TO: **El Paso County Planning Commission**
Brian Risley, Chair

FROM: **John Green, Planner II**
Daniel Torres, PE Engineer II
Craig Dossey, Executive Director

RE: **Project File #: SP-20-004**
Project Name: Pineview Estates
Parcel No.: 41000-00-428

OWNER:	**REPRESENTATIVE:**
Alice Jolene Owens 18430 Lost Ranger Road Peyton, Colorado 80831	N/A

Commissioner District: 2

Planning Commission Hearing Date:	8/19/2021
Board of County Commissioners Hearing Date	9/14/2021

EXECUTIVE SUMMARY

A request by Jolene Owens for approval of a preliminary plan to create seven (7) single-family residential lots. The 38.8-acre property is zoned RR-5 (Residential Rural) and is located on the west side of Highway 83 approximately one-half (1/2) mile north of the intersection of Hopper Road and Ranch Hand Road and is within Section 13, Township 11, and Range 64 West of the 6th P.M. The property is located within the Falcon/Peyton Small Area Master Plan (2008).

The applicant's request also includes a request that the Board of County Commissioners make a finding of water sufficiency in terms of quality, quantity, and dependability and a request to authorize the County Engineer to issue a construction

permit for pre-development site grading including installation of wet utilities. Approval by the Board of County Commissioners of the preliminary plan with a finding of sufficiency for water quality, quantity, and dependability authorizes the Planning and Community Development Department Director to administratively approve all subsequent final plat(s).

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Jolene Owens for approval of a preliminary plan to create seven (7) single-family residential lots and for a finding of sufficient water quality, quantity, and dependability, thereby authorizing administrative approval of subsequent final plats.

Waiver(s)/Deviation(s): No deviations are requested with this application.

Authorization to Sign: There are no items requiring signature associated with this request.

B. PLANNING COMMISSION SUMMARY

Request Heard:
Recommendation:
Waiver Recommendation:
Vote:
Vote Rationale:
Summary of Hearing:
Legal Notice:

C. APPROVAL CRITERIA

In approving a preliminary plan, Section 7.2.1.D.2 of the El Paso County Land Development Code (2019) states the BoCC shall find that:

- The proposed subdivision is in general conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is consistent with the purposes of this Code;
- The subdivision is in conformance with the subdivision design standards and any approved sketch plan;
- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code;
- A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with state and local laws

and regulations, [C.R.S. §30-28-133(6) (b)] and the requirements of Chapter 8 of this Code;

- All areas of the proposed subdivision, which may involve soil or topographical conditions presenting hazards or requiring special precautions, have been identified and the proposed subdivision is compatible with such conditions. [C.R.S. §30-28-133(6)(c)];
- Adequate drainage improvements complying with State law [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM are provided by the design;
- The location and design of the public improvements proposed in connection with the subdivision are adequate to serve the needs and mitigate the effects of the development;
- Legal and physical access is or will be provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
- The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;
- Necessary services, including police and fire protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;
- The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code; and
- The proposed subdivision meets other applicable sections of Chapter 6 and 8 of this Code.

D. LOCATION

North:	A-35 (Agricultural)	Single-family dwelling
South:	RR-5 (Residential Rural)	Single-family dwelling
East:	RR-5 (Residential Rural)	Single-family dwelling
West:	RR-5 (Residential Rural)	Single-family dwelling

E. BACKGROUND

The 38.8-acre property was initially zoned A-35 (Agricultural) on March 24, 1999 when zoning was first initiated for this portion of the County (Resolution No. 99-101). On March 3, 2020, the El Paso County Board of County Commissioners approved a map amendment (rezoning) request to rezone the property from A-35 (Agricultural) to RR-5 (Rural Residential) (PCD file no. P-19-002). The property is currently vacant and undeveloped.

The applicant is requesting approval of a preliminary plan to create seven (7) single-family residential lots and for a finding of sufficient water quality, quantity, and dependability, thereby authorizing administrative approval of subsequent final plats. A final plat for the development area is under concurrent review. The proposed lots will range in size from 5 to 6 acres.

F. ANALYSIS

1. Land Development Code Compliance

The preliminary plan application meets the preliminary plan submittal requirements, the standards for Divisions of Land in Chapter 7, and the standards for Subdivision in Chapter 8 of the El Paso County Land Development Code (2019).

2. Zoning Compliance

The 38.8-acre property is currently zoned RR-5 (Rural Residential) . The RR-5 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.

The seven (7) proposed single-family residential lots meet the above listed zoning district dimensional standards. Should the request for a preliminary plan be approved, the applicant will need to complete a final plat application. Individual residential site plans will be required prior to building permit authorization to ensure all proposed structures will meet the dimensional standards of the Code.

3. Policy Plan Analysis

The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues and provides a framework to tie together the more detailed sub-area elements of the County Master Plan. Relevant policies are as follows:

Policy 6.1.7 - *Encourage infill development which complements existing uses, is consistent with Small Area and other adopted plans.*

Policy 6.1.11 - *Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses*.

Policy 6.1.3 - *Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use and access.*

The subject property is located approximately one-half (1/2) mile north of the intersection of Hopper Road and Ranch Hand Road. The proposed lots within the preliminary plan will range in size from 5 to 6 acres. The subject property is bordered on the east, south, and west by properties within the RR-5 zoning district that are developed with single-family dwellings. The RR-5 zoned parcels bordering the subject property on the south and east consist of 5-acre parcels, while the properties to the west and north range in size from 35.7 acres to 160 acres. To the north, the subject property is bordered by a parcel of land zoned A-35 (Agricultural) that is currently developed with a single-family dwelling.

As the population of El Paso County continues to grow, rural residential development continues to creep further to the north and east. The development of these parcels is a logical extension and density transition from the existing development in this area and is generally compatible in terms of uses and densities. The proposed subdivision is contiguous to and compatible with the previously developed areas (Policy 6.1.3 and Policy 6.1.11). Additionally, the proposed subdivision complies with the goals of the Falcon/Peyton Small Area Master Plan (2008), which specify that the area can support additional residential development and that new development should be located within the vicinity of existing development (Policy 6.1.7).

4. Small Area Plan Analysis

The proposed preliminary plan is located within the boundaries of the Falcon/Peyton Small Area Master Plan (2008) and is not located within an identified sub-area of the Plan. However, the property is adjacent to the Peyton Pines/Reata sub-area. The Plan states "The primary purpose of this plan is to set forth a framework within which proposed new land uses may be analyzed. This document describes the characteristics and features which are unique to this planning area. The plan is intended to serve as an advisory planning tool to guide future land use decisions." (Page 1)

Figure 4-5 – Recommendations Plan, shows the subject property as being recommended for rural density development. The Plan defines "Rural Density" as:

> "Parcel sizes greater than 10 acres, and typically greater than 35 acres, because this acreage is the threshold above which the subdivision process is not normally required. Rural areas are most often residential or agricultural in nature and are typically developed at low densities."

Section 4.3.3 of the Plan indicates the proposed area for a map amendment to be reserved for rural uses and any rezoning with a density greater than A-35 (Agricultural) is discouraged. However, under Section 4.5 General Policies of the Plan has the following sub notes:

> **4.5.1.6** - *Avoid hard-line boundaries between designated areas for particular uses and densities unless there are sub-area characteristics that support these boundaries*.

4.5.3.4 – *Encourage the use of design standards that enable new development to fit the surrounding natural, historical, and built context.*

The properties to the south and east (Peyton Pines Subdivision) were developed in 1973. The average density of Peyton Pines Subdivision is one dwelling per five (5) acres. The proposed preliminary plan proposes a density below the recommended threshold and, therefore, could be found to be generally compatible with the development in the area. Although the Plan shows that the proposed area is to remain with densities ranging in size from 10 to 35 acres, the Plan specifically addresses avoiding hard-line boundaries in which a proposed application may still be compatible with adjacent uses and densities. The current boundary of the Peyton Pines/Reata sub-area is located on the south and east of the subject property. The subject property is located within a transition area between large-lot single-family residential developments located south and east of the property and larger agricultural tracts located north and west of the property. Staff recommends that the proposed preliminary plan can be found to be compatible with the goals and recommendations of the Falcon/Peyton Small Area Master Plan (2008).

5. 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 1.2 – *Integrate water and land use planning.*

Goal 5.5 – *Identify any water supply issues early on in the land development process.*

Policy 6.0.7 – *Encourage the submission of a water supply plan documenting an adequate supply of water to serve a proposed development at the earliest stage of the development process as allowed under state law. The water supply plan should be prepared by the applicant in collaboration with the respective water provider.*

The subject parcel is in Region 2 of the El Paso County Water Master Plan and is served by an individual onsite well. However, for reference, Region 2 has a current water supply for central water providers of 13,607 acre-feet per year and

a current demand of 7,532 acre-feet per year. The 2040 water supply is projected to be 20,516 acre-feet per year and the projected demand is 11,713 acre-feet. The 2060 water supply is projected to be 20,756 acre-feet per year, whereas the demand is anticipated to be 13,254 acre-feet per year; therefore, there is projected to be a surplus supply of water for central water providers in this region of the County. The recommendation by the County Attorney and State Engineer of a finding of water sufficiency with this preliminary plan application indicates that this request is in compliance with Goal 5.5. Specifically, a finding has been made with this application by the Colorado Division of Water Resources and the El Paso County Attorney's Office that the proposed subdivision has legal rights to adequate groundwater supplies to serve the number of proposed lots without causing any adverse impacts to future residents or surrounding parcels. The proposed lots will be served by individual on-site wells.

6. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a moderate wildlife impact potential. Colorado Parks and Wildlife and El Paso County Community Services Department, Environmental Services Division, were each sent a referral and have no outstanding comments.

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

Please see the Parks/Trails section below for information regarding conformance with The El Paso County Parks Master Plan (2013).

Please see the Transportation section below for information regarding conformance with the El Paso County 2016 Major Transportation Corridors Plan Update (MTCP).

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

The soils and geology report submitted with the application was prepared by W. W. Enterprises on October 14, 2020. The report identified the need for engineered foundations for future dwellings in the subdivision due to the presence of swell-potential soils. A corresponding plat note identifying the need for engineered foundations was added to the concurrently reviewed final plat map.

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

3. **Floodplain**
   The property is not located within a defined floodplain as determined from review of the FEMA Flood Insurance Rate Map panel number 08041C0350G, dated December 7, 2018.

4. **Drainage and Erosion**
   The property is located within the Bijou Creek (BIBI0200) drainage basin. The Bijou Creek drainage basin is not studied and has no associated drainage or bridge fees.

   The majority of the site drains to the northeast with the westerly portion of the site draining to the northwest. Stormwater runoff is conveyed via sheet flow and roadside ditches to historical points at the boundaries of the site. Permanent stormwater quality control measures are not required for the development of the proposed lots based on the exclusion identified in the El Paso County Engineering Criteria Manual (2019) Appendix I Section I.7.1.B.5. The exclusion states:

   > "Water quality capture volume for single-family residential lots greater than or equal to 2.5 acres in size per dwelling unit and having a total lot impervious area of less than 10 percent are excluded from providing water quality."

   Stormwater quality for the proposed roadway is addressed through the runoff reduction method identified in Appendix I Section I.7.1.C.3. The runoff from the impervious roadway surface is conveyed to the receiving pervious area in the roadside ditch for infiltration or evapotranspiration of the required water quality capture volume. Furthermore, on-site detention was not required since the single-family residential lots generate a negligible increase in stormwater runoff. The associated drainage report concludes that the proposed development will not adversely affect the downstream properties or facilities.

   A grading and erosion control plan has been submitted with the concurrently reviewed final plat application. The plan calls for construction of best management practices (BMPs) to prevent sediment and debris from affecting adjoining properties and the public stormwater system before and during grading activities.

5. **Transportation**

Access to this subdivision is from the proposed extension of Red Barn Road, which is a rural gravel local public roadway. This extension will remain a gravel roadway as the threshold for paving the roadway has not been met. The subdivision is preserving 70 feet of right-of-way between Lot 1 and Lot 2 to provide a future connection to the northerly parcel. Should the parcel to the north subdivide, this connection will provide the means to connect a future roadway to Red Barn Road.

A traffic impact study was not required as the proposed minor subdivision is not expected to generate 100 daily vehicle trips more than the property would be expected to generate currently.

The El Paso County 2016 Major Transportation Corridors Plan Update (MTCP) does not depict roadway improvement projects in the immediate vicinity of the site.

The site is subject to the El Paso County Road Impact Fee Program (Resolution 19-471), as amended. Traffic impact fees shall be paid in full at the time of building permit issuance.

H. SERVICES

1. Water

Sufficiency:

Quality: Sufficient
Quantity: Sufficient
Dependability: Sufficient

Attorney's summary: Water service to the subject property is proposed to be provided by individual onsite wells. The State Water Engineer's Office has made a recommendation regarding a finding of adequacy and has stated water can be provided without causing injury to decreed water rights. The County Attorney's Office recommends a finding of sufficiency with regard to water quantity and dependability. El Paso County Public Health has made a recommendation regarding a finding of sufficiency for water quality and has no outstanding comments.

2. Sanitation

The proposed subdivision is intended to be served by individual onsite wastewater treatment systems. The applicant must receive approval from El

Paso County Public Health for any additional septic systems needed to serve the proposed lots.

3. **Emergency Services**
   The subject property is located within the Peyton Fire Protection District. The District was sent a referral with this application and have no outstanding comments.

4. **Utilities**
   Mountain View Electric Association will provide electrical service and Black Hills Energy will provide natural gas service to the lots included within the proposed subdivision. Both entities were sent a referral on this application and have no outstanding comments.

5. **Metropolitan Districts**
   The subject property is not located within a metropolitan district.

6. **Parks/Trails**
   The subject property is not located within close proximity to any identified regional parks or trails identified within The El Paso County Parks Master Plan (2013). The proposed Hopper Road Bicycle Route alignment runs along Hopper Road 0.5 miles south of the subject property. This bicycle routes is in the public right of way and would not be impacted by the proposed project. The property is not located within any candidate open space land. Regional park fees in lieu of park land dedication will be due at the time of recording the final plat(s).

7. **Schools**
   The site is within the boundaries of the Peyton School District No. 23. Fees in lieu of school land dedication shall be paid to El Paso County for the benefit of the School District at time of recording the final plat(s).

I. APPLICABLE RESOLUTIONS

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J. STATUS OF MAJOR ISSUES

There are no outstanding major issues.

K. RECOMMENDED CONDITIONS AND NOTATIONS

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2019) staff recommends the following conditions and notations:

CONDITIONS

1. Applicable traffic, drainage and bridge fees shall be paid with each final plat.

2. Applicable school and park fees shall be paid with each final plat.

3. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.

4. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assigns that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the Countywide Transportation Improvement Fee Resolution (Resolution 19-471), as amended, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

5. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.

NOTATIONS

1. Subsequent final plat filings may be approved administratively by the Planning and Community Development Director.

2. Approval of the preliminary plan will expire after twenty-four (24) months unless a final plat has been approved and recorded or a time extension has been granted.

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

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified eleven (11) adjoining property owners on August 3, 2021, for the Planning Commission meeting. Responses will be provided at the hearing.

M. ATTACHMENTS

Vicinity Map
Letter of Intent
Plat Drawing
State Engineer's Letter
County Attorney's Letter
El Paso County Public Health Recommendation Letter– Will be provided at the hearing

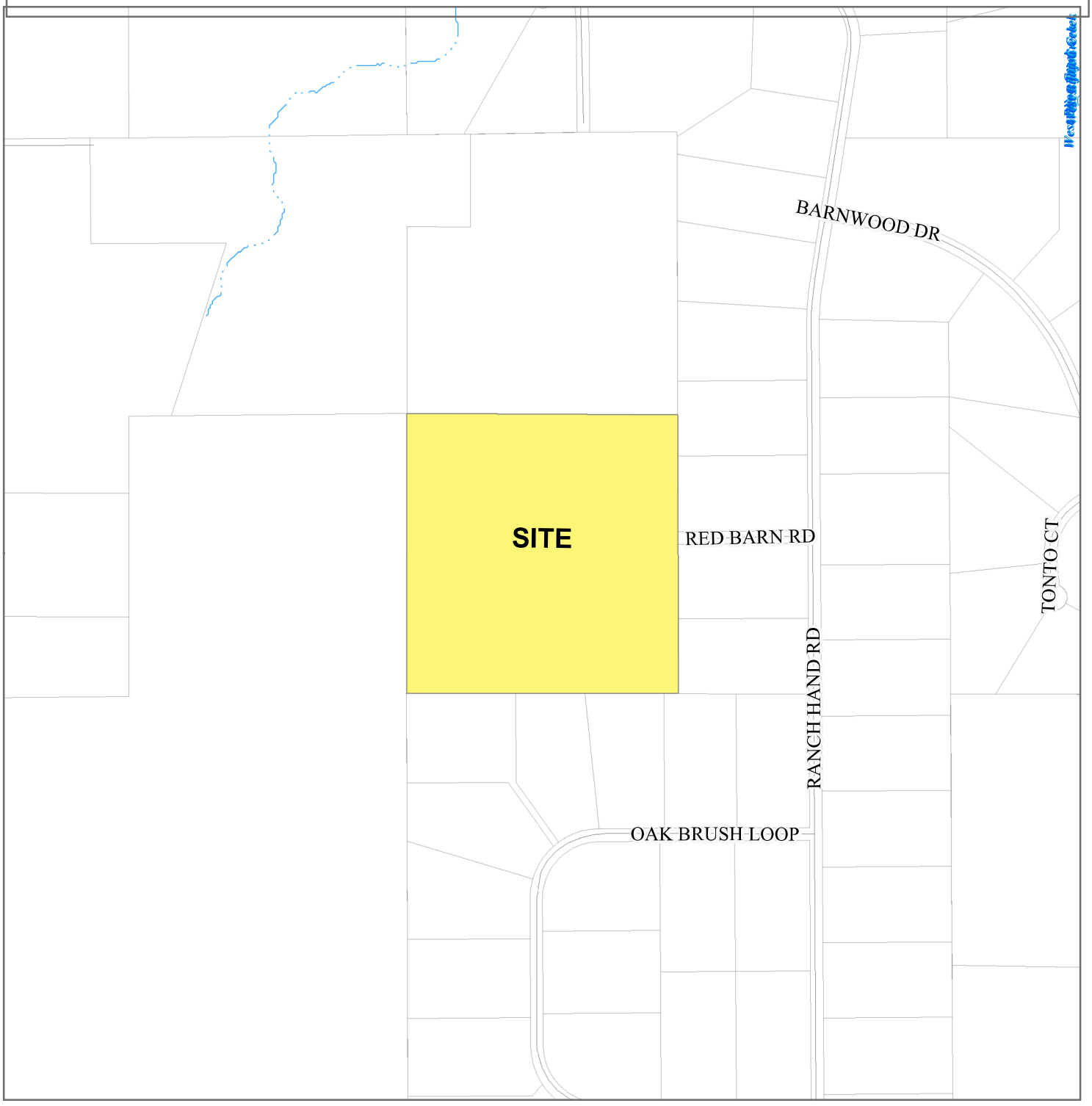
El Paso County Parcel Information

PARCEL	NAME
4100000428	OWENS ALICE

File Name: SP-20-004

Zone Map No. --

Date: August 2, 2021



Please report any parcel discrepancies to:
El Paso County Assessor
1675 W. Garden of the Gods Rd.
Colorado Springs, CO 80907
(719) 520-6600

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Letter of Intent

Pine View Estates

Prelimnary and Final

Jolene Owens

August 3, 2020

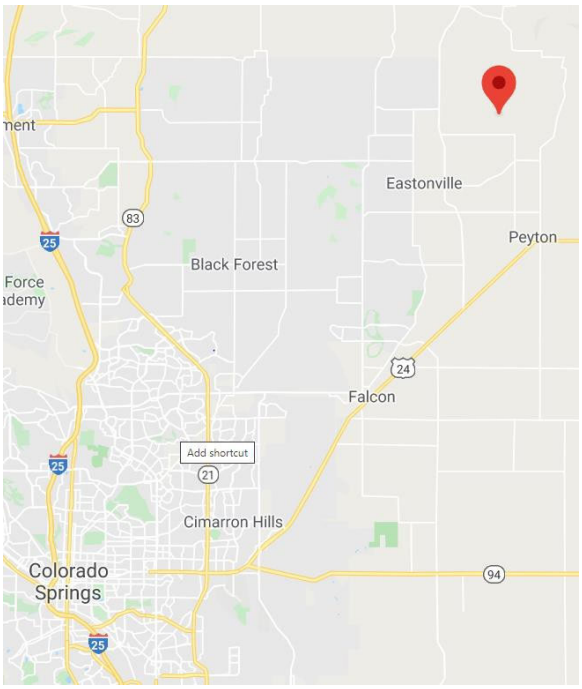
PRELIMINARY PLAN AND FINAL PLAT LETTER OF INTENT
PINE VIEW ESTATES

OWNER/APPLICANT: Alice Jolene Owens

ADDRESS: 277 Turf Trail Place, Fountain, Co. 80817

PHONE: 719-596-7447

SITE LOCATION/LEGAL DISCRIPTION: SW4NW4 Sec. 12-11-64 El Paso Co. Pine View Estates is located approximately 8 miles north of Peyton, Colorado and just to the west of Red Barn Rd. in the Peyton Pines Subdivision (41000-00-428). The property is located approximately 3,000 feet northwest of the Hopper Road and Ranch Hand Road intersection and is within Section 13, Township 11 South, Range 64 West of the 6th P.M. (Parcel No. 41000-00- 428)



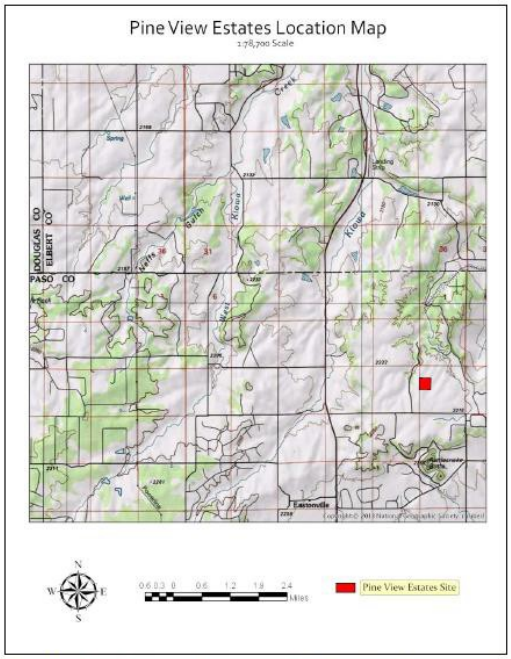


Figure 1 Map showing the location of the proposed PVE subdivision in El Paso County, Colorado.

REQUEST: Alice Jolene Owens is requesting to subdivide the 38.8 acres into 7 (5 to 6 acre lots) and that would be consistent with the surrounding area. Pine View Estates would be bordered on the south side and the east side by the already existing 5-acre subdivision Peyton Pines. Land that borders Pine View Estates to the north and to the west is divided into 35+ acre parcels.

PROJECT JUSTIFICATION: Pine View Estates would be in compliance with the RR-5 zoning criteria set out in Section 7.2.1 (D)(f) as follows:

a. The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
Pine View Estates is identified as part of the Black Forest Preservation plan within the Falcon/Peyton Small Area Plan. As such it accords with the goals of the plan to promote a residential environment which perpetuates the rural-residential character of Falcon/Peyton Small Area Plan.
The proposed residential subdivision also satisfies the following policies of the County Policy Plan:

Policy 6.1.3: Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use and access.
Policy 6.1.11: Plan and implement land development so that it will be functionally and aesthetically integrated within the context of adjoining properties and uses.

Development of 5 acre-lots is contiguous and compatible with current residential development in the area. The parcel is currently bound by 5-acre lots on the east and south side. The development is providing right-of-way reservation to the north for future residential lot development which alleviates a non-conforming length cul-de-sac.

b. The subdivision is consistent with the purposes of this code;
The subdivision is entirely in accordance with the land use code.

c. The subdivision is in conformance with the subdivision design standards and any approved sketch plan;
The proposed subdivision is consistent with the subdivision design standards and any approved sketch plan.

d. A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set

forth in the water supply standards and the requirements of Chapter 8 of this Code;
Individual wells will service the Pine View Estates Subdivision. Adequate water has been adjudicated for the proposed 7 lots. The water has been tested for quality and will be in compliance with State and County Water standards.

e. A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, and the requirements of Chapter 8 of this Code;
Individual on-site wastewater treatment systems (OWTS) will be utilized for each of the 7 lots. The site has been tested and is deemed suitable for individual OWTS provided the OWTS sites are evaluated and installed according to El Paso County and State Guidelines and properly maintained.

f. All areas of the proposed subdivision which may involve soil or topographical conditions presenting hazards or requiring special precautions have been identified and that the proposed subdivision is compatible with such conditions;
A geotechnical report has been developed for the site and does not identify any potential geologic hazards or development concerns.

g. Adequate drainage improvements are proposed that comply with State Statute and the requirements of this Code and the ECM;
A Preliminary/Final Drainage Report for the Pine View Estates development and is submitted with this application package.

h. Legal and physical access is provided to all parcels by public rights-of-way or recorded easement, acceptable to the County in compliance with this Code and the ECM;
Legal and physical access is provided to all lots by public rights-of-way from existing cul-de-sac. A Right-of-way preservation has been provided for future development North of Pine View Estates.

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

k. The proposed subdivision has established an adequate level of compatibility by (1) incorporating natural physical features into the design and providing sufficient open spaces considering the type and intensity of the subdivision; (2) incorporating site planning techniques to foster the implementation of the County's plans, and encourage a land use pattern to support a balanced transportation system, including auto, bike and pedestrian traffic, public or mass transit if appropriate, and the cost effective delivery of other services consistent with adopted plans, policies and regulations of the County; (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses; (4) incorporating identified environmentally sensitive areas, including but not limited to, wetlands and wildlife corridors, into the design; and (5) incorporating public facilities or infrastructure, or provisions therefore, reasonably related to the proposed subdivision so the proposed subdivision will not negatively impact the levels of service of County services and facilities;
We've incorporated all of the elements above within our proposed preliminary plan. We have designed the site to be consistent with surrounding RR-5 developments and believe that we have successfully incorporated physical characteristics of the land in the design. This proposed subdivision will not negatively impact the levels of service of county services and facilities or the surrounding land and homeowners.

l. Necessary services, including police and protection, recreation, utilities, open space and transportation system, are or will be available to serve the proposed subdivision;
All necessary services will be available to serve the proposed subdivision.

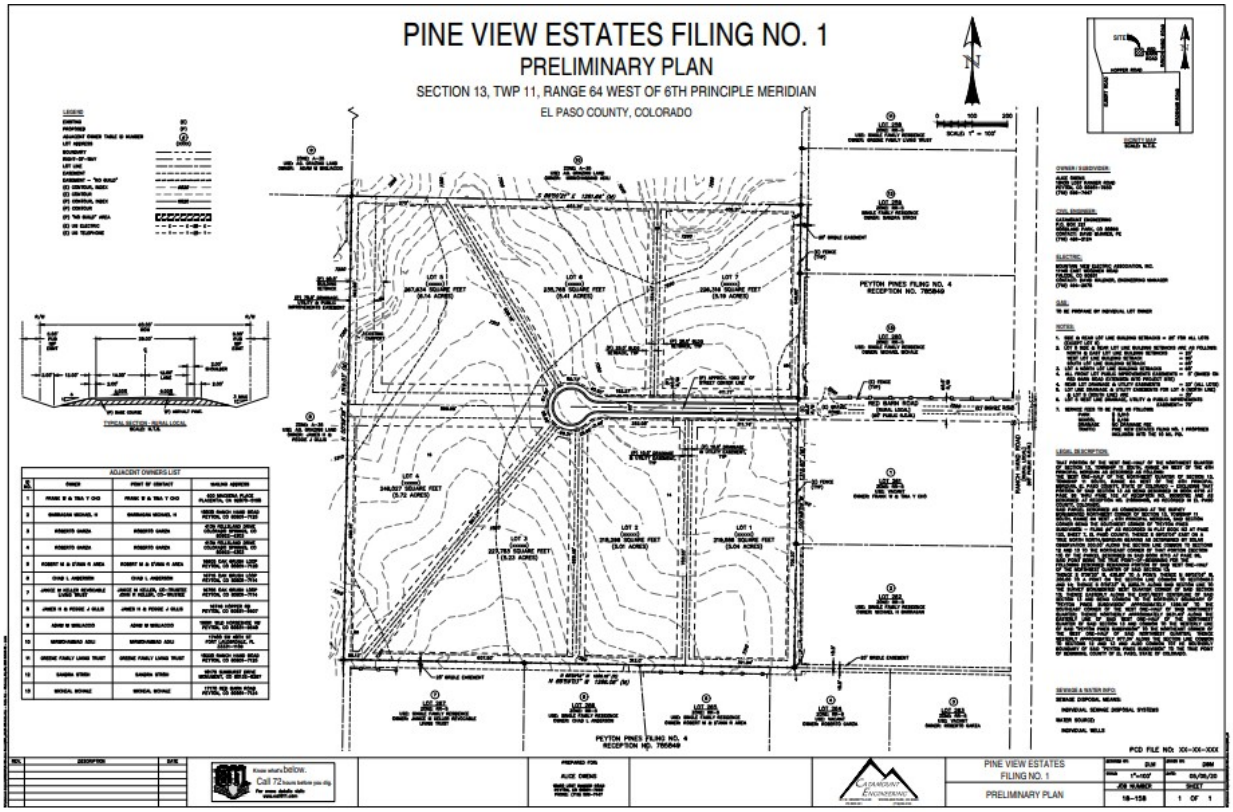
m. The subdivision provides evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code;
The subdivision is part of an established fire protection district which has accepted the proposed development for service.

n. The proposed subdivision meets other applicable sections of Chapter 6 and 8;
The proposed subdivision meets all code requirements found in Chapter 6 and 8 of this code.

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PROJECT CRITERIA

In keeping with the Land Use Code and Planning and Development processes for subdividing that have been established by El Paso, County the following technical elements will be highlighted in this Letter of Intent.

WATER RESOURCES:

The proposed development is planned to consist of 7 residential properties which will be provided water services through individual residential wells drilled into the not-nontributary Dawson Aquifer and wastewater served through individual on-site wastewater treatment systems (OWTS).

It is expected that each rural residential home in the proposed subdivision will require an average of 0.48 annual acre-feet of water (which uses represent annual allocations for domestic use, irrigation, replacement, and stock water). This anticipated water

demand is consistent with historic needs for nearby developments in the Falcon/Peyton Small area. Overall annual demand is anticipated to consist of an annual average of 3.36 AF/year between the 7 proposed lots.

The estimated annual depletion to the designated basins by the end of the 300-year period is modeled as 0.214 AF/year or 6.36% overall annual pumping within the development at full buildout. Of the 0.267 AF/year estimate depletions at year 300, 0.208 AF/year is estimated to occur within the Kiowa-Bijou designated basin, 0.001 AF/year within the Upper Black Squirrel designated basin. At full buildout, return flows from the septic fields are projected to return 1.575 AF/year between the 7 proposed lots at 90% of the domestic flows. *This projected amount is more than enough to cover estimated depletions out of the designated basin alluvium by year 300.* The Water Resources report was prepared by Doug Schuenke of JDS-Hydro in Colorado Springs, Co. and Ryan Farr Water Attorney Monson, Cummins & Shohet, LLC in Colorado Springs, Co.

DETERMINATION OF WATER RIGHTS:

On May 20, 2008, Melissa A. Peterson, P. E. Water Resources Engineer Designated Basins Team sent a letter to Alice Jolene Owens that contained the Colorado Ground Water Commission's Findings and Order for Determination of Water Right N.. 1588-BD, for the allocation of ground water in the Dawson Aquifer. Order: *In accordance with Section 37-90-107 (7), C.R.S. and the designated Basin Rules, the Colorado Ground Water Commission orders that the application for determination of rights to designed ground water in the Dawson Aquifer underlying 74.5 acres of land, generally described as part of the W1/2 of the NW14 of Section 13, Township 11 South, Range 64 West of the 6th Principal Meridian is approved.* Conditions of the approval are found in the Complete Water Report that was submitted as one of the requirements of the Preliminary Plan and Final Plat. The 38.8 acres is a portion of the 74.5 acres.

WATER QUALITY:

Colorado Analytical in Commerce City, Co. completed a comprehensive water analysis report for Pine View Estates. This report was requested by JDS Hydro Consultants in Colorado Springs. A chemical analysis of the water to check for Bicarbonate, Calcium, Carbonate, Hydroxide, Langelier Index, ph, temperature, total alkalinity and total

dissolved solids was conducted. The water quality in the Dawson Aquifer in this area has typically been suitable for residential potable use. There was only one compound that above the MCL level. Iron was reported at 1.293 mg/L which is above the Secondary MCL of 0.3 mg/L. High iron content in water is not hazardous to health but can be removed with filtration systems. Findings confirm water quality suitable for residential potable use.

DRAINAGE REPORT:

Pine View Estates consists of unplatted land to be developed into 7 rural residential lots (RR-5 zoning) . The parcel is located on a ridge within the Bijou Creek drainage. The westerly portion of the parcel sheet flows west to an unnamed tributary of West Bijou Creek within the adjacent agriculturally zoned unplatted parcel at slopes between 2% and 6%. The southeasterly portion of the parcel sheet flows east to an unnamed tributary of West Bijou Creek within adjacent 5-acre residential parcels at slopes between 2% and 5%. The northeasterly portion of the parcel sheet flows north at slopes between 2% and 5% through a historic stock pond and continues north to an unnamed tributary of West Bijou Creek. The site is located with the Bijou Creek Basin. *No Portion of the site lies within an F.E.M.A. designated floodplain per FIRM08041C035) G, effective December 07, 2018. The development of Pine View Estates will not adversely affect downstream properties or facilities.* Additional information will be found in the Drainage Report prepared by: David Mijares of Catamount Engineering in Woodland Park, Co.

WILDFIRE HAZARD ASSESSMENT AND MITIGATION:

According to the Wildfire Hazard Area Map (WHAM) map developed by the Colorado State Forest Service in 1974, the property to be subdivided has a low hazard for trees and grass. This information is somewhat dated (though still relevant) . It has been essentially superseded by the 2012 Colorado Wildfire Risk Assessment: (CO-WRAP). The Fire Intensity Map indicates a Moderate fire intensity for the property. Overall, the mapped wildfire hazard is low to moderate.

A field inspection of the property on Oct. 17, 2019 revealed it is used for grazing and that it is fully grass covered with scattered Ponderosa Pines throughout. Although the hazard on this parcel is relatively low, wildfires can occur and the opportunity for

ignition remains. Fuels, Topography, Weather, Fuel Mitigation, and Fire Resistive Structure Construction are covered in the report completed by Jerome W. Hannigan and Associates Inc. Monument, Co.

FIRE PROTECTION:

Pine View Estates subdivision lies within and is served by the Peyton Fire Protection District. The District is a mixed paid and volunteer fire department providing fire, rescue and emergency medical services along with public education and covers an area of approximately 110 square miles at an average elevation of about 6500 feet in the north-central part of El Paso County. The District serves about 3500 buildings through one fire station. Personnel include 18 firefighters, all but 3 of whom are currently certified as EMT's or better. The Fire Protection Report was submitted by: Mr. Jerome W. Hannigan and Associates, Inc. Monument, Co.

PEYTON FIRE DEPARTMENT COMMITMENT LETTER:

Pine View Estates is in the Peyton Fire Protection District. Fire Chief Jeff Turner confirmed on January 15, 2020 that service will be provided to the Pine View Estates subdivision and that mutual aid agreements exist with surrounding districts.

ELECTRIC PROVIDER SERVICE COMMITMENT:

Pine View Estates is within the Mountain View Electrical Association (MVEA) certificated service area. MVEA has confirmed in December 2018 a commitment to serve Pine View Estates according to their extension policy. MVEA has requested utility easements of ten (10) foot, side and rear lot line along with twenty (20) foot exterior utility easement. MVEA will request 10 (10) foot utility easements on the lot side of the ingress and egress easement for the design of electrical facilities. Additional easements may be required in order to serve the development. Cathy Hansen-Lee Engineering Administrative Assistant for Mountain View Electric provided the commitment.

NATURAL FEATURES:

Assessed in this report are potential wetlands and waters of the U.S., natural landscape features, threatened and endangered species and wildlife. Human-derived cultural formation processes have left their mark on the land found in the proposed project area. Tree harvesting, farming and erosion control activities have heavily impacted and disturbed the modern ground surface and the vegetation community is now a mix of

natural and introduced species. *No wetlands occur in the proposed subdivision area an no species recommended either federally or by the State of Colorado as threatened or endangered are present.* Report provided by Mark Owens, Secretary of the Interior-Qualified Archaeologist and Cultural Resources Specialist.

NOXIOUS WEED MANAGEMENT PLAN:

Informed by the El Paso County Noxious Weed Mitigation plan, invasive weed management for Pine View Estates includes both prevention and mitigation. Prevention focuses on avoiding the accidental introduction of noxious weeds during development. Mapping and monitoring of any existing noxious weeds provide the basis for control and elimination. Pine View Estates will utilize Integrated Weed Management (IWM) techniques that may include Cultural, Biological, Mechanical and Chemical processes as needed. Noxious Weed Management Plan submitted by Jolene Owens.

SOILS AND GEOLOGY:

Pine View Estates site was found to be suitable for the proposed subdivided lots. The location does not appear to be underlain with sand or gravel, so it is not a mineable site. Oil and gas wells are not located in the area, although sufficient information was not obtainable to determine the economic feasibility for oil and gas production at the site. Shrink-swell potential, frost action potential, site slopes, low bearing strength soils, and potential trench cavings are hazards which will require attention prior to and during construction process. Potential hazards can be minimized or eliminated by 1) a geotechnical investigation being performed for each subdivided property and following the recommendations in the report 2) OWTS evaluated and sized/designed per the El Paso County Health Department, and 3) site grading and drainage. Soils and Geology report provided by W.W. Enterprises in Limon, Colorado.

SUMMARY

Pine View Estates is in conformity with El Paso County Planning and Community Development goals and objectives as identified in the Master Plan. Alice Jolene Owens respectfully requests approval of the Pine View Estates Subdivision. Pine View Estates would give the opportunity for families to live in a peaceful country setting. Necessary reporting, mitigation, and plans have been submitted including, but not limited to, the following:

- Subsurface Investigation and Soils Report by W.W. Enterprises
- Certification of Notice to Mineral Estate Owners by Barron Land, LLC.
- Natural Features Report by Mark Owens
- Mountain View Electric Service Provider Commitment Letter
- Peyton Fire Protection District Service Commitment Letter
- Preliminary/Final Drainage Report for Pine View Estates prepared by Catamount Engineering
- Fire Protection Report, Wildland Fire & Hazard Mitigation Plan, and Wildfire Risk Assessment Report by Mr. Jerome W. Hannigan and Associates
- Noxious Weed Management Plan by Ms. Jolene Owens
- Water Resources and Water Quality Reports by JDS-HYDRO Consultants, Inc.

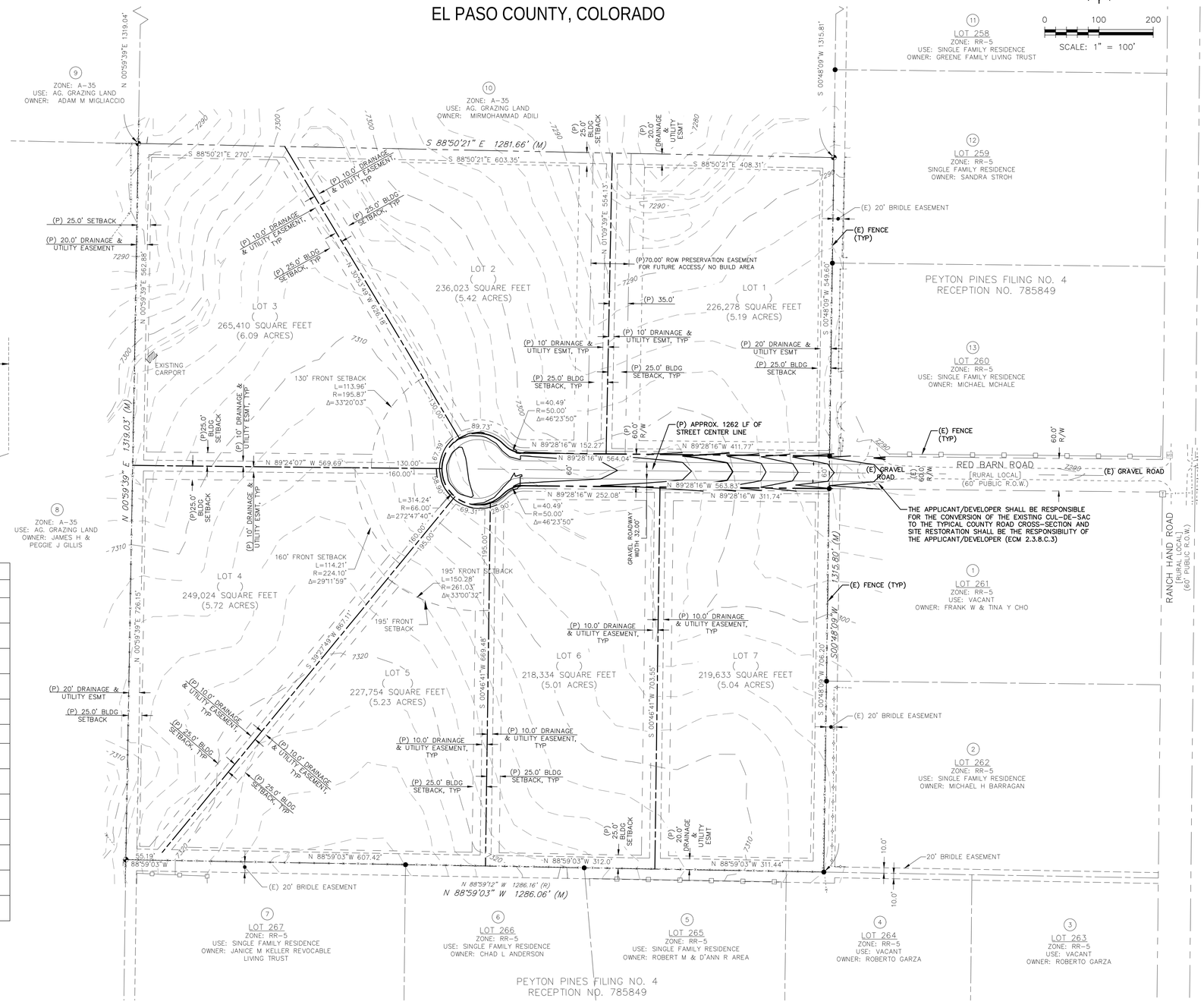
All indicate that this property is suitable for development as planned and proposed. All proposed residential lots can and will comply with requirements of the land development code.

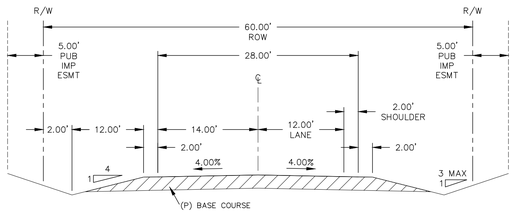
PINE VIEW ESTATES FILING NO. 1

PRELIMINARY PLAN

SECTION 13, TWP 11, RANGE 64 WEST OF 6TH PRINCIPLE MERIDIAN

EL PASO COUNTY, COLORADO



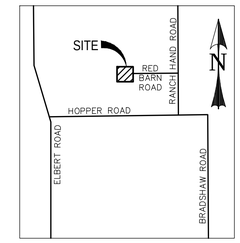


TYPICAL SECTION - RURAL LOCAL
SCALE: N.T.S.

ADJACENT OWNERS LIST			
ID NO.	OWNER	POINT OF CONTACT	MAILING ADDRESS
1	FRANK W & TINA Y CHO	FRANK W & TINA Y CHO	400 MACKENA PLACE PLACENTIA, CA 92870-5158
2	BARRAGAN MICHAEL H	BARRAGAN MICHAEL H	18030 RANCH HAND ROAD PEYTON, CO 80831-7125
3	ROBERTO GARZA	ROBERTO GARZA	3755 TUTT BLVD, APT. 120 COLORADO SPRINGS, CO 80922-2527
4	ROBERTO GARZA	ROBERTO GARZA	3755 TUTT BLVD, APT. 120 COLORADO SPRINGS, CO 80922-2527
5	ROBERT M & D'ANN R AREA	ROBERT M & D'ANN R AREA	16605 OAK BRUSH LOOP PEYTON, CO 80831-7128
6	CHAD L ANDERSON	CHAD L ANDERSON	16715 OAK BRUSH LOOP PEYTON, CO 80831-7114
7	JANICE M KELLER REVOCABLE LIVING TRUST	JANICE M KELLER, CO-TRUSTEE JOHN R KELLER, CO-TRUSTEE	16755 OAK BRUSH LOOP PEYTON, CO 80831-7114
8	JAMES H & PEGGIE J GILLIS	JAMES H & PEGGIE J GILLIS	16746 HOPPER RD PEYTON, CO 80831-9407
9	ADAM M MIGLIACCIO	ADAM M MIGLIACCIO	16561 WILD HORSESHOE VW PEYTON, CO 80831-9548
10	MIRMOHAMMAD ADILI	MIRMOHAMMAD ADILI	17400 SW 48TH ST FORT LAUDERDALE, FL 33331-1106
11	GREENE FAMILY LIVING TRUST	GREENE FAMILY LIVING TRUST	18220 RANCH HAND ROAD PEYTON, CO 80831-7125
12	SANDRA STROH	SANDRA STROH	18175 SUNBURST DRIVE MONUMENT, CO 80132-8297
13	MICHEAL MCHALE	MICHEAL MCHALE	17170 RED BARN ROAD PEYTON, CO 80831-7124

LEGEND

EXISTING	(E)
PROPOSED	(P)
ADJACENT OWNER TABLE ID NUMBER	(#)
LOT ADDRESS	(XXXX)
BOUNDARY	
RIGHT-OF-WAY	
LOT LINE	
EASEMENT	
EASEMENT – "NO BUILD"	
(E) CONTOUR, INDEX	6820
(E) CONTOUR	
(P) CONTOUR, INDEX	6820
(P) CONTOUR	
(P) "NO BUILD" AREA	
(E) UG ELECTRIC	E
(E) UG TELEPHONE	T



VICINITY MAP
SCALE: N.T.S.

OWNER / SUBDIVIDER:

ALICE OWENS
18430 LOST RANGER ROAD
PEYTON, CO 80931-7650
(719) 596-7447

CIVIL ENGINEER:

CATAMOUNT ENGINEERING
P.O. BOX 221
WOODLAND PARK, CO 80866
CONTACT: DAVID MIJARES, PE
(719) 426-2124

ELECTRIC:

MOUNTAIN VIEW ELECTRIC ASSOCIATION, INC.
11140 EAST WOODMEN ROAD
FALCON, CO 80831
CONTACT: DAVID WALDNER, ENGINEERING MANAGER
(719) 494-2675

GAS:

TO BE PROPANE BY INDIVIDUAL LOT OWNER

NOTES:

1. SIDE & REAR LOT LINE BUILDING SETBACKS = 25' FOR ALL LOTS (EXCEPT LOT 5)
2. LOT 5 SIDE & REAR LOT LINE BUILDING SETBACKS ARE AS FOLLOWS:
   NORTH & EAST LOT LINE BUILDING SETBACKS = 25'
   WEST LOT LINE BUILDING SETBACK = 95'
   SOUTH LOT LINE BUILDING SETBACK = 60'
   SOUTHEAST LOT LINE BUILDING SETBACK = 200'
3. LOT 4 NORTH LOT LINE BUILDING SETBACK = 60'
   NORTHEAST LOT LINE BUILDING SETBACK = 200'
4. LOT 3 NORTH LOT LINE BUILDING SETBACK = 200'
5. ALL FRONT LOT PUBLIC IMPROVEMENTS EASEMENTS= 5' (BASED ON RED BARN ROAD EXTENSION INTO PROJECT SITE)
6. REAR LOT DRAINAGE & UTILITY EASEMENTS = 20' (ALL LOTS)
7. LOT LINE DRAINAGE & UTILITY EASEMENTS FOR LOT 4 (NORTH LINE) & LOT 5 (SOUTH LINE) ARE = 30'
8. LOT 5 WEST LINE DRAINAGE, UTILITY & PUBLIC IMPROVEMENTS EASEMENT= 70'
9. SERVICE FEES TO BE PAID AS FOLLOWS:
   PARK $ 3,269 (FEE IN LIEU OF LAND DEDICATION)
   SCHOOL $ 1,295
   DRAINAGE NO DRAINAGE FEE (BIJOU CREEK)
   TRAFFIC $8,547 (INCLUSION IN 10 MIL PID)
10. UNLESS OTHERWISE INDICATED, ALL SIDE, FRONT, AND REAR LOT LINES ARE HEREBY PLATTED ON EITHER SIDE WITH A 10 FOOT (USE 5' FOR LOTS SMALLER THAN 2.5 ACRES) PUBLIC UTILITY AND DRAINAGE EASEMENT UNLESS OTHERWISE INDICATED. ALL EXTERIOR SUBDIVISION BOUNDARIES ARE HEREBY PLATTED WITH A 20 FOOT (USE 7 FEET FOR LOTS SMALLER THAN 2.5 ACRES) PUBLIC UTILITY AND DRAINAGE EASEMENT. THE SOLE RESPONSIBILITY FOR MAINTENANCE OF THESE EASEMENTS IS HEREBY VESTED WITH THE INDIVIDUAL PROPERTY OWNERS.

LEGAL DESCRIPTION:

THAT PORTION OF THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN AS DESCRIBED AS FOLLOWS:
THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 11 SOUTH, RANGE 64 WEST OF THE 6TH PRINCIPAL MERIDIAN, EL PASO COUNTY, STATE OF COLORADO – EXCLUDING THAT PORTION OF SAID SECTION 13 AS BEING DESCRIBED IN BOOK 6715 AT PAGE 96 THRU PAGE 102 AT RECEPTION NO. 95090782 AND AS DESCRIBED AT RECEPTION NO. 218065458, AS RECORDED IN EL PASO COUNTY, COLORADO;
SAID PARCEL DESCRIBED AS COMMENCING AT THE SURVEY MONUMENTED NORTHWEST CORNER OF SECTION 13, TOWNSHIP 11 SOUTH, RANGE 64 WEST , 6TH PRINCIPAL MERIDIAN, SAID SECTION CORNER BEING THE SOUTHWEST CORNER OF "PEYTON PINES SUBDIVISION – FILING #4" AS RECORDED IN PLAT BOOK N3 AT PAGE 120, SHEET 7, EL PASO COUNTY; THENCE S 89°02'04" EAST ON A TRUE NORTH NORTH/MERIDIAN BEARING AS DETERMINED BY SOLAR OBSERVATION 300.00' ALONG THE SECTION LINE COMMON TO SECTIONS 12 AND 13 TO THE NORTHEAST CORNER OF THAT PORTION (SECTION 13) OF THE PARCEL DESCRIBED IN SAID BOOK 6715 AT PAGE 96, SAID POINT BEING THE TRUE POINT-OF-BEGINNING FOR THE FOLLOWING DESCRIBED REMAINING PORTION OF SAID WEST ONE-HALF OF THE NORTHWEST QUARTER OF SAID SECTION 13;
THENCE S 0°39'33" W, 435.60' TO A POINT; THENCE N 89°02'04" W, 300.00 TO A POINT ON THE SECTION LINE COMMON TO SECTIONS13 AND 14; THENCE S 0°39'33" W, 2202.71' ALONG SAID SECTION LINE TO THE SURVEY MONUMENTED WEST QUARTER CORNER OF SAID SECTION 13; THENCE EASTERLY ALONG THE EAST/WEST CENTERLINE OF SAID SECTION 13 AND BEING COMMON TO THE NORTHERLY BOUNDARY OF "PEYTON PINES SUBDIVISION" APPROXIMATELY 1286.16' TO THE SOUTHEAST CORNER OF THE WEST ONE-HALF OF SAID NORTHWEST QUARTER; THENCE NORTHERLY APPROXIMATELY 2631.43' ALONG THE EASTERLY LINE OF SAID WEST ONE-HALF OF THE NORTHWEST QUARTER OF SAID SECTION 13 AND COMMON TO THE WESTERLY LINE OF SAID "PEYTON PINES SUBDIVISION" TO THE NORTHEAST CORNER OF THE WEST ONE-HALF OF SAID NORTHWEST QUARTER; THENCE WESTERLY APPROXIMATELY 977.34' ALONG THE SECTION LINE COMMON TO SECTIONS 12 AND 13 AND ALSO COMMON TOT HE SOUTHERLY BOUNDARY OF SAID "PEYTON PINES SUBDIVISION" TO THE TRUE POINT OF BEGINNING, COUNTY OF EL PASO, STATE OF COLORADO.

SEWAGE & WATER INFO:

SEWAGE DISPOSAL MEANS:

INDIVIDUAL SEWAGE DISPOSAL SYSTEMS

WATER SOURCE:

INDIVIDUAL WELLS

PCD FILE NO: SP-20-004

REV.	DESCRIPTION	DATE

Know what's below. Call 72 hours before you dig.
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PREPARED FOR:

ALICE OWENS
18430 LOST RANGER ROAD
PEYTON, CO 80831-7650
PHONE: (719) 596-7447

CATAMOUNT ENGINEERING
321 W. HENRIETTA AVE WOODLAND PARK, CO 80866
PO BOX 221 (719)426-2124

PINE VIEW ESTATES FILING NO. 1

PRELIMINARY PLAN

DESIGNED BY: DLM	DRAWN BY: DBM
SCALE: 1"=100'	DATE: 03/09/21
JOB NUMBER	SHEET
18-158	1 OF 1

© Catamount Engineering

September 23, 2020

Lindsay Darden
El Paso County Development Services Department
DSDcomments@elpasoco.com

RE: Pine View Estates Subdivision
The SW ¼ of the NW ¼, Section 13, T11S, R64W, 6th P.M.
Kiowa Bijou Designated Ground Water Basin
Water Division 1, Water District 1

Dear Lindsay Darden:

We have received your September 1, 2020 submittals concerning the above-referenced proposal to subdivide a 38.8-acre parcel of land into seven lots.

Water Supply Demand
According to a report from JDS-Hydro Consultants, Inc. dated December 2019 ("Water Resources Report") provided with the submittal, the estimated water requirements total 3.36 acre-feet annually (0.48 acre-feet/year per lot), for domestic use, irrigation, stock watering, commercial and replacement.

Source of Water Supply
The proposed source of water supply is individual on-lot wells producing from the not-nontributary (actual replacement) Dawson aquifer pursuant to the Replacement Plan for Determination of Water Right No. 1588-BD.

Determination of Water Right no. 1588-BD was issued by the Ground Water Commission ("Commission") on May 20, 2008 for an allowed average annual amount of withdrawal of ground water of 19.4 acre-feet from the Dawson Aquifer (based on an aquifer life of 100 years) to be used on 74.5 acres, of which the 38.8 acre parcel that is the subject of this referral is a portion.

On January 24, 2020 the Commission approved the Replacement Plan for Determination of Water Right no. 1588-BD. The Replacement Plan for Determination of Water Right no. 1588-BD allows for the withdrawal of 3.36 acre-feet per year of ground water from the Dawson aquifer for 300 years, through seven wells to be located on seven residential lots on the 38.8 acres which is the subject property of this referral. Each well may withdraw 0.48 acre-feet per year of groundwater to be used for use in one single family dwelling, irrigation, stock watering, commercial and replacement. These allowed uses are consistent with the proposed uses specified in the Water Supply Report.

The proposed source of water for this development is a bedrock aquifer allocation from the Denver Basin. The State Engineer's Office does not have evidence regarding the length of time for which the bedrock aquifer sources will be a physically and economically viable source of water. According to 37-90-107(7)(a), C.R.S., "Permits issued pursuant to this subsection (7) shall allow withdrawals on the basis of an aquifer life of 100 years." Based on this allocation approach, the annual amounts of water determined in Determination of Water Right No. 1588-BD is equal to one percent of the total amount, as determined by rule 5.3.2.1 of the Designated

Basin Rules, 2 CCR 410-1. Therefore, the water may be withdrawn in those annual amounts for a maximum of 100 years.

In the *El Paso County Land Development Code*, effective November 1986, Chapter 5, Section 49.5, (D), (2) states:

> "- Finding of Sufficient Quantity - The water supply shall be of sufficient quantity to meet the average annual demand of the proposed subdivision for a period of three hundred (300) years."

The State Engineer's Office does not have evidence regarding the length of time for which the bedrock aquifer sources will "meet the average annual demand of the proposed subdivision." However, treating El Paso County's requirement as an allocation approach based on three hundred years, the allowed average annual amount of withdrawal of 3.36 acre-feet per year from the Dawson aquifer pursuant to the Replacement Plan for Determination of Water Right no. 1588-BD for a maximum of 300 years, is sufficient to supply the requirement of 3.36 acre-feet/year.

The Water Resources Report submitted makes reference to other water rights, including those in the Denver, Arapahoe and Laramie-Fox Hills Aquifers under Determination of Water Right nos. 1587-BD, 1586-BD and 1585-BD, but those rights are not identified as a sources of water for the subdivision.

State Engineer's Office Opinion

Based upon the above and pursuant to Section 30-28-136(1)(h)(II), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights.

Our opinion that the water supply is adequate is based on our determination that the amount of water required annually to serve the subdivision is currently physically available, based on current estimated aquifer conditions.

Our opinion that the water supply can be provided without causing injury is based on our determination that the amount of water that is legally available on an annual basis, according to the statutory allocation approach, for the proposed uses on the subdivided land is greater than the annual amount of water required to supply existing water commitments and the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Ground Water Commission has retained jurisdiction over the final amount of water available pursuant to the above-referenced decree, pending actual geophysical data from the aquifer.

The amounts of water in the Denver Basin aquifer, and identified in this letter, are calculated based on estimated current aquifer conditions. The source of water is from a non-renewable aquifer, the allocations of which are based on a 100 year aquifer life. The county should be aware that the economic life of a water supply based on wells in a given Denver Basin aquifer may be less than the 100 years (or 300 years) used for allocation due to anticipated water level declines. We recommend that the county determine whether it is appropriate to require development of renewable water resources for this subdivision to provide for a long-term water supply.

If you, or the applicant, have any questions, please contact Ailis Thyne at ailis.thyne@state.co.us.

Sincerely,

Keith Vander Horst

Keith Vander Horst, P.E.
Chief of Water Supply, Designated Basins

Ec: SEO referral no. 27305

Pine View Estates_El Paso.docx

EL PASO COUNTY

OFFICE OF THE COUNTY ATTORNEY
CIVIL DIVISION

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Lisa A. Kirkman
Steven A. Klaffky
Mary Ritchie
Bryan E. Schmid
Nathan J. Whitney
Michael J. Desmond
Christopher M. Strider
Terry A. Sample

May 19, 2021

Pine View Estates
SP-20-4 Preliminary Plan

Reviewed by: Lori L Seago, Senior Assistant County Attorney
Edi Anderson, Paralegal, ACP

FINDINGS AND CONCLUSIONS:

1. This is a preliminary plan proposal by Alice Owens ("Applicant") for a subdivision of 7 single-family lots on 38.8 acres of land (the "Property"). The Property is zoned RR-5 (Rural Residential).

2. The Applicant has provided for the source of water to derive from individual on-lot wells as provided in the Findings and Order No. 1588-BD approved by the Colorado Ground Water Commission dated May 20, 2008 ("Determination"). On January 24, 2020, the Commission approved the Replacement Plan – Determination of Water Right No. 1588-BD ("Replacement Plan") for the subdivision. The Replacement Plan allows 3.36 acre-feet per year of ground water to be withdrawn from the Dawson aquifer for a period of 300 years through 7 wells located on 7 single-family lots. Pursuant to the Water Supply Information Summary ("WSIS"), the water demand is 0.25 acre-feet for each lot for household use and 0.23 acre-feet for irrigation and stock watering for a total of 0.48 acre-feet of water demand for each lot for a total of 3.36 acre-feet per year for the subdivision. Based on the total demand of 3.36 acre-feet per year for the subdivision, Applicant must provide a water supply of 1,008 acre-feet (3.36 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement.

3. In a letter dated September 23, 2020, the State Engineer reviewed the submittal to subdivide the 38.8 acre parcel into a 7-lot subdivision. The Engineer stated that the "water supply is individual on-lot wells producing from the not-nontributary (actual replacement) Dawson aquifer pursuant to the Replacement Plan for Determination of Water Right No. 1588-BD." The State Engineer further states that the Replacement Plan "allows for the withdrawal of 3.36 acre-feet per year of ground water from the Dawson aquifer for 300 years, through seven wells to be located on seven residential lots on 38.8 acres which is the subject property of this referral. Each well may withdraw 0.48 acre-feet per year of groundwater to be used for use in

one single family dwelling, irrigation, stock watering, commercial and replacement. These allowed uses are consistent with the proposed uses specified in the Water Supply Report."

The State Engineer noted that the amount of withdrawal of 3.36 acre-feet per year permitted by the Replacement Plan "is sufficient to supply the requirement of 3.36 acre-feet/year" for the Pine View Estates subdivision. The State Engineer acknowledged the existence of several other water determinations referenced in Applicant's *Water Resources Report for the Owens Subdivision, dated December 2019,* as prepared by JDS-Hydro ("*Water Resources Report*"). Those determinations include Nos. 1587-BD, 1586-BD, and 1585-BD; however, since those water rights are not identified as sources of water for this subdivision, they are not analyzed further in either the State Engineer's letter or in this review.

Finally, the State Engineer stated that "[b]ased upon the above and pursuant to Section 30-28-136(1)(h)(II), C.R.S., it is our opinion that the proposed water supply is adequate and can be provided without causing injury to decreed water rights."

4. Determination of Water Right No. 1588-BD. The Colorado Ground Water Commission approved the Determination of Water Right in the Dawson aquifer on May 20, 2008, which quantified an amount of water from beneath 74.5 acres of overlying land. The quantity of water in the aquifer underlying the 74.5 acres of land is 2,235 acre-feet or 22.4 acre-feet/year for a period of 100 years. This amount was reduced to 19.4 acre-feet due to withdrawal by a small capacity well (Permit No. 260301). As described in the *Water Resources Report,* the Applicant sold approximately 35.7 acres of the original 74.5 acres as noted in the Special Warranty Deed dated May 18, 2018, thus leaving a total of 38.8 acres for the Pine View Estates Subdivision.[1] The remaining Dawson aquifer water supply available to Applicant was 1,011 acre-feet. The beneficial uses permitted by the Determination are: domestic, stock watering, irrigation, commercial and replacement.

5. Replacement Plan – Determination of Water Right No. 1588-BD. On January 24, 2020, the Commission approved the Replacement Plan – Determination of Water Right No. 1588-BD, which referred to the earlier Determination permitting withdrawal of 19.4 acre-feet for a period of 100 years. As noted above, the Applicant sold approximately 35.7 acres of the original 74.5 acres and the water supply was reduced proportionally. Based on the reduced acreage, the Replacement Plan permits 3.36 acre-feet of withdrawal per year of water for the subdivision or 0.48 acre-feet for use in 1 single family dwelling, irrigation, stock watering, commercial, and replacement for each of 7 wells located on 7 lots on the parcel of 38.8 acres. The source of the replacement water is return flows through individual on-lot non-evaporative septic systems from the in-house use of the ground water to be pumped pursuant to the Replacement Plan.

[1] Applicant sold 35.7 acres of the parcel, including the pro-rata portion of the water rights to Mirmohammad Adili and Madonna Lee Suarez, as further described in Special Warranty Deed dated on May 18, 2018, and recorded in the records of the El Paso County Clerk and Recorder at Reception No. 221003336 on January 7, 2021.

Replacement of Depletions. The Replacement Plan provides a pumping period of 300 years. For the wells constructed into the not-nontributary Dawson aquifer, the Applicant is required to replace depletions on an annual basis during the 300 years of pumping by residential return flows from non-evaporative septic systems. As stated in the Replacement Plan: "Return flows from in-house use of ground water shall occur through individual on-lot non-evaporative septic systems located within the above described 38.8 acres ... Replacement of depletions must be provided annually in the acre-feet amounts shown in Exhibit A.[2] Annual replacement requirements may be computed by pro-rating between the values given on Exhibit A, or for simplicity may be taken as the amount shown in the next succeeding 5 years increment." Further, the "Applicant must provide the required annual amount of replacement water for the first 100 years, or for as long as a well is operated pursuant to this plan, whichever is longer. To assure adequate return flows, at least one well must be serving an occupied single-family dwelling that is generating return flows via a non-evaporative septic system before any irrigation or animal watering is allowed to be served by any of the wells."

6. Analysis. Applicant's water demand for the Pine View Estates Subdivision is 0.48 acre-feet per lot/year or 3.36 acre-feet/year for the entire subdivision using Dawson aquifer water which is allowed under Replacement Plan No. 1588-BD for the 7-lot subdivision for a total demand of 1,008 acre-feet for 300 years. JDS-Hydro's *Water Resources Report* dated December 2019 states the annual supply for the Pine View Subdivision is 3.37 acre-feet[3] for 300 years. With an annual demand of 3.36 acre-feet and a total available supply of 3.36 acre-feet there appears to be a sufficient water supply to meet the water demands of the Pine View Estates Subdivision.

7. The water quality requirements of Section 8.4.7.B.10 of the Land Development Code must be satisfied.

8. Therefore, based on the Water Supply Information Summary, based on the finding of sufficiency and no injury by the State Engineer, based on the Determination of Water Right and Replacement Plan No. 1588-BD, and based on the requirements below, the County Attorney's Office recommends a finding that the proposed water supply is **sufficient** in terms of quantity and dependability. El Paso County Public Health shall provide a recommendation as to water quality.

REQUIREMENTS:

A. Applicant and its successors and assigns shall comply with all requirements of Determination of Water Right and Replacement Plan, No. 1588-BD, specifically, that water use shall not exceed 0.48 acre-feet annually for each of 7 wells located on each of the 7 lots in the subdivision; and that all stream depletions will be replaced with non-evaporative septic system return flows for a period of 300 years.

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[2] Exhibit A was attached to the Replacement Plan and is also incorporated into this water review as Attachment A.

[3] This may reflect a rounding difference. All other documentation, including the Replacement Plan, refers to 3.36 acre-feet.

B. The County requires that when there is a replacement plan, Applicant must create a homeowners' association ("HOA"). Applicant shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision and their successors and assigns regarding all applicable requirements of Determination of Water Right and Replacement Plan No. 1588-BD, as well as their obligations to comply with the Replacement Plan, including, but not limited to, ensuring that return flows by the use of non-evaporative septic systems are made to the stream systems, pursuant to Exhibit A to the Replacement Plan; and that such return flows shall only be used to replace depletions and shall not be separately sold, traded, or assigned in whole or in part for any other purpose. The Covenants more specifically shall require the Dawson aquifer wells to serve on each lot an occupied single-family dwelling that is generating return flows from a non-evaporative septic system before any irrigation or animal watering is allowed from the wells. In addition, the Covenants shall advise future lot owners of this subdivision and their successors and assigns of their obligations regarding any costs of operating the Replacement Plan. Such Covenants shall also address responsibility for any metering and data collecting that may be required regarding water withdrawals from wells pursuant to the Replacement Plan; and shall protect the viability of the water supply by placing limitations in the Covenants as to amendments and termination as applied to said water supply.

The covenants shall address the following:

1) Identify the water rights associated with the property. The Covenants shall reserve 1,008 acre-feet of not-nontributary Dawson aquifer water pursuant to Determination of Water Right and Replacement Plan No. 1588-BD to satisfy El Paso County's 300-year water supply requirement for the 7 lots of the Pine View Estates Subdivision.

2) Require evaporative septic systems and reserve return flows from the same. The Covenants shall require each lot owner to use non-evaporative septic systems to ensure that return flows from such systems are made to the stream system to replace depletions during pumping, shall reserve said return flows to replace depletions during pumping, and shall state that said return flows shall not be separately sold, traded or used for any other purpose. The Covenants more specifically shall require the Dawson aquifer well on each lot to be serving an occupied single-family dwelling that is generating return flows from a non-evaporative septic system before any irrigation or animal watering is allowed from the well. The Covenants shall also include the following or similar language to ensure that such return flows shall only be used for replacement purposes: "Return flows shall only be used for replacement purposes, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose."

3) The following or similar language shall be included in the Covenants to address future conveyances of the lots subsequent to the initial conveyance made by Applicant/Declarant: "The water rights referenced herein shall be explicitly conveyed;

however, if a successor lot owner fails to so explicitly convey the water rights, such water rights shall be intended to be conveyed pursuant to the appurtenance clause in any deed conveying said lot, whether or not the Determination of Water Right and Replacement Plan No. 1588-BD and the water rights therein are specifically referenced in such deed. The water rights so conveyed shall be appurtenant to the lot with which they are conveyed, shall not be separated from the transfer of title to the land, and shall not be separately conveyed, sold, traded, bartered, assigned or encumbered in whole or in part for any other purpose. Such conveyance shall be by special warranty deed, but there shall be no warranty as to the quantity or quality of water conveyed, only as to the title."

4) The Covenants shall advise future lot owners of this subdivision and their successors and assigns of their responsibility for any metering and data collecting that may be required regarding water withdrawals from Dawson aquifer wells.

5) The Covenants shall address amendments using the following or similar language:

> "Notwithstanding any provisions herein to the contrary, no changes, amendments, alterations, or deletions to these Covenants may be made which would alter, impair, or in any manner compromise the water supply for the Pine View Estates Subdivision, pursuant to Determination of Water Right and Replacement Plan No. 1588-BD. Further, written approval of the proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney's Office. Any amendments must be pursuant to a Determination from the Colorado Ground Water Commission approving such amendment, with prior notice to the El Paso County Planning and Community Development Department for an opportunity for the County to participate in any such adjudication."

6) The Covenants shall address termination using the following or similar language:

> "These Covenants shall not terminate unless the requirements of Determination of Water Right and Replacement Plan No. 1588-BD are also terminated by order of the Commission, and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County."

C. Applicant and its successors and assigns shall reserve in the Covenants and in any deeds of the Property the decreed amount of at least 0.48 acre-feet per lot annually and shall reserve a total decreed amount of at least 3.36 acre-feet of Dawson aquifer water for the subdivision for each year for a total of 1,008 acre-feet for the 7-lot subdivision for 300 years. Said reservation shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for primary and replacement supply. Applicant shall convey by recorded warranty deed these reserved Dawson aquifer water rights to the individual lot owners. Applicant shall provide copies of said Covenants or other such reservation and

conveyance instruments that shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney's Office prior to recording the minor subdivision plat.

Any and all conveyance instruments shall recite as follows:

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

D. Applicant or its successors and assigns shall at the time of lots sales, convey by warranty deed to individual lot owners sufficient water rights in the Dawson aquifer, pursuant to Determination of Water Right and Replacement Plan No. 1588-BD, underlying the respective lot to satisfy El Paso County's 300-year water supply requirement. Dawson aquifer requirements for each lot are as follows: 144 acre-feet for each lot (0.48 acre-feet/year x 300 yrs.). Said conveyance instruments shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for the primary supply and replacement supply during pumping for the respective lots. Applicant shall provide form deeds for such conveyances that shall be reviewed and approved by both the Planning and Community Development Department and the County Attorney's Office prior to recording the minor subdivision plat.

E. Applicant or its successors and assigns shall submit Declaration of Covenants, Conditions, and Restrictions and any plat notes required herein to the Planning and Community Development Department and the County Attorney's Office for review, and the same shall be approved by the Planning and Community Development Department and the County Attorney's Office prior to recording the final plat. Said Declaration shall cross-reference Colorado Ground Water Commission Determination of Water Right and Replacement Plan No. 1588-BD and shall identify the obligations of the individual lot owners thereunder.

F. Applicant or its successors and assigns shall record all applicable documents, including, but not limited to, the Colorado Ground Water Commission Findings and Order Determination of Water Right and Replacement Plan No. 1588-BD, and any assignments, and warranty deeds regarding the water rights, and Declaration of Covenants in the land records of the Office of the Clerk and Recorder of El Paso County, Colorado.

G. Applicant and/or lot owners must obtain well permits pursuant to Determination of Water Right and Replacement Plan, No. 1588-BD.

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

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

ATTACHMENT: Exhibit A

cc: John Green, Planner II

Exhibit A

Replacement Plan - Determination No.: 1588-BD

Designated Basin Summary Table for Alice Jolene Owens
Pumping Rate of 3.35 acre-feet per year for 300 Years from the Dawson aquifer
Section(s): Section 13, T11S, R64W, 6th P.M.

Year	Pumping (Q) (AF/YR)	Annual Depletion (q) (AF/YR)	Depletion as a % of Pumping (q/Q)	Year	Pumping (Q) (AF/YR)	Annual Depletion (q) (AF/YR)	Depletion as a % of Pumping (q/Q)
5	3.4	0.000	0.01	155	3.4	0.112	3.34
10	3.4	0.001	0.03	160	3.4	0.116	3.45
15	3.4	0.002	0.06	165	3.4	0.120	3.57
20	3.4	0.004	0.12	170	3.4	0.124	3.68
25	3.4	0.006	0.19	175	3.4	0.128	3.79
30	3.4	0.009	0.27	180	3.4	0.131	3.91
35	3.4	0.012	0.37	185	3.4	0.135	4.02
40	3.4	0.016	0.48	190	3.4	0.139	4.13
45	3.4	0.020	0.59	195	3.4	0.142	4.24
50	3.4	0.024	0.71	200	3.4	0.146	4.35
55	3.4	0.028	0.83	205	3.4	0.150	4.46
60	3.4	0.032	0.96	210	3.4	0.153	4.56
65	3.4	0.036	1.09	215	3.4	0.157	4.67
70	3.4	0.041	1.21	220	3.4	0.160	4.77
75	3.4	0.045	1.34	225	3.4	0.164	4.88
80	3.4	0.050	1.47	230	3.4	0.167	4.98
85	3.4	0.054	1.60	235	3.4	0.171	5.09
90	3.4	0.058	1.73	240	3.4	0.174	5.19
95	3.4	0.063	1.86	245	3.4	0.178	5.29
100	3.4	0.067	1.99	250	3.4	0.181	5.39
105	3.4	0.071	2.12	255	3.4	0.185	5.49
110	3.4	0.075	2.24	260	3.4	0.188	5.59
115	3.4	0.080	2.37	265	3.4	0.191	5.69
120	3.4	0.084	2.49	270	3.4	0.194	5.79
125	3.4	0.088	2.62	275	3.4	0.198	5.88
130	3.4	0.092	2.74	280	3.4	0.201	5.98
135	3.4	0.096	2.86	285	3.4	0.204	6.08
140	3.4	0.100	2.98	290	3.4	0.207	6.17
145	3.4	0.104	3.10	295	3.4	0.211	6.27
150	3.4	0.108	3.22	300	3.4	0.214	6.36

Created by Wenli Dickinson, E.I.T. on November 13, 2019

Values for 'Depletion as a % of Pumping' (q/Q) are not calculated when the pumping rate (Q) is changed to anything but zero