSPS LAND TITLE SURVEY ARE U.S. SURVEY FEET.

TSN 341200022
 Rodney J. Fannin
 23155 McDaniels Rd.
 Calhan, CO 80808
 Zoning: A-35

NOTES:

- 1). ALL BEARINGS USED HEREIN ARE BASED UPON AN ASSUMED BEARING OF N00°22'53"W, A DISTANCE OF 2652.44 FEET BETWEEN THE SOUTHEAST CORNER OF SECTION 11, TOWNSHIP 14 SOUTH, RANGE 63 WEST OF THE 6th P.M., AS MONUMENTED BY A 3/4" SQUARE IRON PIN IN A RANGE BOX AND THE NORTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 11, AS MONUMENTED BY A 2-1/2" ALUMINUM CAP STAMPED "PLS 10384".
- 2). THIS PLAT DOES NOT CONSTITUTE A TITLE SEARCH BY RAMPART SURVEYS FOR EITHER OWNERSHIP OR EASEMENTS OF RECORD. FOR EASEMENTS OF RECORD SHOWN HEREON, RAMPART SURVEYS RELIED ON AN ALTA COMMITMENT ISSUED BY STEWART TITLE GUARANTY COMPANY, COMMITMENT NUMBER: 204165 AMENDED NO. 3 (COMMITMENT DATE: DECEMBER 23, 2020 AT 8:00 A.M.) AS PROVIDED TO RAMPART SURVEYS BY THE CLIENT, FOR ALL MATTERS OF RECORD. NO OTHER EASEMENTS OF RECORD ARE SHOWN EXCEPT AS FOUND THEREIN. THE NUMBERS USED BELOW CORRESPOND WITH THE NUMBERS USED ON SCHEDULE B, PART II EXCEPTIONS IN THE ABOVE REFERENCED COMMITMENT:
- 3). ALL LINEAL UNITS DEPICTED ON THIS ALTA/NSPS LAND TITLE SURVEY ARE U.S. SURVEY FEET.

LEGEND:

- △ SURVEY CONTROL POINT
- ⊙ SET 3/4" REBAR AND 2-1/2" ALUMINUM CAP STAMPED AS SHOWN
- ⊙ FOUND REBAR AND 2" ALUMINUM CAP STAMPED "PLS 10384"
- ⊙ FOUND REBAR AND 3-1/4" ALUMINUM CAP STAMPED "JR ENG PLS 10377"
- ⊙ FOUND AS SHOWN (1/4 CORNER)
- ⊙ FOUND AS SHOWN (SECTION CORNER)
- ⊙ POWER/UTILITY POLE
- ⊙ ELECTRIC METER
- ⊙ TELEPHONE PEDESTAL
- ⊙ WELL PIT
- ⊙ HOSE HOOKUP
- ⊙ SEPTIC LID
- ⊙ WELL
- ⊙ MAILBOX
- X— BARBED WIRE FENCE
- G— UNDERGROUND GAS
- O— OVERHEAD ELECTRIC / O.H. UTILITY LINE
- ASPHALT
- GRAVEL
- 6090 CONTOUR ELEVATION
- 6090 DETERMINED BASE FLOOD ELEVATIONS (FROM THE FIRM MAP)

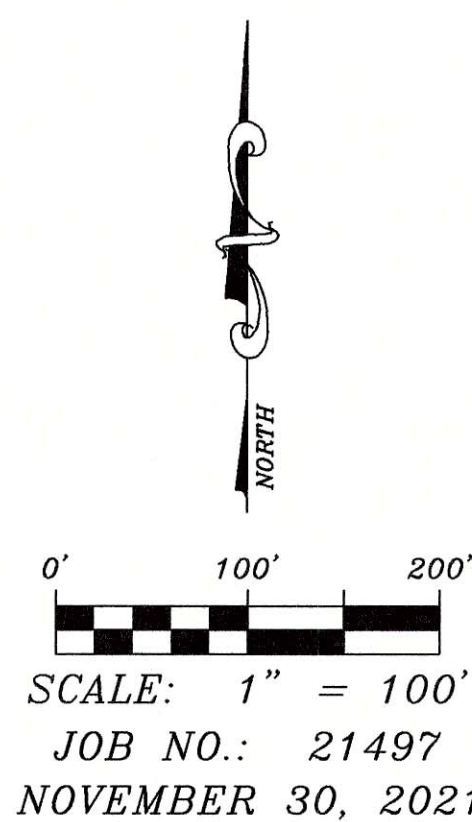
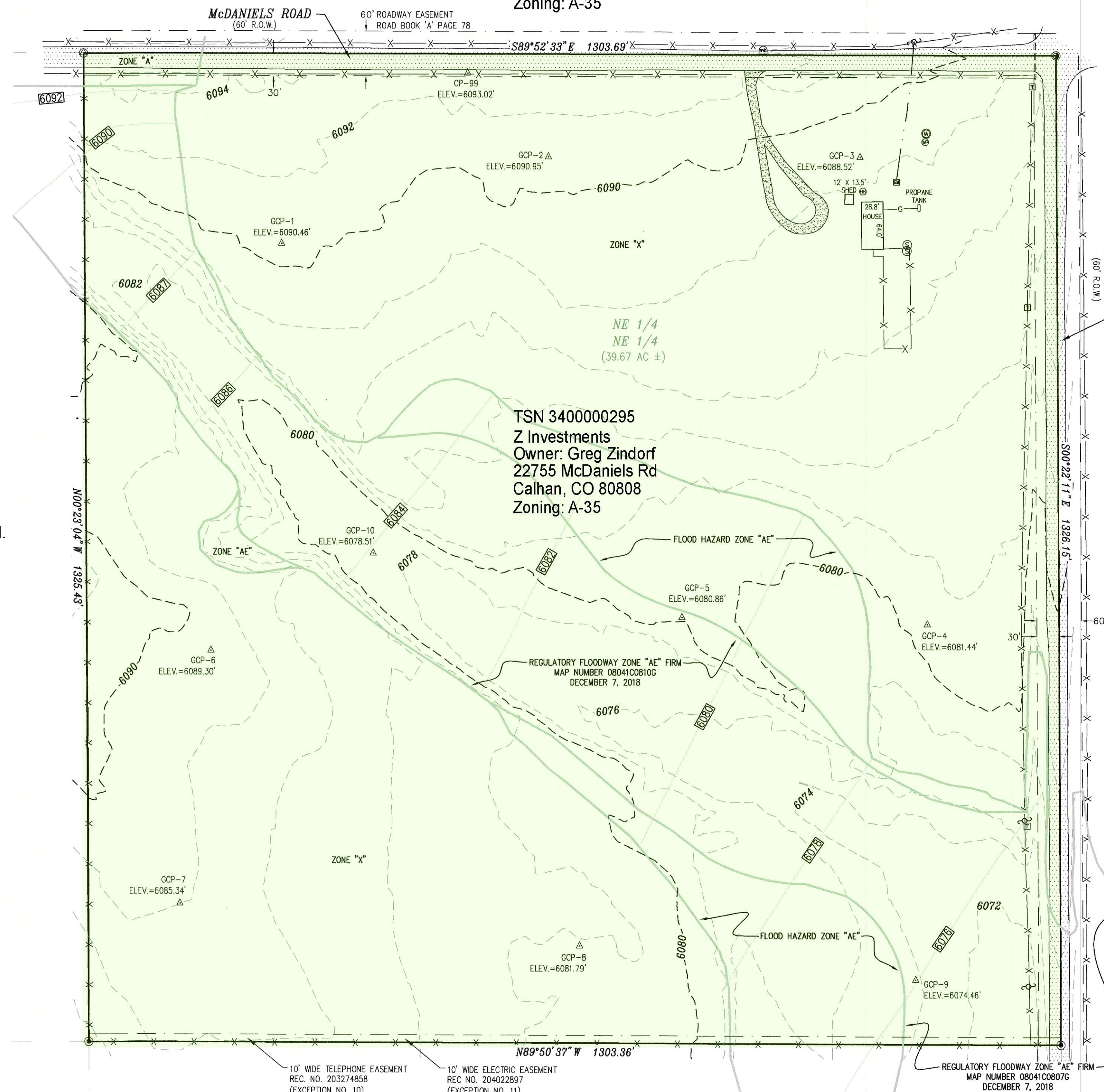
TSN 340000328
 Dennis L. Hughes
 22545 McDaniels Rd.
 Calhan, CO 80808
 Zoning: A-35

TSN 340000295
 Z Investments
 Owner: Greg Zindorf
 22755 McDaniels Rd
 Calhan, CO 80808
 Zoning: A-35

TSN 340000377
 Lee Wol Son
 1857 N. Circle Dr.
 Colorado Springs, CO 80909
 Zoning: A-35

TSN 340000329
 Jason Plumley
 1210 N. Log Rd
 Calhan, CO 80808
 Zoning: A-35

TSN 341200023
 Bobby Stull
 1215 Log Rd.
 Calhan, CO 80808
 Zoning: A-35



This Zoning Map was prepared by Ed Morgan of William Guman and Associates, Ltd.
 No mineral rights claims exist on this property.
 The petitioner is Greg Zindorf for Z Investments LLC, P.O. Box 50005, Colorado Springs, CO 80949.
 Alternative address: 209 South 21st Street, Colorado Springs, CO 80904.

Kevin Mastin, Interim Executive Director
El Paso County Planning & Community Development
O: 719-520-6300
KevinMastin@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

Planning Commission Meeting
Thursday, November 3rd, 2022
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: BRIAN RISLEY, TOM BAILEY, JAY CARLSON, TIM TROWBRIDGE, BECKY FULLER, BRANDY MERRIAM (ABSENT FROM VOTING ON ITEM 4C), AND CHRISTOPHER WHITNEY (RECUSED FROM ITEM 4C), BRIAN SCHUETTPELZ, SARAH BRITTAIN JACK (ADDED BEGINNING WITH ITEM 4C).

PC MEMBERS VIRTUAL AND VOTING: ERIC MORAES (ADDED BEGINNING WITH ITEM 4A).

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: JOSHUA PATTERSON, JOAN LUCIA-TREESE.

STAFF PRESENT: KEVIN MASTIN, JUSTIN KILGORE, KARI PARSONS, GILBERT LAFORCE, RYAN HOWSER, CARLOS HERNANDEZ MARTINEZ, KYLIE BAGLEY, ED SCHOENHEIT, PETRA RANGEL, MIRANDA BENSON, AND EL PASO COUNTY ATTORNEY LORI SEAGO.

OTHERS PRESENT AND SPEAKING: SEE ATTACHED SIGN-IN SHEETS, EXHIBIT A.

1. REPORT ITEMS

A. Planning Department: Next scheduled Planning Commission hearing is 11/17/2022.

DISCUSSION

Mr. Mastin stated he would like to implement a program to help the public understand the PCD process. His comments are based off the 300+ emails received over the last week of cut and paste information provided by one or two individuals. He stated he is not an elected official; He is an employee of El Paso County. He cannot deny a project. He does not have that authority, and neither does anyone on his team. The process begins with an Early Assistance meeting, where PCD asks for documents to support what the applicant is doing. PCD attempts to guide them through the application process. PCD does not choose sides. PCD does not represent the applicant. PCD does not represent anyone from the public who is either for or against a project, regardless of what has been socialized over the past week and a half. In the staff report, there is a document that says, "Recommend Approval". That is a template; It is a blank document

included for every project. Contrary to what has been socialized, nobody at PCD has recommended approval for anything. There is no document that says, "Recommend Disapproval" in the staff report because if there is a recommendation for disapproval from the PC, PCD needs to know the exact reasons *why*, and the document is drafted to capture that information. Contrary to what has been socialized, this PC has no authority to deny or stop a project. The members of this commission are here on their own time to represent the citizens of this county, to review applications, and provide recommendations to BOCC so *they* can decide if a project is approved or disapproved. The PC's recommendation is based upon information provided by the applicant, based upon the comments of both those who support and oppose a project. Mr. Mastin gave a sincere "thank you" to the members of the public who took the time to reach out to discuss this process and how they can best represent their views when they attended this meeting. He stated that filling his and Mr. Howser's inbox with over 300 emails was not an appropriate way to express how the opposition feels, especially when most of those emails were cut and paste with no address or salutation. He thanked those who took the time to *actually* write an email with their concerns because PCD knows how they individually feel. It is important to everyone at PCD that they do the best job they can with the resources they have available. Profanity, derogatory comments, insinuations of illegal activity, or accusations that PCD staff has accepted bribery will not be tolerated and is unacceptable. It violates their core values; It violates what PCD does every day to represent the citizens. He stated, "I will not tolerate anybody who tries to defame or make derogatory comments about anyone who works for me, and when I say, 'works for me', I mean works with me. This is my team, and I will protect my team. They are doing the best they can every single day, and I will not tolerate what I have had to deal with in this last week."

Mr. Kilgore advised the Board that members of the public would like to speak regarding item 2C. Staff is requesting a date-certain continuance to December 1st, 2022, for item 4A.

Ms. Merriam asked if item 2C was being moved from consent to regular?

Mr. Risley explained that when it is time to address item 2C in the agenda, he will ask if any member of the public would like the item to be called as a regular item, and it will be pulled at that time.

Ms. Seago reminded the Board that item 3 on the agenda is specifically to address called-up consent items.

B. Call for public comment for items not on agenda. None.

2. CONSENT ITEMS

A. Adoption of Minutes – October 20th, 2022

DISCUSSION

Mr. Trowbridge pointed out that regarding item AL-19-018, the minutes do not note that there was first a motion to deny that failed. It was also noted that on the vote to approve, it was not noted which board members voted "no" and why.

PC ACTION: THE PC MINUTES FROM REGULAR PC HEARING HELD OCTOBER 20th, 2022, WERE APPROVED WITH TWO MODIFICATIONS BY UNANIMOUS CONSENT. (8-0)

B. MS-22-004

BAGLEY

**MINOR SUBDIVISION
BOYD MINOR SUBDIVISION**

A request by David Gorman for approval of a minor subdivision to create three (3) single-family residential lots. The 35.88-acre property is zoned RR-5 (Residential Rural) and is located directly southeast of the intersection of Brown Road and Running Horse View and approximately two miles north of the intersection of Thompson Road and Hodgen Road and within Section 7, Township 11 South, Range 65 West of the 6th P.M. Parcel No. (51000-00-433) (Commissioner District No. 1).

Mr. Risley asked if any members of the Board would like them pulled to be heard as a regular item? There were none. Asked if any audience members would like the item pulled? There were none. Asked if any members of the Board had questions for staff? There were none.

PC ACTION: TROWBRIDGE MOVED / MERRIAM SECONDED FOR APPROVAL OF CONSENT ITEM NUMBER 2B, MS-22-004 FOR APPROVAL OF A MINOR SUBDIVISION, BOYD MINOR SUBDIVISION, UTILIZING THE APPROVAL ATTACHED TO THE STAFF REPORT, WITH ONE (1) WAIVER, THIRTEEN (13) CONDITIONS, TWO (2) NOTATIONS, AND A RECOMMENDED FINDING OF WATER SUFFICIENCY WITH REGARD TO QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (8-0).

3. CALLED UP CONSENT ITEMS

(2C.) P-22-006

BAGLEY

**MAP AMENDMENT (REZONE)
MCDANIELS REZONE**

A request by William Guman and Associates for approval of a map amendment (rezoning) from A-35 (Agricultural) to RR-5 (Residential Rural). The 40-acre property is located directly southwest of the intersection of McDaniels Road and North Log Road and within Section 11, Township 14 South, Range 63 West of the 6th P.M. (Parcel No.34000-00-295) (Commissioner District No. 4).

STAFF PRESENTATION. APPLICANT'S PRESENTATION.

DISCUSSION

Ms. Whitney asked how many of this type of project could be approved before it changes the overall character of the neighborhood?

Ms. Bagley replied that each application is evaluated individually.

Mr. Carlson asked if the intent to subdivide to 4 10-acre parcels becomes a requirement or if the applicant could change their mind?

Ms. Bagley replied that the applicant *could* change their mind but noted there is not an application for minor subdivision submitted at this time.

Mr. Bailey stated regarding the Master Plan, A-35 and RR-5 are compatible and somewhat similar. He stated there's not that much different in the context of the Master Plan between the two zoning types

even when the *use* is different. To rezone from one to the other is consistent with the Master Plan. He wanted to point out to the audience that the applicant, the landowner in this case, is called the developer. He stated “big, mean, evil developers” are sometimes single individuals like your grandparents or your mother.

Mr. Morgan speaking on behalf of the applicant, stated they are only pursuing 4 lots and referenced the creek running through the lot as reasoning.

Mr. Lambrecht lives directly across from the proposed project. He is opposed to the rezone. He is surrounded by 40-acre tracts and lives there for that reason. Three 40-acre lots were recently sold in the area, and he is worried that if this rezone is approved, those lots could also be rezoned, and he would then be living in the suburbs. He is concerned about the lack of water and privacy.

Ms. Fuller requested the approval criteria be displayed.

Citizen stated she moved out of the city after it got congested. Everyone who lives there now has livestock. If this rezoning is approved, it opens the door for further development. There are currently 67,000 wells in El Paso County. She asked that you imagine a straw for every well. The proposed project will add 4 more straws and will also require septic systems. All landowners in the area have 40-acre tracts. There are adequate homes and building of affordable homes in a 10-mile radius; There are over 300 homes or places for homes. There will be 1,600 homes built at Marksheffel and Hwy 94. This rezone might not be impactful in Colorado Springs, but it impacts this specific area greatly.

Mr. Robinson lives near the proposed rezone. He stated the proposed driveways are less than 300 feet from his garage. He stated this is irresponsible growth to add wells and septic systems on these smaller parcels, regardless of what the engineers say. There are only dirt roads in this area. The dust is a concern. If this is approved, this opens the door to other developers who maximize the development to make a profit.

Ms. Earnst stated they run a small ranch in the area. She’s worried that if there are more wells drilled in the area, it will impact her water available for her cattle. The cattle are part of her livelihood. She is concerned about other people using up her well and her water. The dust is also a concern.

Mr. Morgan spoke on behalf of the applicant. He reiterated that there would only be 3 additional homes if the rezone is approved. They have a letter of recommendation from the CO Dept. of Public Health that there is sufficient water to add three homes.

Mr. Carlson does not believe the application meets at least 2 criteria of approval. He does not believe this would meet the general conformance with the Master Plan. While RR-5 is a rural place type and A-35 is already approved there, he does not believe it meets the character of the surrounding area. Staff’s report mentions that leapfrog development should be avoided, which this is doing. He disagrees with the previous comment that A-35 is similar to RR-5. There is a significant difference between 1 home on 40 acres vs. 8 homes on that 40 acres, especially when the wells and traffic are considered. He is not in favor of this zone change.

Ms. Merriam agreed with Mr. Carlson’s statement. She also stated water would be a concern. The illustration of a straw was apt, but she also wants to be respectful of landowners’ rights. Agriculture and farming should be protected.

Mr. Whitney stated he agrees with the remarks of Mr. Carlson. This property is surrounded by A-35. There is a concern of leapfrogging and spot-zoning. If there had been buffers, it may have been fine.

Mr. Bailey reminded the commission and public this is a zoning action, not a determination of whether the water will support the use. Water has no bearing on the decision made today. The approval criteria are the only subject matter to consider when making recommendation to BOCC. The Master Plan gives enough flexibility to balance change vs. individual property owners. This applicant is a single landowner. Any neighbor should have the freedom to ask to change, or do what they want, on their own property. He believes anyone who owns property should be able to do whatever they want with it within the broad limits set by the County. He disagreed that this is incompatible and does not see a concern at this point. A-35 and RR-5 can be contiguous and is not prohibited by the Master Plan. A property owner should be able to do what they want with their property, and if a “big, bad developer” decides to go to each neighbor and offer to buy their property, that’s ok.

Ms. Fuller stated she leans towards the opinion that this is leapfrog zoning. She may feel differently if there were RR-5 nearby, but there isn’t. Raising the concern of water is not persuasive at this point, and arguments brought to BOCC should focus on the criteria for approval. The Master Plan defines this area as large-lot residential, not RR-5. She stated she would not be in favor of this project.

PC ACTION NO. 1: CARLSON MOVED / MERRIAM SECONDED FOR DISAPPROVAL OF CALLED-UP CONSENT ITEM NUMBER 2C, P-22-006, FOR APPROVAL OF A MAP AMENDMENT (REZONE), MCDANIELS REZONE, BASED ON NOT MEETING CRITERIA FOR APPROVAL, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION FAILED (4-4).

IN FAVOR: CARLSON, MERRIAM, FULLER, WHITNEY

IN OPPOSITION: BAILEY, SCHUETTPELZ, TROWBRIDGE, RISLEY

COMMENT: Ms. Merriam reiterated that water is a concern but will be addressed at a different stage. Her reasoning for disapproval at this time is due to the surrounding A-35 (this rezone would not be in general compliance).

PC ACTION NO. 2: SCHUETTPELZ MOVED / BAILEY SECONDED FOR APPROVAL OF CALLED-UP CONSENT ITEM NUMBER 2C, P-22-006, FOR APPROVAL OF A MAP AMENDMENT (REZONE), MCDANIELS REZONE, UTILIZING THE APPROVAL 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 FAILED (4-4).

IN FAVOR: BAILEY, SCHUETTPELZ, TROWBRIDGE, RISLEY

IN OPPOSITION: CARLSON, MERRIAM, FULLER, WHITNEY

COMMENT: No further comment made by those who voted no.

THIS ITEM WILL BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS WITH NO RECOMMENDATION FROM THE PLANNING COMMISSION.

Mr. Moraes joined the hearing online and is designated a voting member moving forward.

4. REGULAR ITEMS

A. MP-22-001

MEYER

MASTER PLAN EPC PARKS MASTER PLAN UPDATE 2022

El Paso County Community Services Department requests adoption of the El Paso County Parks Master Plan. This Master Plan repeals and/or replaces the existing El Paso County Parks Master Plan (2013). The Master Plan area includes all land within El Paso County located outside the incorporated municipalities and includes the accompanying maps, charts, and descriptive and explanatory matter. The Master Plan is an advisory document to guide park, trail, and open space development and preservation decisions.

DISCUSSION

Ms. Parsons requested a date-certain continuance to December 1st, 2022, for this item.

PC ACTION: FULLER MOVED / TROWBRIDGE SECONDED THAT ITEM NUMBER 4A, MP-22-001, FOR APPROVAL OF THE MASTER PLAN, EPC PARKS MASTER PLAN UPDATE 2022, BE POSTPONED AND HEARD AT REGULAR PC HEARING ON DECEMBER 1ST, 2022. THE MOTION WAS APPROVED (9-0).

B. LDC-22-002

PARSONS

EL PASO COUNTY LAND DEVELOPMENT CODE AMENDMENT RM-12 (Residential Multi-Dwelling)

A request by the El Paso County Planning and Community Development Department to amend Chapters 3 and 5 of the El Paso County Land Development Code (2022) pertaining to the RM-12 (Residential Multi-Dwelling zoning district). The proposed revisions, in their entirety, are on file with the El Paso County Planning and Community Development Department. (All Commissioner Districts).

STAFF PRESENTATION. APPLICANT'S PRESENTATION.

DISCUSSION

Mr. Moraes asked when RM-12 change to allow single-family detached dwelling unit? He searched the attached resolutions for Table 5-1 but could not determine when that happened. He thinks it may have happened between December of 2017 and December of 2018?

Ms. Parsons replied that the item before the PC is to modify the LDC as it is currently adopted. The current code does allow the use. She stated that question may not be material to what is before the PC at this time.

Mr. Risley clarified that exactly when it became codified would not be relevant, if currently allowed.

Ms. Parsons stated that is correct. This is not a proposal to add a new use to the RM-12 zone type.

Mr. Moraes stated he was concerned that he cannot determine on paper when that change happened. He would like to track the paper trail of that change. He is concerned that at some point in time,

someone could have entered the letter “A” by mistake. He would like to see a specific resolution that shows that use as allowed because it was addressed to be so.

Ms. Seago stated she does not currently have when the change occurred. Regarding whether it is relevant, this is a legislative item. The item can be continued, or research can be done during a recess at the commission’s discretion.

Ms. Parsons stated that in 2019, PCD overhauled the entire LDC formatting (Municode) before the PC and BOCC. The BOCC approved those recommendations in its entirety. The single-family detached use within the RM-12 was noted in that.

Mr. Moraes stated he understood that the change was within the approved LDC during its revision adoption in 2019 and his concerns were satisfied.

Mr. Risley thanked Mr. Moraes for his thoroughness.

Mr. Bailey wanted to add that in addition to “staying out of hot water” it’s also good to make sure the County is not overreaching and whatever is being adopted has the appropriate authority behind it.

[Ms. Parsons provided Table 5-4, 2006 Code identifying the detached single-family use to Mr. Risley, Mr. Moraes, and Ms. Seago via email.]

PC ACTION: BAILEY MOVED / MERRIAM SECONDED FOR APPROVAL OF REGULAR ITEM NUMBER 4B, LDC-22-002 FOR AMENDMENT TO THE EL PASO COUNTY LAND DEVELOPMENT CODE, RM-12 (RESIDENTIAL MULTI-DWELLING), UTILIZING THE APPROVAL ATTACHED TO THE STAFF REPORT, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (9-0).

Ms. Brittain Jack joined the hearing in-person and was designated a voting member moving forward.

Mr. Whitney volunteered to be removed from the voting members at this time.

RECESS

Mr. Whitney stated that while he is confident that he could consider the upcoming agenda item without bias, he requested to recuse himself from hearing item 4C, SKP-22-003, due to his residence’s proximity to the area being discussed so as not to cause question in his recommendation.

C. SKP-22-003

HOWSER

SKETCH PLAN FLYING HORSE NORTH

A request by PRI #2, LLC, c/o Elite Properties of America, and Flying Horse Country Club, LLC, for approval of a sketch plan for 846 single-family residential lots, approximately 58.8 acres of commercial and hotel uses, and approximately 204 acres of open space. The 912-acre property is zoned PUD (Planned Unit Development) and RR-5 (Residential Rural), and is located at the southwest corner of Hodgen Road and Black Forest Road, continuing south to incorporate land on the north and south sides of Old Stagecoach Road and within Sections 30, 31, and 36, Township

11 South, Ranges 65 and 66 West of the 6th P.M. (Parcel Nos. 51000-00-437, 51300-00-002, 51300-00-004, 51310-00-001, 51310-05-001, 61360-00-003, 61360-00-004, 61360-03-004, 61360-04-037, and 61360-04-038) (Commissioner District No. 1).

DISCUSSION

Mr. Risley reiterated the 9 voting members at this time (Risley, Bailey, Brittain Jack, Carlson, Fuller, Merriam, Moraes, Schuettpelz, and Trowbridge). He also went over general housekeeping items.

Ms. Fuller requested that Mr. Howser outline PCD process and what a Sketch Plan means at this stage through the entire process of digging a foundation.

Mr. Howser went over the general criteria of a sketch plan, read from LDC. If this Sketch Plan is approved, the next step is a Preliminary Plan. After that, the next step is a Final Plat application.

Ms. Seago asked Mr. Howser if there were other intervening zoning actions involved in the described process like PUD/PUD amendment?

Mr. Howser responded that this property is currently subject to a PUD. In order for the applicant to move forward with the Sketch Plan they are proposing, they would need come back for an amended PUD. Typically, that is done at the same stage as the Preliminary Plan but can be done separately as well.

Mr. Risley commented that at each of these stages, there is opportunity for public comment.

Mr. Howser agreed and added that Preliminary Plan and PUD both require public hearings before PC and BOCC. If a finding of water sufficiency is determined at Preliminary Plan, the Final Plat *may* be approved administratively. However, if water sufficiency is not determined at that stage, a public hearing would again be required for Final Plat.

APPLICANT'S PRESENTATION.

Mr. Trowbridge asked if the traffic engineer had studied Colorado Springs's standards regarding traffic impact requirements since it was mentioned in the presentation that the roads would be developed to city standards in the event of annexation to Colorado Springs?

Mr. Rocha, representing SM Rocha, LLC for traffic engineering, stated they had. It was found that there are subtle differences between city and county standards, but those will be addressed with construction plans at a later time. Presentation continued.

Mr. Carlson asked if any other residents of Flying Horse North were on municipal water?

Mr. Hill, representing Hill and Pollock, LLC as water attorney, replied that the Flying Horse North residential lots are all Dawson (aquifer) wells. The golf course is irrigated from an Arapaho deep well for the first 110 years. There is currently not a central system in place.

Ms. Merriam asked if the fire hydrants would be multiple based on the land, or is there a sketch plan associated with that? This is a large facility to include 275 keys, the needs of a hotel, pools, recreation, etc. Does that all go on the central water provider?

Mr. Hill replied that the hotel keys and the 846 units proposed would be on a separate system both providing water and wastewater treatment. Hydrants would be connected to the central system and would be consistent with code provisions. He stated he did not know if there were hydrants already in place with the existing residences.

Mr. Stuepfert stated hydrants will be adequately spaced throughout the property once the central system is in place. There are no hydrants in place currently.

Ms. Merriam stated there are people living there now without hydrants?

Mr. Stuepfert replied that they are 2.5-acre lots on well and septic systems. Presentation continued.

Mr. Carlson asked if he had seen somewhere in the report that there were 400 rooms in the hotel?

Mr. Stuepfert stated the hotel will have 275 keys, which includes the golf casitas.

Mr. Carlson asked for the applicant's definition of "low density" areas.

Mr. Stuepfert responded that at this point they don't know.

Mr. Carlson stated he just wanted to clarify that by "low density", they don't mean 6 units/acre.

Mr. Stuepfert stated no, that's not what they meant. He stated it would be more like 3 units/acre. He stated that in the future, this project will not exceed 846 total units.

Mr. Carlson asked for the same type of definition for areas labeled "medium density".

Mr. Stuepfert stated that medium density would be 3/acre, and low density would be more like 1.5/acre.

Ms. Merriam stated that during the presentation, it was mentioned this would be a tourist destination in accordance with the Master Plan, and that this would be like the Broadmoor. The Broadmoor area of the city has services to help with the traffic brought in for conferences. This area is forest. There are no services. Won't that create more traffic?

Mr. Stuepfert replied that some services will be available on-site in the commercial areas, but most traffic will likely be on Hwy 83. Services aren't that far away. Interquest is 10 minutes away. Overall, yes there will be more traffic.

Ms. Merriam asked if this area includes the burned area from the recent Black Forest fire. She asked if this area was in a place where regrowth of native vegetation/trees needed to be a priority?

Mr. Stuepfert stated the area of this project does not include burn area.

Mr. Balsick with Flying Horse Development stated the fire did go through the area. The fire cleaned up a lot of deadfalls. There is still a significant number of trees, and 30-60 trees would still need to be removed to build a house.

Ms. Fuller stated she is having a problem with having a 275-key hotel in large-lot residential and asked how the applicant justifies that?

Mr. Stuepfert stated there are parts they do not comply with, but they are meeting the intention of tourism. They intend to bring needed tourism to the County. The public raised concerns that a hotel does not fit in Black Forest. This is a tough transition. This developer builds great communities. He wants to build a hotel on his property. It's going to be a beautiful facility.

Ms. Fuller stated large-lot residential is primarily 5-acre parcels?

Mr. Stuepfert stated 2.5-acre.

Ms. Fuller stated she doesn't see the compatibility.

Mr. Stuepfert stated the hotel will sit in the middle, surrounded by golf course, and buffered by residential lots. They're not proposing a hotel right up against the other Black Forest residents.

Ms. Brittain Jack stated the existing Flying Horse development off Hwy 83 has a hotel.

Mr. Stuepfert stated they are building one right now.

Mr. Bailey reminded the room that this stage is to determine the feasibility of the concept. Down the road, it may be determined that the hotel is not feasible. The focus today is on the concept. Details from fire hydrants and other things come at later stages in the process.

Mr. Stuepfert added that even if this is approved, there is no zoning besides the existing zoning. They don't currently have the zoning that would be required for what they want to do.

RECESS.

Mr. Howser reminded the room that PCD staff presentation does not provide justification for nor against a project but is meant to provide information regarding staff's analysis of the Code and how it relates to the project. County staff maintains a neutral stance. The presentation should give an unbiased approach. The staff report has language that may come across vague, such as "it *may be* consistent" or "it *may be* compliant". The intent of this language is meant to convey that staff is making observations regarding how this project relates to the Code, but it is up to the Planning Commission and the Board of County Commissioners to make a final determination.

STAFF PRESENTATION.

Ms. Fuller asked (regarding an image on presentation) how much open space the current sketch plan has?

Mr. Howser stated the sketch plan shows 203.9 acres. Stated the applicant is proposing an additional 39 acres of land that wasn't in the initial PUD. Continued Presentation.

DISCUSSION

Mr. Stauch provided presentation, see attached Exhibit B. Time was donated by: K. Ehlers, B. Heeter, K. Correa, and N. Piasecki. Presentation was read from PowerPoint slides attached.

Mr. Stokka provided presentation, see attached Exhibit C. Time was donated by: C. Trump, T. Smith, and G. Chaffee. Presentation was read from PowerPoint slides attached.

Mr. Bailey reminded the public that water is not thoroughly considered at the sketch plan stage.

Mr. Shecter provided presentation, see attached Exhibit D. Time was donated by: B. Brian, C. Taylor, J. Von Ahlefeldt, S. Stihl, K. Dillon, L. Otero, B. McIlrath, and C. Sorenson. He is a resident of the existing Flying Horse community. He would hate to see major changes to the community he bought into. Asked if the PC read the report he compiled?

Mr. Trowbridge stated that the PC Members do receive the full packets which include all public comments and Mr. Shecter's 26-page letter.

Mr. Shecter stated there is a misrepresentation in the sketch plan being presented. There are only 862 acres that remain undeveloped, not 912.6 acres. He doesn't know how it is allowed to add 39-42 acres to an already approved subdivision. How can a developer annex more land into their subdivision without having to come back before the PC or BOCC? The applicant mentioned 846 single-family units, but that needs to include the additional 50 "bonded flats" and casitas. He thinks it should reflect 896 additional units. Even without including the additional 50 units, the proposed density would average 1 unit per 0.70 acres. Including the 50, the average is 1 unit per 0.67 acres. This conflicts with the existing residential community. The initial PUD was approved in Dec 2016, the Preliminary Plan was approved Sept 2018. In Oct 2018, 79 pages of CCNRs were signed by the developer's representatives and recorded in Nov 2018. In the CCNRs, he referenced page 44 (Exhibit D attached), "Section 10.8 Maximum Number of Lots." His understanding when he purchased his property was that there would not be more than 283 lots in the community. Upon further research, page 4 defines "Community Area". Page 1 defines Exhibits A (81 parcels of filing No. 1) and Exhibit B (all additional property). The phrase, "Notwithstanding any other provision of this Declaration," created ambiguity. This entire request for this sketch plan should be dismissed/denied because the developer created ambiguity. He and his neighbors agreed that they would probably not have bought into their community had they known the developer could come back and make changes to the existing subdivision.

Mr. Bailey requested that Mr. Shecter focus on the criteria being reviewed today.

Mr. Shecter asked if adding 39-42 acres to their subdivision is acceptable and able to be used in this sketch plan? He stated the ambiguity should also result in dismissal. He stated the Cherokee Metro District has no ability to meet the requirements that the developer is seeking. The last time the water available in the aquifer was measured was 35 years ago. Population has increased by 87% since that time. How could it be determined that there is even a potential ability to provide water when no one has an idea of how much water remains in the aquifer? He read an article that each aquifer is being reduced by a certain percentage each year, he thinks the Dawson Aquifer was 5% reduction each year. How can the developer determine adequate usage for the next 300 years? Water is part of sketch plan determination.

Ms. Phillips wanted to address a claim made earlier that "everybody bends the rules". There is a variety of development types in Black Forest. Some have been grandfathered in, but everything since the Black Forest Preservation Plan was enacted has met the minimum of 5 acres. Regarding the reason behind 1 unit per 5 acres, lower density development keeps the drainage surface permeable. When the surface is covered by roadways, driveways, clubhouses, residences, a hotel, etc., those surfaces are no longer permeable and no longer being returned to the land. This will change the nature of the environment. Addressing Ms. Brittain Jack's earlier comment that there is a hotel in the existing community of Flying Horse, that area is adjacent to a more urban development, is west of Hwy 83, and is not within the Black Forest Preservation Plan area. A hotel may have been okay for Flying Horse west of Hwy 83, but this proposed hotel is in the middle of residential.

Ms. Shecter stated that the applicant is trying to sell the main point of tourism. The main concern current residents have is the hotel. The current residents did not intend to buy in an area that was going to be a tourist attraction. Regarding its placement, the golf course is only open 5 months a year. The nearest skiing is 2-2.5 hours away. There's no great lake or fishing. Using this hotel as a tourist drive doesn't make sense. You could sit in a hotel and watch TV in a denser area like Broadmoor or Breckenridge. Current residents bought into this area to get away from that. They were sold 2.5-5 acres and a certain number of lots. Not a hotel of this size.

Ms. Merriam is no longer present due to a scheduling conflict. There are now 8 voting members.

Mr. Stuepfert stated he wanted to keep the rebuttal short and address the concerns that also referenced the review criteria. Out of the 11 review criteria, he feels strongly that they meet 10. They will meet County Codes. The project is compatible. When you look at their proposed sketch plan, there is good land-use planning. The smaller lots are in the center and lot sizes get larger, up to 5-acre lots where it meets the surrounding area. Water: They provided information that they meet the water requirements at this stage. Services: There are letters that show those services are in place and will be provided. Geo-tech: soils are suitable for development. The only soils that are not were made open space. They are not interfering with mineral extraction. They meet most approval criteria. The one in question is the Master Plan. He stated they meet a lot of the elements in that document. He stated, "Are there some we don't meet? Absolutely. Those have been pointed out today. But we meet the intent of that Master Plan. We meet many of those items."

Mr. Balsick with Flying Horse Development stated he believes the plan is compatible. He stated the 2.5 and 5-acre lots are placed to be compatible. They are placed to keep separation. The higher density areas are interior. The hotel is in the center of the project. As central water and sewer is brought to the area, it is responsible growth. It's a sustainable plan. All ambiguities can be explained.

Ms. Fuller thanked Mr. Stauch for his presentation and it's address of the review criteria. She stated she would not be in favor of the project due to its placement in large-lot residential. It does not meet criteria to have a big hotel there. The currently approved PUD is compatible with 2.5-acre lots and makes sense. This seems disingenuous to have a developer say, "but we gave up 675 houses..." when you had only been approved 280+. She doesn't like the argument of what they gave back because what they're asking for is more use of the property than what the neighbors have. She doesn't think it's compatible with the Master Plan that it's large-lot residential or an area of limited change.

Mr. Trowbridge agreed with Ms. Fuller. He doesn't think the proposal is in conformance with the Master Plan. Even though it is a guiding document, one should follow that guidance to the maximum extent possible. As far as the review criteria, this is not in general conformance with the goals, objectives, or intent. The placetype is large-lot residential and is clear in the Plan. That means 2.5-acre plus lots with parks, open space, and *limited* commercial. A 275-key hotel does not fit. The applicant misidentified the area of change; this is meant to be a minimal change undeveloped area. This is not minimal change. There is a PUD in place that *is* in conformance with the Master Plan, but this proposal is not. This is a forested area. Specifically, the Black Forest is a key area that we want to protect. The nature of that area should be preserved. Criteria number 3 – it's not compatible with the existing land uses in that area. Even though water is not necessarily on the table, the supply is still questionable. Without the intention of disrespect, Cherokee Metro District has a history of not being able to do some things or satisfy their customers. To have that much commercial in this area is questionable. This area is in a recharge area for several aquifers. Removing the ability of the soils to absorb moisture seems like a bad idea. Criteria number 11 – this subdivision is not appropriate based on the area we're talking about.

Mr. Carlson agreed with both Ms. Fuller and Mr. Trowbridge. He added that the review criteria items A and C are the keystones, and the other criteria seems to follow. It's obvious that things are going to be done by the code, there's going to have to be water, services will need to be provided, geology must be good, etc. The important things are A and C. He doesn't think this project meets those. The hotel is problematic and doesn't fit in the neighborhood at all. Density: one of the objectives of the development criteria is that denser housing should occur in suburban residential, urban residential, rural, and other placetypes, but not in this one. The Master Plan specifically mentions Black Forest and the characteristics and how that area should be upheld. It's been said that the Master Plan is a guide, but it's our job to stick up for it. When people come in and want to do things other than that Master Plan, we need to fight for it. This development is too far from those criteria to accept. He is not in favor.

Mr. Bailey respectfully disagreed. He stated he believes the Master Plan anticipates something like this and gives enough reason to support a sketch plan that pursues this kind of development. He stated that it seemed to him most of what was heard is from people who don't live in this area. He thanked Mr. Shecter for representing views of people within Flying Horse. There were 300+ emails received but only 85 lots there right now, so most of the audience is coming from the outside. He stated none of the people from the outside use Stagecoach Rd. They can go around. He stated the developer has come up with a concept to use his property in a certain way. His understanding of the process is that they look at the Master Plan to ask, is this in general conformance with the majority of the elements? He says yes. He stated most of the disagreements heard were from the outside, and he said his opinion is that "If you don't like it, don't go through it". He stated that the developer, the landowner, has a right to use or pursue the use of his land the best way he sees fit, just as everyone else has the right to buy a house wherever they want. He believes the Master Plan set in place the conditions for any property owner in the County to make the best use of his/her land. He is in favor of this proposal.

Mr. Schuettpelz added to Mr. Bailey's comment that he is in favor of this application. The part he struggled with was the hotel, but it's in the middle. Regarding the Master Plan: If there had been a Master Plan in the 1970's, Academy Blvd was large-lot and Powers wasn't thought of. A Master Plan is a guide of what is thought to be projected in the future, but things change. The Master Plan was recently done because it didn't conform to anything. He stated the population has grown so much that growth is needed to the east, north, and south (can't go west). Development happens. The Master Plan is a guide but changes over time. He stated we need the lots. He likes the transition area and that the developer has created that progression within their own development. He is in favor of this project.

Mr. Moraes stated he was looking at the Master Plan and the implementation section has an entire section about guidance for evaluating land-use applications. There are 12 bullets that should be considered by PC and BOCC as they evaluate applications. While the Master Plan is not set in stone and it's not required that every single objective be met (the review criteria says general conformance), he stated that he finds this application does not meet a lot of the listed questions. He referenced the presentation and letter of intent, and he sees several things that are problematic. When the applicant used Monument as an example, Monument is right along the highway. They used Flying Horse, but that has a Powers extension. The examples they used as suburban residential areas close to their proposal all have major throughfares. If this were to be approved, the County would then have a suburban area in the middle of the Black Forest that other developments could then use as the criteria to establish more suburban residential. This project is what starts the Black Forest area becoming a suburban residential area. When considering the large-lot residential priority development area, the criteria in the Master Plan states we are to maintain and expand large-lot residential. He stated that this is exactly the opposite. The limited commercial should be limited to be a service to those in that area but putting a hotel in this area is not *that* scale of commercial. It was pointed out that the hotel is about tourism, but the forested area is not defined as a tourism land-use. He stated in looking at the Master

Plan's area of change (Minimal Change: Undeveloped area), this development proposal seems more like "New Development". His last concern regards the review criteria's list of 11 "musts", which he said he should be able to go down the list and check "yes" to each. Page 42, the Flying Horse North letter of intent, it is stated they meet a majority of the criteria. They say right there, in black and white, that they do not meet all the County's criteria. He is against this proposal.

Ms. Brittain Jack stated that if there were no more comments, she would like to make a motion. She stated this is a sketch plan, a concept plan, and that there will be a lot of work ahead of the developer in the community. She stated that in her experience with the developer, they will continue to work with the community. She stated there will be more about this coming to the PC. She thanked Mr. Bailey for articulating how she feels.

PC ACTION: BRITTAIN JACK MOVED / BAILEY SECONDED FOR APPROVAL OF REGULAR ITEM NUMBER 4C, SKP-22-003 FOR APPROVAL OF SKETCH PLAN, FLYING HORSE NORTH, 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 FAILED (4-4).

IN FAVOR: BAILEY, BRITTAIN JACK, SCHUETTPELZ, RISLEY
IN OPPOSITION: CARLSON, FULLER, MORAES, TROWBRIDGE
COMMENT: No further comment made by those who voted no.

THIS ITEM WILL BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS WITH NO RECOMMENDATION FROM THE PLANNING COMMISSION.

5. Non-Action Items

Mr. Mastin thanked those members of the public who spoke for their professionalism.

MEETING ADJOURNED at 2:47 p.m.

Minutes Prepared By: Miranda Benson

RESOLUTION NO. 22-

BOARD OF COUNTY COMMISSIONERS

COUNTY OF EL PASO

STATE OF COLORADO

APPROVAL OF MAP AMENDMENT (REZONE) P-22-006
MCDANIELS REZONE

WHEREAS, William Guman and Associates did file an application with the El Paso County Planning and Community Development Department for an amendment to the El Paso County Zoning Map to rezone for property located within the unincorporated area of the County, more particularly described in Exhibit A, which is attached hereto and incorporated by reference from the A-35 (Agricultural) zoning district to the RR-5 (Residential Rural) zoning district; and

WHEREAS, a public hearing was held by the El Paso County Planning Commission on November 3, 2022, upon which date the Planning Commission made no formal recommendation for the subject map amendment application; and

WHEREAS, a public hearing was held by this Board on November 15, 2022; 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 Board of County Commissioners.
2. Proper posting, publication, and public notice were provided as required by law for the hearings before the Planning Commission and the Board of County Commissioners of El Paso County.
3. The hearings before the Planning Commission and the Board of County Commissioners were extensive and complete, all pertinent facts, matters and issues were submitted and reviewed, and all interested persons were heard at those hearings.
4. The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last zoned;

5. The rezoning is in compliance with all applicable statutory provisions including, but not limited to C.R.S §30-28-111 §30-28-113, and §30-28-116;
6. The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions;
7. The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district;
8. For the above-stated and other reasons, the proposed Amendment to the El Paso County Zoning Map is in the best interest of the health, safety, morals, convenience, order, prosperity and welfare of the citizens of El Paso County.

NOW, THEREFORE, BE IT RESOLVED the El Paso County Board of County Commissioners hereby approves the petition of William Guman and Associates to amend the El Paso County Zoning Map to rezone property located in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated by reference, from the A-35 (Agricultural) zoning district to the RR-5 (Residential Rural) zoning district;

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

CONDITIONS

1. The developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements. Applicable agencies include but are not limited to: the Colorado Parks and Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. Any future or subsequent development and/or use of the property shall be in accordance with the use, density, and dimensional standards of the RR-5 (Residential Rural) zoning district and with the applicable sections of the Land Development Code and Engineering Criteria Manual.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.

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2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

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

DONE THIS 15th day of November 2022, at Colorado Springs, Colorado.

BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

ATTEST:

By: _____
Chair

By: _____
County Clerk & Recorder

EXHIBIT A

LEGAL DESCRIPTION:

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP
14 SOUTH,
RANGE 63 WEST OF THE 6TH P.M., COUNTY EL PASO, STATE OF COLORADO.

SAID TRACT CONTAINS 39.67 ACRES OF LAND, MORE OR LESS.

NOTE: FOR INFORMATIONAL PURPOSES ONLY ASSESSOR PARCEL NO. 3400000295