


**EL PASO COUNTY**  
**COLORADO**

**COMMISSIONERS:**  
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PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
 CRAIG DOSSEY, EXECUTIVE DIRECTOR

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

**FROM: Lindsay Darden, Planner II**  
**Daniel Torres, PE Engineer II**  
**Craig Dossey, Executive Director**

**RE: Project File #: MS-19-008**  
**Project Name: Wolff Run Estates**  
**Parcel No.: 62040-00-051**

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
Gregory and Tanya Wolff 2170 Diamond Creek Drive Colorado Springs, CO 80921	David Gorman M.V.E., Inc 1903 Learay Street, Suite 200 Colorado Springs, CO 80909

**Commissioner District: 1**

Planning Commission Hearing Date:	2/4/2020
Board of County Commissioners Hearing Date	3/24/2020

**EXECUTIVE SUMMARY**

A request by Gregory and Tanya Wolff for approval of a minor subdivision to create two (2) lots. The 9.68-acre property is zoned RR-5 (Residential Rural) and is located approximately 364 feet east of the intersection of Old North Gate and Stapleton Roads and is within Section 4, Township 12 South, Range 66 West of the 6<sup>th</sup> P.M. If approved, the minor subdivision application will result in the creation of a 4.62-acre lot (Lot 1), a 5.00-acre lot (Lot 2), and the dedication of a 10-foot-wide strip of right-of-way adjacent



to Old North Gate Road (0.078 acres). Prior to submittal of the minor subdivision request, the applicant applied for and received approval of administrative relief to allow a lot size of 4.62 acres where 5 acres is the minimum lot size within the RR-5 (Residential Rural) zoning district. The property is located within the Tri-Lakes Comprehensive Plan (2000) area.

**A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION**

**Request:** A request by Gregory and Tanya Wolff for approval of a minor subdivision to create two (2) single-family residential lots.

**Waiver(s)/Deviation(s):**

Waiver

The applicant is requesting a waiver of Section 8.4.3.(B)(2)(E), Minimum Frontage, of the Land Development Code (2019) requiring lots to have a minimum of 30 feet of frontage and have access on a public road. The Code defines a Public Road as “A road located in a public right-of-way or easement and open to the public for travel and accepted for maintenance by El Paso County or another governmental jurisdiction.”

The applicant is proposing a single access drive for ingress and egress to serve both lots from Old Northgate Road. The driveway is proposed to be located within a 30-foot-wide cross access easement shown on the plat and subject to an access easement maintenance agreement to be recorded in the records of the El Paso County Clerk and Recorder.

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

**B. PLANNING COMMISSION SUMMARY**

**Request Heard:**

**Recommendation:**

**Waiver Recommendation:**

**Vote:**

**Vote Rationale:**

**Summary of Hearing:**

**Legal Notice:**

**C. APPROVAL CRITERIA**

In approving a final plat, the BoCC shall find that the request meets the criteria for approval outlined in Section 7.2.1 (Subdivisions) of the El Paso County Land Development Code (2019):

- The subdivision is in conformance with the goals, objectives, and policies of the Master Plan;
- The subdivision is in substantial conformance with the approved preliminary plan;
- The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials;
- A sufficient water supply has been acquired in terms of quantity, quality, and dependability for the type of subdivision proposed, as determined in accordance with the standards set forth in the water supply standards [C.R.S. §30-28-133(6)(a)] and the requirements of Chapter 8 of this Code;
- 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 that the proposed subdivision is compatible with such conditions [C.R.S. §30-28-133(6)(c)];
- Adequate drainage improvements are proposed that comply with State Statute [C.R.S. §30-28-133(3)(c)(VIII)] and the requirements of this Code and the ECM;
- 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;
- Necessary services, including police and fire protection, recreation, utilities, and transportation systems, are or will be made available to serve the proposed subdivision;
- The final plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code;
- Off-site impacts were evaluated, and related off-site improvements are roughly proportional and will mitigate the impacts of the subdivision in accordance with applicable requirements of Chapter 8;
- Adequate public facilities or infrastructure, or cash-in-lieu, for impacts reasonably related to the proposed subdivision have been constructed or are financially guaranteed through the SIA so the impacts of the subdivision will be adequately mitigated;
- The subdivision meets other applicable sections of Chapter 6 and 8; and
- The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §34-1-302(1), et seq.]

**D. LOCATION**

North: RR-5 (Residential Rural)	Residential
South: City of Colorado Springs	Residential
East: RR-5 (Residential Rural)	Residential
West: RR-5 (Residential Rural)	Residential

**E. BACKGROUND**

The subject property was zoned A-5 (Farming) on January 4, 1955, via a County initiated zoning of this area of unincorporated El Paso County (Resolution No. 94669). Due to changes in nomenclature, the A-5 zoning district has been renamed as the RR-5 (Residential Rural) zoning district. The 9.68-acre property has an existing single-family residence, which is anticipated to remain on the proposed 4.62 acre lot to be known as Lot 1 until such time as the lot is sold and redeveloped.

**F. ANALYSIS**

**1. Land Development Code Compliance**

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

**2. Zoning Compliance**

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

- Minimum lot size – 5 acres
- Minimum lot width- 200 feet
- Setbacks – front 25 feet, sides 25 feet, and rear 25 feet
- Maximum lot coverage- 25 percent
- Maximum building height – 30 feet

The applicant is requesting approval of a minor subdivision to split the parcel into two (2) lots and to dedicate 0.078 acres of right-of-way. The Planning and Community Development Director approved a request for administrative relief to allow Lot 1 to be a 4.63-acre lot where 5 acres is required. Lot 2 is proposed to meet the minimum lot size of 5 acres. The existing home, which is anticipated to remain on Lot 1, will meet the setback requirements of the RR-5 zoning district should the minor subdivision be approved.

### 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 6.1.3-*** 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.

***Policy 9.2.2 –*** Require advance right-of-way reservation and/or dedication for transportation facilities as part of the land development process.

The subject property is zoned RR-5 (Residential Rural) and is surrounded by RR-5 zoned properties on three sides with property located within the City of Colorado Springs located to the south. Parcels located to the west have been developed and are part of the Overlook Estates subdivision with lots adjacent to the subject parcel ranging from 4.81 acres to 5.3 acres in size. To the north are 5-acre parcels located within the Sun Hills Subdivision and the Timberedge Subdivision. The parcels to the east are not platted with one comprising 5 acres and the other one 4.94 acres. The proposed subdivision is contiguous to and compatible with previously developed areas.

With the minor subdivision, the applicant will dedicate 0.078 acres of right-of-way to El Paso County for future construction of Old North Gate Road. Staff recommends that a finding of general consistency with the Plan can be made.

### 4. Small Area Plan Analysis

The property is located within the Smith Creek Sub-Area of the Tri-Lakes Comprehensive Plan (2000), which recommends that development should remain rural residential with an overall density of one dwelling unit per five acres and should not detract from natural forests, rolling hills, and open character of the area. The RR-5 (Rural Residential) zoning district, which allows the creation of five (5) acre lots, established the base density of the lot, with which the proposed minor subdivision is compatible.

## **6. 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.

Goal 1.2 – Integrate water and land use planning.

Water sufficiency has been analyzed with the review of the proposed minor subdivision. Please see the Water section below for a summary of the water findings and recommendations for the proposed minor subdivision. The State Engineer and the County Attorney's Office have recommended that the proposed minor subdivision has an adequate water supply in terms of quantity and dependability. The property is adjacent to the City of Colorado Springs to the south (directly across Old North Gate Road). The applicant contacted Colorado Springs Utilities (CSU) to determine whether utilities could be extended to the subject site. CSU provided a letter indicating that this site did not meet the criteria annexation therefore utilities would not be extended.

Section 1.10.5 of the Land Development Code states the following:

“Any project or action for which a complete application was submitted to the County before the effective date of this Code or any subsequent amendment to this Code may, at the applicant's option, will be reviewed under the regulations or ordinances in effect at the time of application. If approved, the projects or actions may be carried out in accordance with said regulations or ordinances. Nothing in this subsection is intended to restrict otherwise applicable vested applicant rights.”

The Code in effect at the time of submittal of the minor subdivision application allowed for an assumption of water quality for minor subdivisions.

## **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, Colorado State Forest, United States Forest Service, El Paso County Conservation District, and El Paso County Community Services, Environmental Division, were each sent a referral and have no outstanding comments.

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

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

The soils and geology report prepared by Entech Engineering, Inc., identified an area of potentially shallow groundwater associated with a low area in the northeastern portion of Lot 1. In addition, areas of loose soils were encountered in the test borings. If foundations for structures are proposed in areas of loose soils, mitigation will be necessary. The Colorado Geologic Survey (CGS) was sent a referral for the minor subdivision and had no objection.

### **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 FEMA Flood Insurance Rate Map panel number 08041C0295G, dated December 7, 2018.

### **4. Drainage and Erosion**

The property is located within the Smith Creek (FOMO4000) and Monument Branch (FOMO3800) drainage basins. These drainage basins are studied and have drainage fees. The Smith Creek basin also has a bridge fee. All fees shall be due at time of final plat recordation. The applicable drainage fee for Monument Branch is calculated as \$7,629.93. There is no bridge fee in this basin. The applicable drainage fee for Smith Creek is calculated as \$699.10 and the bridge fee is \$93.82. There are no drainage basin planning study (DBPS) improvements associated with this development.

The site generally drains to the south and southwest. A permanent water quality facility is not required for development areas of low density (rural) single family residential developments (2.5 acre or larger lots) per Appendix I of the El Paso County Engineering Criteria Manual (2019). Furthermore, on-site detention was not required due to the minimal increase in imperviousness created by the additional residential lot. Per the associated drainage letter, the proposed minor subdivision will have no adverse impacts to the adjacent downstream lots.

## **5. Transportation**

The property is accessed via Old Northgate Road which is an existing public local 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 proposed minor subdivision will have a minimal impact to the County's transportation network.

The subdivision 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 subsequent land use approval.

## **H. SERVICES**

### **1. Water**

Sufficiency:

Quality: Presumed Sufficiency

Quantity: Sufficient

Dependability: Sufficient

Attorney's summary: The State Water Engineer's Office has made a finding of adequacy and has stated water can be provided without causing injury to decreed water rights. The County Attorney's Office recommended a finding of sufficiency with regard to water quantity and dependability.

### **2. Sanitation**

The existing residence on the subject property is served by an onsite wastewater treatment system (OWTS), which will remain entirely on the proposed Lot 1 and will not require an easement to be created on one of the other proposed lots. All new structures constructed in the future are also likely to be served by individual OWTSs and potential locations for those have been identified in the Soils and Geology Report. El Paso County Public Health and Environment Department had no objection to the proposed minor subdivision.

### **3. Emergency Services**

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

### **4. Utilities**

Mountain View Electric Association and Black Hills Energy will provide electrical and gas service to the subdivision, respectively.



**5. Metropolitan Districts**

The property is not within the service area of a metropolitan district.

**6. Parks/Trails**

Fees in lieu of park land dedication in the amount of \$912.00 for regional fees and \$0.0 for urban park fees will be due at the time of recording the final plat.

**7. Schools**

Fees in lieu of school land dedication in the amount of \$612.00 shall be paid to El Paso County for the benefit of Academy School District No. 20 at the time of final plat recording

**I. APPLICABLE RESOLUTIONS**

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Disapproval	Page 20

**J. STATUS OF MAJOR ISSUES**

There are no major outstanding 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. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the Mylar for recording.
2. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer’s Office that all ad valorem taxes applicable to such subdivided land, or years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Planning and Community Development Department, at the time of recording the plat, a certification from the County Treasurer’s Office that all prior years’ taxes have been paid in full.
3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the final plat.

4. The Applicant shall submit the Mylar to Enumerations for addressing.
5. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed species.
6. Access (driveway) permits will be required for each access to an El Paso County owned and maintained roadway. Access permits are obtained from the El Paso County Planning and Community Development Department.
7. The Subdivider(s) agrees on behalf of him/herself and any developer or builder successors and assignees that Subdivider and/or said successors and assigns shall be required to pay traffic impact fees in accordance with the El Paso County Road Impact Fee Program Resolution (Resolution No. 18-471), or any amendments thereto, at or prior to the time of building permit submittals. The fee obligation, if not paid at final plat recording, shall be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.
8. Drainage fees for the Monument Branch basin in the amount of \$7,629.93 shall be paid at time of plat recordation. Drainage and bridge fees for the Smith Creek basin in the amounts of \$699.10 and \$93.82, respectively, shall be paid at the time of final plat recordation.
9. Park fees in lieu of land dedication for regional parks (Area 2) in the amount of \$912.00 shall be paid at the time of plat recordation. No urban park fees are due with this minor subdivision.
10. Fees in lieu of school land dedication in the amount of \$612.00 shall be paid to El Paso County for the benefit of Academy School District No. 20 at the time of final plat recording.
11. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
12. All driveways shall comply with Appendix D of the adopted 2009 IFC for Fire Department access.

**NOTATION**

1. Final plats not recorded within 24 months of Board of County Commissioner approval shall be deemed expired, unless an extension is approved.

**L. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified sixteen (16) adjoining property owners on January 15, 2020, 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 Parcel Information

File Name: MS-19-008

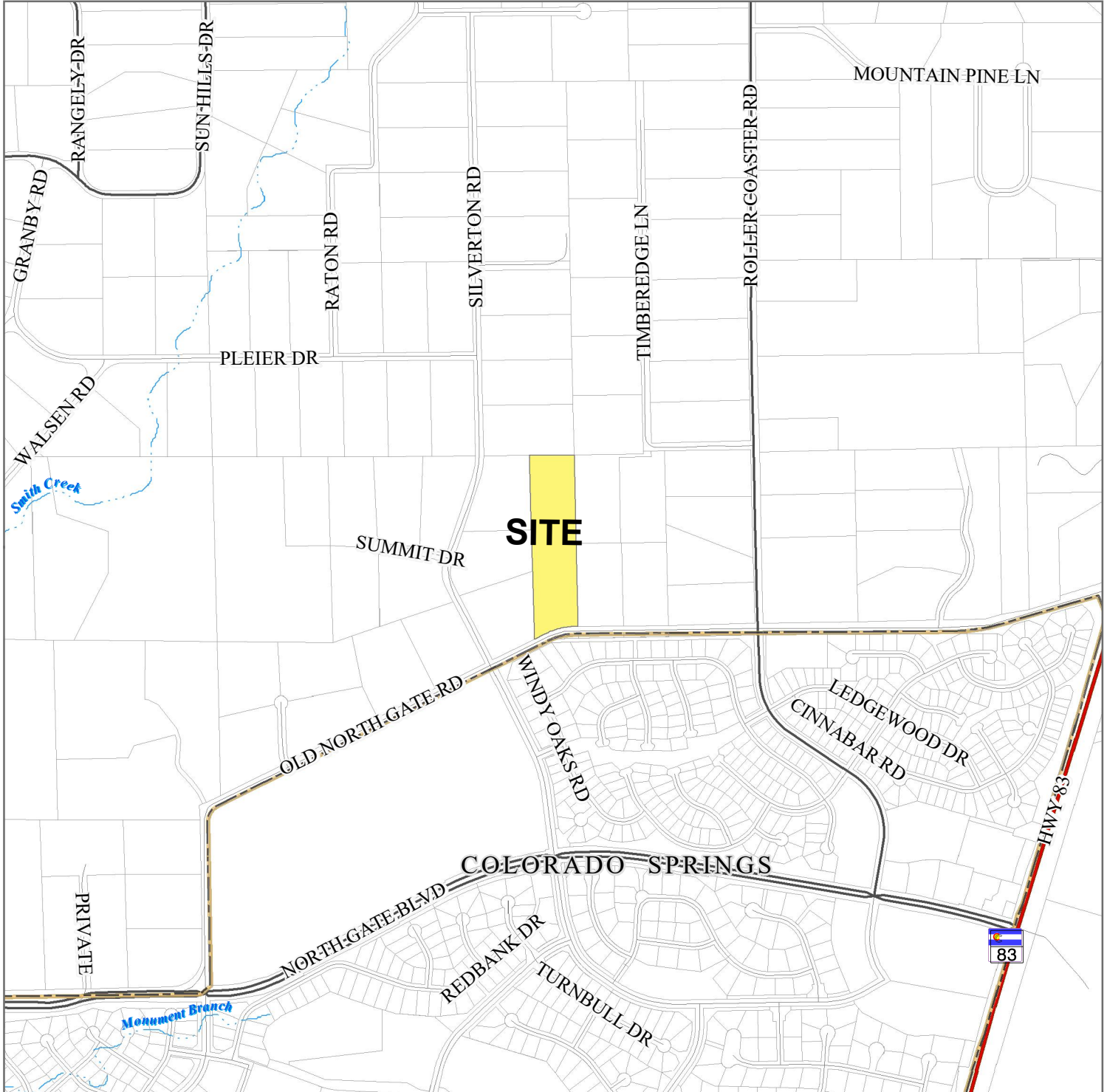
PARCEL	NAME
6204000051	WOLFF GREGORY S

Zone Map No. --

ADDRESS	CITY	STATE
2170 DIAMOND CREEK DR	COLORADO SPRINGS	CO

ZIP	ZIPLUS
80921	2986

Date: January 14, 2020



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



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January 2, 2020

PCD File No. MS198

**LETTER OF INTENT  
WOLFF RUN ESTATES  
MINOR SUBDIVISION**

**Owner:**

Gregory S. and Tanya R. Wolff  
2170 Diamond Creek Drive  
Colorado Springs, CO 80921  
(719) 459-9653

**Applicant:**

M.V.E., Inc.  
1903 Lelaray Street, Suite 200  
Colorado Springs, CO  
(719) 635-5736  
Attn: Charles C. Crum, P.E.

**Site Location Size and Zoning:**

The proposed subdivision to be known as “Wolff Run Estates” is located within the southwest one-quarter of the northwest one-quarter of Section 4, Township 12 South, Range 66 west of the 6th principal meridian in El Paso County, Colorado. The property has El Paso County Tax Schedule No. 62040-00-051. The current address of the site is 2030 Old North Gate Road. The southern portion of the site currently contains a residence, gravel drive, fenced corral, several outbuildings, and a well and septic system. Old North Gate Road traverses the southern edge of the site with the County claiming ownership of the road right-of-way. The site was 10.17 ± acres in area prior to the subtraction of Old North Gate Road. The 9.70 ± acre site is situated on the north side of Old North Gate Road, west of Roller Coaster Road and east of Silverton Road. The proposed site has never been platted and the right-of-way for Old North Gate Road has not been properly dedicated to the County at this time. The zoning of the site is RR-5 (Rural Residential). The site is proposed to be platted into two single family lots and with a strip of road right-of-way to be dedicated for addition to existing Old North Gate Road which has been assumed to be 60' wide right-of-way.

The property to the south of the site is part of Flying Horse No. 9, containing 1/2-acre lots in the City of Colorado Springs zoned PUD (Planned Unit Development). The property located to the north of the site is Lot 1, Block 2 Sun Hills Subdivision zoned RR-5 and containing single family residential development. Lots 7, 8 and 9, Overlook Estates, zoned RR-5, is adjacent on the west side of the site and contains rural residential development. Two unplatted parcels, zoned RR-5 and containing rural residential development, borders the east side of the site.

*Engineers • Surveyors  
1903 Lelaray Street, Suite 200 • Colorado Springs, CO 80909 • Phone 719-635-5736  
Fax 719-635-5450 • e-mail [mve@mvecivil.com](mailto:mve@mvecivil.com)*

**Request and Justification:**

The request is for approval of the Minor Subdivision plat of Wolff Run Estates, containing 9.70± acres. This proposed Minor Subdivision will create two (2) rural residential single-family lots and additional road street right-of-way. This Minor Subdivision plat is consistent with the proposed RR-5 zoning with the proposed Administrative Relief application being considered concurrently.

The site already contains one existing single family residence with auxiliary structures located on the southern portion of the site. The proposed minor subdivision layout will comply with the requirements of the proposed RR-5 zone with the existing improvement being located on one of the two lots. The existing residence is also compatible with the RR-5 zone with respect to land use (single-family residential), lot size (with approved administrative relief request), minimum building setbacks, water supply and wastewater disposal.

The proposed Minor Subdivision is compatible with the surrounding land uses and neighborhood listed above and coincides with the adjacent lot/parcel sizes on the north, east, and west, all being approximately 5 acres. The proposed Minor Subdivision application is in conformance with the goals, objectives, and policies of the Master Plan including the Policy Plan and the Tri-Lakes Comprehensive Plan discussed below.

This application meets the Minor Subdivision 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 (2016). Minor Subdivisions are reviewed and approved in consideration of the review criteria found in the El Paso County Land Development Code. Each criteria is listed below followed by the appropriate justification.

1. *The subdivision is in conformance with the goals, objectives, and policies of the Master Plan.* The Master Plan is comprised of several elements. One of the elements is the El Paso County Policy Plan (1998), which does not include site-specific land use policies, but establishes broad policies and goals which are intended to serve as a framework for decision-making regarding development of the County. The project satisfies the following policies from the Policy Plan as they specifically relate to this request: “*Goal 6.4 – Develop and maintain rural residential areas in a manner which protects their integrity, addresses the carrying capacity of the natural environment and provides for an adequate level of non-urban facilities and services.*” and “*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 proposed Minor Plat will not create the need for additional roadways or public facilities. The site will remain rural residential and is surrounded by existing rural residential development on the east, west and north sides. Higher density City of Colorado Springs residential development exists south of the site.; “*Policy 6.1.14 – Support development which compliments the unique environmental conditions and established land use character of each sub-area of the County.*”; The proposed Minor Plat is consistent with the Tri-Lakes Comprehensive Plan as it applies to the Smith Creek sub-area which is discussed below.; “*Policy 6.4.4 - Encourage new rural residential subdivisions to be located within or contiguous with existing rural residential area or to be incorporated as a buffer between higher density and undevelopable areas.*”; The proposed Minor Plat is in an area adjacent to rural residential development with RR-5 to the west, east and north.; “*Goal 6.1 A – Encourage patterns of growth and development which compliment the regions' unique natural environments and which reinforce community character.*” The existing community character is preserved with this Minor Plat. Density and land use are compatible with

the surrounding area and the natural features of the site will remain preserved, even with the addition on one more residential lot on the site.

Another element of the Master Plan is the Small Area Plan. The Wolff Run Estates site is located within the area of the Tri-Lakes Comprehensive Plan (2000), specifically within the Smith Creek sub-area. The area desires that the rural residential development pattern be continued, with a preferred density of one dwelling unit per five acres. This coincides with the proposed subdivision density. The plan also desires that former North Gate Road be upgraded. Since the time of plan writing, The alignment of North Gate Road has been revised, leaving the adjacent right-of-way to be renamed “Old North Gate Road” with reduced traffic. The proposed subdivision provides for official dedication of additional right-of-way along the north side of Old North Gate Road from within our Minor Plat. The proposed Minor Plat is consistent with the Tri-Lakes Plan.

The proposed Minor Plat is in compliance with the Parks Master Plan, which does not call for trails or parks in the site vicinity. The proposed subdivision is also in compliance with the 2040 Major Transportation Corridors Plan (MTCP) and Master Plan for Mineral Extraction as no separate mineral estate owners were found for the property and the existing development on surrounding properties is not compatible with any potential mineral extraction operations.

2. *The subdivision is in substantial conformance with the approved preliminary plan.*  
This is a proposed Minor Subdivision and requires no Preliminary Plan for Plat approval. The subdivision will be developed in accordance with the currently proposed land use applications.
3. *The subdivision is consistent with the subdivision design standards and regulations and meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.*  
The proposed Minor Subdivision Plat is prepared in accordance with applicable subdivision design standards. A request for Administrative Relieve, in accordance with the Land Development Code, is submitted to allow up to a 20% reduction in lot area due to previous Right-of-Way expansion for widening of Old North Gate Road.
4. *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.*  
Water service is intended to be provided by individual on site wells operated under a State approved Water Augmentation Plan. Colorado Springs has responded to our question of 'If Colorado Springs Utilities could provide public utilities to our Minor Subdivision area?' Colorado Springs responded that our Minor Subdivision area is NOT ELIGIBLE for annexation and therefore NOT ELIGIBLE for provision of City services at this time. City of Colorado Springs response letter is attached for readers reference.
5. *A public sewage disposal system has been established and, if other methods of sewage disposal are proposed, the system complies with State and local laws and regulations, [C.R.S. §30-28-133(6)(b)] and the requirements of Chapter 8 of this Code.*  
Waste water is intended to be treated via individual on site septic systems designed, constructed and operated under State and County Health Department rules and regulations.

Colorado Springs has responded to our question of 'If Colorado Springs Utilities could provide public utilities to our Minor Subdivision area?' Colorado Springs responded that our Minor Subdivision area is NOT ELIGIBLE for annexation and therefore NOT ELIGIBLE for provision of City services at this time. City of Colorado Springs response letter is attached for readers reference.

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

A soils report has been prepared for the site and the owner will comply with the recommendations of the report.

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

The proposed Minor Subdivision is consistent with the submitted Final Drainage Report. There are not Drainage facilities needed or proposed with this development. The the owner will comply with the requirements of the drainage report.

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

Both lots created as part of this subdivision, will utilize the existing driveway access onto Old North Gate Road. An access easement for the new lot is provided on the Minor Subdivision Plat. A request for Waiver of subdivisions regulations in accordance with the Land Development Code has been submitted to allow Lot 2 to not abut a public right-of-way, but instead gain access by ingress/egress easement through Lot 1.

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

The site is located within the jurisdiction of the El Paso County Sheriff's Office. The Sheriff's office currently provides police protection for the site and surrounding area. Wolff Run Estates is located within the Donald Wescott Fire Protection District which is providing fire protection for the site and has agreed to serve this subdivision. Water and sanitary sewer provisions are discussed in items 4 & 5 above. The property is located within the service areas of Mountain View Electric Association, Blackhills Energy Corporation, Centurylink Telephone, and Academy School District 20, which will serve the subdivision. Transportation is being facilitated by the existing adjacent roadway system.

10. *The Minor Subdivision plans provide evidence to show that the proposed methods for fire protection comply with Chapter 6 of this Code.*

Wolff Run Estates is located within the Donald Wescott Fire Protection District which is providing fire protection for the site and the surrounding area. The District has agreed to serve this subdivision. Building permits for each structure shall be in accordance with the requirements of the Fire District as administered by the Pikes Peak Regional Building Department.

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



All Offsite impacts are determined to be insignificant with the addition of one residence to the site already containing one residence. The owner will be responsible for paying park, school, drainage and Traffic Impact fees.

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

There are no public facilities or infrastructure required or proposed for this subdivision. The platting of the site will include the collection of the applicable School Fees, Park Fees, Drainage Fees and Traffic Impact fees due for this project.

13. *The subdivision meets other applicable sections of Chapter 6 and 8.*

Contingent upon approval of the requests for Administrative Relief and waiver, The subdivision meets the requirements of the Land Development Code.

14. *The extraction of any known commercial mining deposit shall not be impeded by this subdivision [C.R.S. §§34-1-302(1), et seq.].* No separate mineral estate owners were found for this property and mineral extraction operations will not be undertaken by the project owners.

#### **Request for Administrative Relief:**

Administrative Relief is being requested to reduce the minimum lot size requirement of 5.00 acres in the RR-5 zone pursuant to Section 5.5 of the El Paso County Land Development Code. Lot 2 of the proposed subdivision is 5.00 acres in area. The proposed lot size for Lot 1 of 4.62± acres is within the 20% allowance for Administrative Relief consideration.

The owners purchased and have title to 9.70± acres of land which originally consisted 10.17± acres prior to the deduction of area for the existing Old North Gate Road. The 9.70± acres leaves area for one 5.00± acre lot, one 4.62 acre± lot and the dedication of 0.08± acres as additional right-of-way for Old North Gate Road. If the property was adjacent to a section line road, the minimum lot size would automatically be reduced by code. Old north Gate Road is not a section line road, however the original parcel size was over 10 acres prior to deduction for the existing roadway. The owners are also dedicating additional road right-of-way (0.08± acres) on the north side of Old North Gate Road on the Minor Plat.

The resulting lot sizes, with the allowance of the Administrative Relief, would still be in compliance with the provisions of the RR-5 zone district. The lot sizes would not be out of character for lots along the north side of Old North Gate Road, which are also affected by the diminished parcel sizes due to right-of-way subtractions. The soils and geology study for subdivision demonstrates that the proposed lots are viable and the new lot is buildable. The lots would comply with required setbacks. We request the approval of the proposed reduced lot area to allow the subdivision of the property into two lot in accordance with the concurrently requested Minor Plat while dedicating additional road right of way for the existing adjacent roadway.

#### **Existing and Proposed Facilities:**

Existing improvements within this parcel are related to the existing residential use of the site, located in the southern portion of the property, which is located within proposed Lot 1. Proposed Lot 2 will be located in the northern portion of the subdivision and is currently vacant. Existing facilities also include the adjacent public roadway of Old North Gate Road. The owners purchased and hold title to a portion of

the southwest one-quarter of the northwest one-quarter of Section 4, Township 12 South, to the north of Old North Gate Road. Earlier deeds do not exclude Old North Gate Road. The road exists, but the right-of-way has yet to be formally dedicated by a legal instrument. The owner is able to dedicate a 10' wide strip on the south side of Lot 1 for additional road right-of-way. Water service on Lot 1 is by the existing well on the site, Water service on Lot 2 will from a new private well located on that lot. Wastewater treatment will by by separate private Onsite Wastewater Treatment Systems (OWTS). There are no required public subdivision improvements required for this site.

#### **Total Number Of Residential Units And Densities:**

The gross area of Wolff Run Estates is 9.70+/- acres, including the Old North Gate Road right-of-way dedication. The subdivision will contain two (2) rural residential Single Family lots. Lot 1 will contain 5.00± acres and Lot 2 will contain 4.62± acres for a total of 9.62+/- acres of single-family residential use. The road rights-of-way take up the remaining 0.08+/- acres. The average lot size for the two (2) lots is 4.81 acres. The gross density of the site is 0.21 units per acre, while the net density, subtracting out the area of street right-of-way is also 0.21 units per acre.

#### **Fire Protection:**

The Wolff Run Estates property is located within the Donald Wescott Fire Protection District. The lots and homes are subject to the codes and policies adopted by the District regarding fire protection.

#### **Proposed Access Locations:**

The access for both lots of the proposed Wolff Run Estates will be the existing driveway access point for the existing home that will be located on Lot 1 of this plat. The existing driveway is located near the southwest corner of the subdivision. An access easement is provided on the plat over the existing driveway location to allow access to Lot 2 which does not have public road frontage.

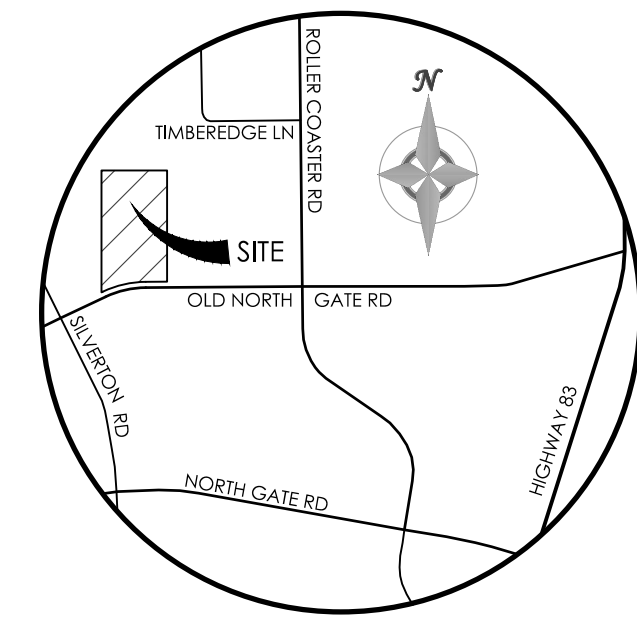
#### **Traffic Impact and Traffic Impact Fees:**

The one (1) existing and one (1) proposed single family residential units will access public Old North Gate Road, which connects to Roller Coaster Road, Silverton Road and North Gate Boulevard. The development is expected to generate a total of 19 trips per day (Average weekday trips ends) and 2 trips in the peak hour based on 9.44 trips per unit for Single Family Detached Housing (according to Trip Generation, 10th Edition, 2017 by the Institute of Transportation Engineers). This number of trips is below the County threshold of 100 trips per day or 10 trip during the peak hour. Therefore, a Transportation Impact Study (TIS) is not required for the project. This development is subject to fees established by the El Paso County Road Impact Fee Program per El Paso County Resolution Number 18-471. The owners have elected to not be included in any Public Improvements District. Traffic Impact Fees will be paid at time of building permit.

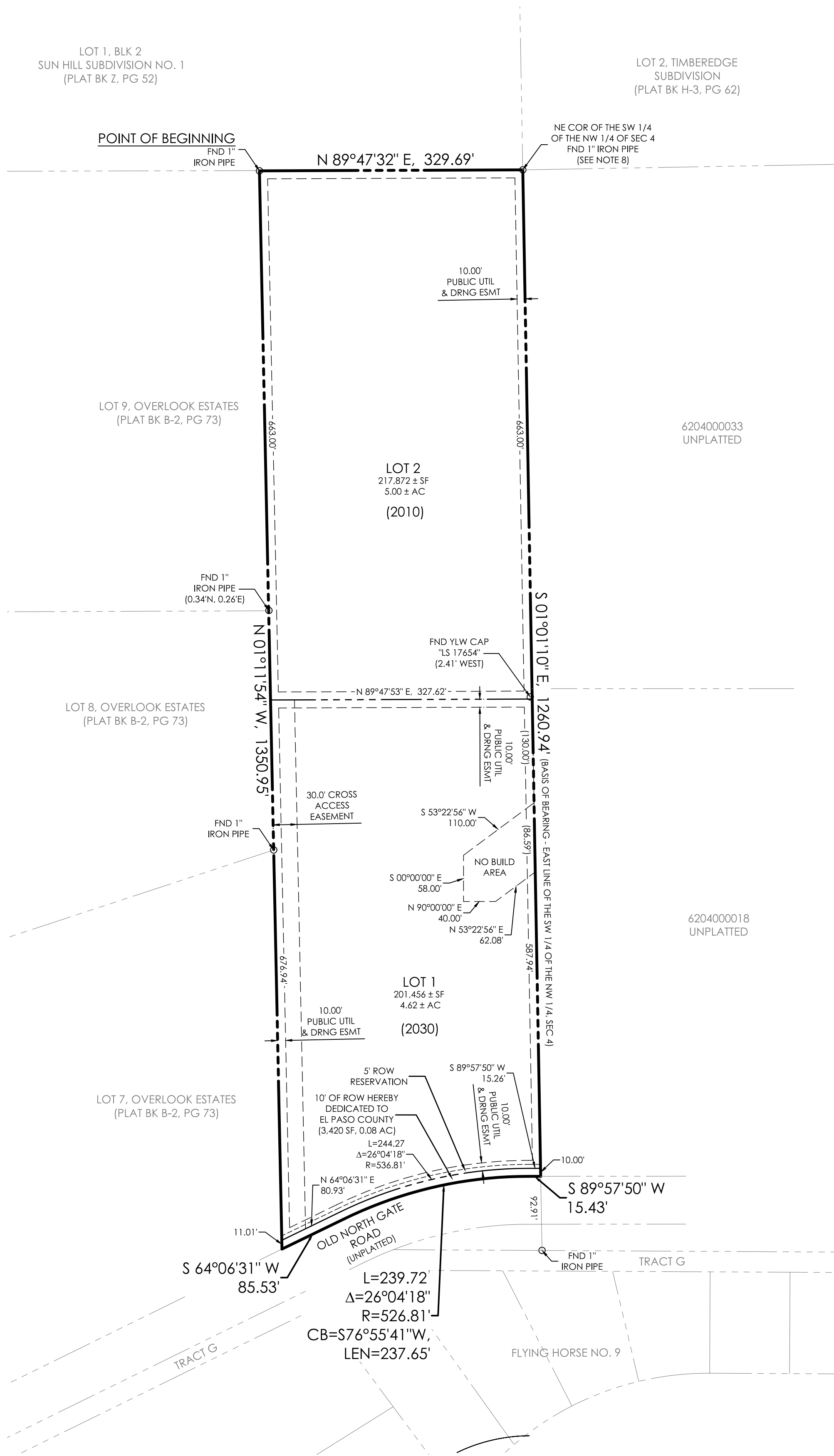
Z:\61105\Documents\Correspondance\61105-LetterOfIntent-Minor Sub.odt

# WOLFF RUN ESTATES

A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST OF SECTION 4, TOWNSHIP 12 SOUTH, RANGE 66 WEST of the 6th PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO



VICINITY MAP  
NOT TO SCALE



## KNOW ALL MEN BY THESE PRESENTS

THAT GREGORY S. WOLFF AND TANYA R. WOLFF ARE THE OWNERS OF THE FOLLOWING DESCRIBED TRACT OF LAND, TO WIT:  
 A TRACT OF LAND IN THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 4 IN TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE 6TH P.M.; WHOSE LOCATION AND BOUNDARIES ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
 BEGINNING AT THE NORTHEAST CORNER OF LOT 9, OVERLOOK ESTATES AS RECORDED IN PLAT BOOK B-2 AT PAGE 73 OF THE RECORDS OF EL PASO COUNTY, COLORADO;  
 THENCE N89°47'32"E 329.69 FEET ALONG THE SOUTH LINE OF LOT 1, BLOCK 2, SUN HILL SUBDIVISION NO. 1 AS RECORDED IN PLAT BOOK 2 AT PAGE 52 OF THE RECORDS OF SAID EL PASO COUNTY TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 4;  
 THENCE S01°01'10"E 1260.94 FEET ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 4 TO THE NORTH LINE OF OLD NORTH GATE ROAD;  
 THENCE S89°57'50"W 15.43 FEET ALONG THE NORTH LINE OF SAID OLD NORTH GATE ROAD TO A POINT OF CURVE TO THE LEFT;  
 THENCE 239.67 FEET ALONG SAID CURVE TO THE LEFT ON SAID OLD NORTH GATE ROAD HAVING A RADIUS IS 526.81 FEET, A CENTRAL ANGLE 26°04'18", WHOSE LONG CHORD BEARS 376°55'41"W, 237.65 FEET TO A POINT TANGENT;  
 THENCE S64°06'31"W 85.53 FEET ALONG THE NORTH LINE SAID OLD NORTH GATE ROAD TO THE SOUTHEAST CORNER OF LOT 7, SAID OVERLOOK ESTATES;  
 THENCE N01°11'54"W 1350.95 FEET ALONG THE EAST BOUNDARY OF SAID OVERLOOK ESTATES TO THE POINT OF BEGINNING.  
 COUNTY OF EL PASO, STATE OF COLORADO.  
 CONTAINING 9.705 ± ACRES MORE OR LESS.

## COUNTY GOVERNMENT NOTES

- THE FOLLOWING REPORTS HAVE BEEN SUBMITTED IN ASSOCIATION WITH THE FINAL PLAT FOR THIS SUBDIVISION AND ARE ON FILE AT THE COUNTY DEVELOPMENT SERVICES DEPARTMENT: DRAINAGE REPORT; WATER RESOURCES REPORT; WASTEWATER DISPOSAL REPORT; GEOLOGIC & SOILS REPORT.
- ALL PROPERTY OWNERS ARE RESPONSIBLE FOR MAINTAINING PROPER STORM WATER DRAINAGE IN AND THROUGHOUT THEIR PROPERTY. PUBLIC DRAINAGE EASEMENTS AS SPECIFICALLY NOTED ON THE PLAT SHALL BE MAINTAINED BY THE INDIVIDUAL LOT OWNERS UNLESS OTHERWISE INDICATED. STRUCTURES, FENCES, MATERIALS OR LANDSCAPING THAT COULD IMPEDE THE FLOW OF RUNOFF SHALL NOT BE PLACED IN DRAINAGE EASEMENTS.
- 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 LISTED SPECIES (E.G., FREBLE'S MEADOW JUMPING MOUSE).
- THE ADDRESSES EXHIBITED ON THIS PLAT ARE FOR INFORMATIONAL PURPOSES ONLY. THEY ARE NOT THE LEGAL DESCRIPTION AND ARE SUBJECT TO CHANGE.
- NO DRIVEWAY SHALL BE ESTABLISHED UNLESS AN ACCESS PERMIT HAS BEEN GRANTED BY EL PASO COUNTY.
- DRIVEWAY NOTE: INDIVIDUAL LOT PURCHASERS ARE RESPONSIBLE FOR CONSTRUCTING DRIVEWAYS, INCLUDING NECESSARY DRAINAGE CULVERTS FROM OLD NORTH GATE ROAD PER LAND DEVELOPMENT CODE SECTION 6.3.3.C.2 AND DUE TO THEIR LENGTH, SOME OF THE DRIVEWAYS WILL NEED TO BE SPECIFICALLY APPROVED BY THE DONALD WESCOTT FIRE PROTECTION DISTRICT.
- MAILBOXES SHALL BE INSTALLED IN ACCORDANCE WITH ALL EL PASO COUNTY AND UNITED STATES POSTAL SERVICE REGULATIONS.
- THE SUBDIVIDER(S) AGREES ON BEHALF OF HIM/HERSELF AND ASSIGNEES THAT SUBDIVIDER AND/OR SAID SUCCESSORS AND ASSIGNS SHALL BE REQUIRED TO PAY TRAFFIC IMPACT FEES IN ACCORDANCE WITH THE EL PASO COUNTY ROAD IMPACT FEE PROGRAM RESOLUTION (RESOLUTION NO. 18-471), OR ANY AMENDMENTS THERETO, AT OR PRIOR TO THE TIME OF BUILDING PERMIT SUBMITTALS.
- 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.
- INDIVIDUAL WELLS ARE THE RESPONSIBILITY OF EACH PROPERTY OWNER. PERMITS FOR INDIVIDUAL WELLS MUST BE OBTAINED FROM THE STATE ENGINEER WHO BY LAW HAS THE AUTHORITY TO SET CONDITIONS FOR THE ISSUANCE OF THESE PERMITS.
- WASTEWATER: SEWAGE TREATMENT IS THE RESPONSIBILITY OF EACH INDIVIDUAL PROPERTY OWNER. THE EL PASO COUNTY DEPARTMENT OF HEALTH AND ENVIRONMENT MUST APPROVE EACH SYSTEM AND, IN SOME CASES THE DEPARTMENT MAY REQUIRE AN ENGINEER DESIGNED SYSTEM PRIOR TO PERMIT APPROVAL. THESE SYSTEMS MAY COST MORE TO DESIGN, INSTALL, AND MAINTAIN.
- ACCESS TO LOTS 1 & 2 SHALL BE THROUGH THE SHOWN 30' CROSS ACCESS EASEMENT. THE RESPONSIBILITY AND MAINTENANCE OF SAID ACCESS SHALL BE PER THE ACCESS MAINTENANCE AGREEMENT AS RECORDED IN RECEPTION NO. \_\_\_\_\_ OF THE RECORDS OF EL PASO COUNTY, COLORADO.

## NOTES

- BEARING REFERRED TO HEREIN ARE BASED ON THE EAST LINE OF THE SW 1/4, OF THE NW 1/4 OF SECTION 4.
- THIS PLAT DOES NOT CONSTITUTE A TITLE SEARCH BY M.V.E., INC. TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD. FOR ALL INFORMATION REGARDING EASEMENTS, RIGHTS-OF-WAY, TITLE, AND OTHER MATTERS OF RECORD, M.V.E., INC. RELIED ON TITLE COMMITMENT FILE NO. 3117919-04489 AS PREPARED BY GUARDIAN TITLE AGENCY, JULY 22, 2019.
- ALL CORNERS SET WITH NO. 5 REBAR WITH SURVEYOR'S ALUMINUM CAP PLS 27605, UNLESS OTHERWISE NOTED.
- ACCORDING TO FEMA FLOOD INSURANCE RATE MAP COMMUNITY PANEL NO. 08041C0295 G, DATED DECEMBER 7, 2018, THE PROPERTY IS NOT LOCATED IN A FEMA DESIGNATED FLOOD HAZARD AREA.
- NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON. (SECTION 13-80-105 C.R.S.).
- PORTIONS OF THIS PROPERTY SUBJECT TO A GRANT OF RIGHT OF WAY GRANTED TO MOUNTAIN VIEW ELECTRIC ASSOCIATION INC. RECORDED NOVEMBER 21, 1972 IN RECEPTION NO. 936276. (NOT PLOTTABLE)
- PORTIONS OF THIS PROPERTY SUBJECT TO A GRANT OF RIGHT OF WAY GRANTED TO MOUNTAIN VIEW ELECTRIC ASSOCIATION INC. RECORDED JUNE 27, 1973 IN RECEPTION NO. 994609. (NOT PLOTTABLE)
- FOUND 1" IRON PIPE, REPLACED WITH 30" #6 REBAR W/ 2-1/2" ALUMINUM CAP MARKED "POLARIS - NW #4 - 2020 - PLS 27605"

## SOIL AND GEOLOGY CONDITIONS:

THE FOLLOWING LOTS HAVE BEEN FOUND TO BE IMPACTED BY GEOLOGIC CONSTRAINTS, MITIGATION MEASURES AND A MAP OF THE HAZARD AREA CAN BE FOUND IN THE REPORT (SOIL, GEOLOGY, GEOLOGIC HAZARD AND WASTEWATER STUDY 2030 OLD NORTH GATE ROAD) PREPARED BY ENTECH ENGINEERING, INC. ON MAY 24, 2019 IN FILE (MS-19-008) AVAILABLE AT THE EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT:

POTENTIALLY SEASONALLY HIGH GROUNDWATER: LOT 1  
 MITIGATION: AREA AVOIDANCE FOR STRUCTURE PLACEMENT  
 POTENTIAL NEED FOR SUBSURFACE PERIMETER DRAIN

POTENTIAL LOOSE OR COLLAPSIBLE SOILS: LOT 1 & LOT 2  
 MITIGATION: REMOVAL, REPLACEMENT AND RECOMPACTION BENEATH STRUCTURES

## EASEMENTS

UNLESS OTHERWISE INDICATED ALL INTERIOR SIDE LOT LINES ARE HEREBY PLATTED WITH A 10' PUBLIC DRAINAGE AND UTILITY EASEMENT. THE FRONT AND REAR OF ALL LOTS ARE HEREBY PLATTED WITH 10' PUBLIC DRAINAGE AND UTILITY EASEMENTS. A 10' PUBLIC UTILITY AND DRAINAGE EASEMENT IS PLATTED ALONG OLD NORTH GATE ROAD. THE SOLE RESPONSIBILITY FOR MAINTENANCE OF THESE EASEMENTS IS HEREBY VESTED WITH THE INDIVIDUAL PROPERTY OWNERS.

## SURVEYOR'S STATEMENT

I, RANDALL D. HENCY, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE ON 10/01/2018, BY ME OR UNDER MY DIRECT SUPERVISION AND THAT ALL MONUMENTS EXIST AS SHOWN HEREON; THAT MATHEMATICAL CLOSURE ERRORS ARE LESS THAN 1:10,000; AND THAT SAID PLAT HAS BEEN PREPARED IN FULL COMPLIANCE WITH ALL APPLICABLE LAWS OF THE STATE OF COLORADO DEALING WITH MONUMENTS, SUBDIVISION, OR SURVEYING OF LAND AND ALL APPLICABLE PROVISIONS OF THE EL PASO COUNTY LAND DEVELOPMENT CODE.

I ATTEST THE ABOVE ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.

RANDALL D. HENCY  
 COLORADO REGISTERED PLS #27605  
 FOR AND ON BEHALF OF M.V.E., INC.

## OWNER'S CERTIFICATE

THE UNDERSIGNED, BEING ALL THE OWNERS, MORTGAGEES, BENEFICIARIES OF DEEDS OF TRUST AND HOLDERS OF OTHER INTERESTS IN THE LAND DESCRIBED HEREIN, HAVE LAID OUT, SUBDIVIDED, AND PLATTED SAID LANDS INTO LOTS, STREETS, AND EASEMENTS AS SHOWN HEREON UNDER THE NAME AND SUBDIVISION OF WOLFF RUN ESTATES. ALL PUBLIC IMPROVEMENTS SO PLATTED ARE HEREBY DEDICATED TO PUBLIC USE AND SAID OWNER DOES HEREBY COVENANT AND AGREE THAT THE PUBLIC IMPROVEMENTS WILL BE CONSTRUCTED TO EL PASO COUNTY STANDARDS AND THAT PROPER DRAINAGE AND EROSION CONTROL FOR SAME WILL BE PROVIDED AT SAID OWNER'S EXPENSE. ALL TO THE SATISFACTION OF THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO. UPON ACCEPTANCE BY RESOLUTION, ALL PUBLIC IMPROVEMENTS SO DEDICATED WILL BECOME MATTERS OF MAINTENANCE BY EL PASO COUNTY, COLORADO. THE UTILITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED FOR PUBLIC UTILITIES AND COMMUNICATION SYSTEMS AND OTHER PURPOSES AS SHOWN HEREON. THE ENTITIES RESPONSIBLE FOR PROVIDING THE SERVICES FOR WHICH THE EASEMENTS ARE ESTABLISHED ARE HEREBY GRANTED THE PERPETUAL RIGHT OF INGRESS AND EGRESS FROM AND TO ADJACENT PROPERTIES FOR INSTALLATION, MAINTENANCE, AND REPLACEMENT OF UTILITY LINES AND RELATED FACILITIES.

GREGORY S. WOLFF, OWNER  
 STATE OF COLORADO )  
 ) SS  
 COUNTY OF EL PASO )  
 ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020 BY GREGORY S. WOLFF AS OWNER.  
 MY COMMISSION EXPIRES \_\_\_\_\_  
 WITNESS MY HAND AND OFFICIAL SEAL \_\_\_\_\_  
 NOTARY PUBLIC

TANYA R. WOLFF, OWNER  
 STATE OF COLORADO )  
 ) SS  
 COUNTY OF EL PASO )  
 ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020 BY TANYA R. WOLFF AS OWNER.  
 MY COMMISSION EXPIRES \_\_\_\_\_  
 WITNESS MY HAND AND OFFICIAL SEAL \_\_\_\_\_  
 NOTARY PUBLIC

## BOARD OF COUNTY COMMISSIONERS CERTIFICATE

THIS PLAT FOR WOLFF RUN ESTATES SUBDIVISION WAS APPROVED FOR FILING BY THE EL PASO COUNTY, COLORADO BOARD OF COUNTY COMMISSIONERS ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020. SUBJECT TO ANY NOTES SPECIFIED HEREON AND ANY CONDITIONS INCLUDED IN THE RESOLUTION OF APPROVAL. THE DEDICATIONS OF LAND TO THE PUBLIC, STREETS & EASEMENTS ARE ACCEPTED, BUT PUBLIC IMPROVEMENTS THEREON WILL NOT BECOME THE MAINTENANCE RESPONSIBILITY OF EL PASO COUNTY UNTIL PRELIMINARY ACCEPTANCE OF THE PUBLIC IMPROVEMENTS IN ACCORDANCE WITH THE REQUIREMENTS OF THE LAND DEVELOPMENT CODE AND ENGINEERING CRITERIA MANUAL, AND THE SUBDIVISION IMPROVEMENTS AGREEMENT.

PRESIDENT, BOARD OF COUNTY COMMISSIONERS \_\_\_\_\_ DATE \_\_\_\_\_  
 THIS PLAT FOR WOLFF RUN ESTATES SUBDIVISION WAS APPROVED FOR FILING BY THE EL PASO COUNTY, COLORADO PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020. SUBJECT TO ANY NOTES OR CONDITIONS SPECIFIED HEREON.  
 PLANNING AND COMMUNITY DEVELOPMENT DIRECTOR \_\_\_\_\_

## CLERK AND RECORDER

STATE OF COLORADO )  
 ) SS  
 COUNTY OF EL PASO )  
 I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN MY OFFICE AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ A.M. THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020. A.D. AND IS DULY RECORDED AT RECEPTION NO. \_\_\_\_\_ OF THE RECORDS OF EL PASO COUNTY, COLORADO.

CHARLES D. BROERMAN, RECORDER  
 BY: \_\_\_\_\_ DEPUTY  
 SCHOOL FEE: \_\_\_\_\_  
 BRIDGE FEE: \_\_\_\_\_  
 PARK FEE: \_\_\_\_\_  
 DRAINAGE FEE: \_\_\_\_\_

MINOR SUBDIVISION PLAT  
 WOLFF RUN ESTATES  
 SUBDIVISION

**MVE, INC.**  
 ENGINEERS SURVEYORS

MVE PROJECT: 61105  
 MVE DRAWING: -PLAT-PS  
 DATE: JANUARY 2, 2020  
 SHEET: 1 OF 1

1903 Lelary Street, Suite 300  
 Colorado Springs, CO 80909  
 719.635.5736 www.mveinc.com



August 28, 2019

El Paso County Development Services Department  
2880 International Circle, Suite 110  
Colorado Springs, CO 80910

RE: Pony Tracks II Minor Subdivision  
SW1/4 of NW1/4 of Sec. 4, Twp. 12S, Rng. 66W, 6<sup>th</sup> P.M.  
Water Division 2, Water District 10  
CDWR Assigned Subdivision No. 26666

To Whom It May Concern,

We have received the submittal concerning the above referenced proposal to subdivide a 9.70± acre tract of land into two new lots. The first lot will be 4.62 ± acres, and the second lot will be 5.00 ± acres. Additionally, there is a street rights-of-way occupying 0.98± acres. The proposed supply of water to the subdivision will be two individual on-lot wells operating pursuant to a court decreed plan for augmentation, with wastewater being disposed of through individual on-site septic disposal systems.

### **Water Supply Demand**

According to the Water Supply Information Summary received in the submittal, the estimated water demand for the development is 0.99 acre-feet/year. This amounts to ordinary household use inside one single family dwelling per lot (0.40 acre-feet/year per lot), with the remaining 0.095 acre-feet/year per lot available for other uses such as landscape irrigation, domestic animals, or livestock watering.

It should be noted that standard water use rates, as found in the *Guide to Colorado Well Permits, Water Rights, and Water Administration*, are 0.3 acre-foot per year for each ordinary household, 0.05 acre-foot per year for four large domestic animals, and 0.05 acre-foot per year for each 1,000 square feet of lawn and garden irrigation.

### **Source of Water Supply**

The anticipated source of water is to be provided by two on-lot wells producing from the Dawson aquifer that will operate pursuant to the augmentation plan decreed by the Division 2 Water Court in case no. 2018CW3001. The water underlying this property was adjudicated and the applicant is owner of the Dawson, Denver, Arapahoe, and Laramie Fox-Hills aquifers.

According to the decree entered by the Division 2 Water Court in case no. 2018CW3001, the following amounts of water shown in Table 1, below, were determined to be available underlying the 9.86 ± acre tract of land and owned by the applicant.



**Table 1 - Denver Basin Ground Water Rights**

Aquifer	Tributary Status	Volume (AF)	Annual Allocation 100 Year (AF/Year)	Annual Allocation 300 Year (AF/Year)
Dawson	NNT	296	*	0.99
Denver	NNT	796	7.96	*
Arapahoe	NNT	386	3.86	*
Laramie-Fox Hills	NT	281	2.81	*

\*Value was omitted from the table in decree 18CW3001

The plan for augmentation decreed in Division 2 Water Court case no. 2018CW3001 allows for diversion of 0.99 acre-feet annually from Dawson aquifer for a maximum of 300 years.

An application to register an existing well on the property was received on January 10, 2018. The application was incomplete and returned to the applicant with a request for additional information. A permit has not yet been issued. In the Response to Consultation Report filed by the applicant in case no. 2018CW3001, the applicant indicated they intended to apply to permit the existing well pursuant to the associated Plan for Augmentation. **This will require that the applicant apply for, and obtain a new well permit issued pursuant to Section 37-90-137(4) C.R.S., or plug and abandon this well.**

The proposed source of water for this subdivision is a bedrock aquifer in the Denver Basin. The State Engineer’s Office does not have evidence regarding the length of time for which this source will be a physically and economically viable source of water. According to 37-90-137(4)(b)(I), C.R.S., “Permits issued pursuant to this subsection (4) shall allow withdrawals on the basis of an aquifer life of one hundred years.” Based on this allocation approach, the annual amounts of water decreed is equal to one percent of the total amount available as determined by Rules 8.A and 8.B of the Statewide Nontributary Ground Water Rules, 2 CCR 402-7. Therefore, the water may be withdrawn in those 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 this source 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 annual estimated demand, for the entire subdivision, is 0.99 acre-feet as allowed by the augmentation plan. As a result, the water may be withdrawn in that annual amount for a maximum of 300 years.

**State Engineer’s Office Opinion**

Based on the above, it is our opinion, pursuant to CRS 30-28-136(1)(h)(I), that the anticipated water supply can be provided without causing material injury to decreed water rights so long as the applicant obtains well permits issued pursuant to C.R.S. 37-90-137(2) and the plan for augmentation noted herein, for all wells in the subdivision and operates the wells in accordance with the terms and conditions of any future well permits.

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 is greater than the annual amount of water required to supply the demands of the proposed subdivision.

Our opinion is qualified by the following:

The Division 2 Water Court has retained jurisdiction over the final amount of water available pursuant to the above-referenced decrees, pending actual geophysical data from the aquifer.

**The amounts of water in the Denver Basin aquifers, and identified in Division 2 Water Court case no. 18CW3001, was calculated based on estimated current aquifer conditions. For planning purposes, 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 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. Furthermore, that applicant will need to apply for, and obtain a new well permits issued pursuant to Section 37-90-137(2) C.R.S.**

Should you or the applicant have questions regarding any of the above, please contact me at this office.

Sincerely,



Kate Fuller, P.E.  
Water Resource Engineer

cc: Bill Tyner, Division 2 Engineer  
Doug Hollister, District 10 Water Commissioner



# EL PASO COUNTY



## OFFICE OF THE COUNTY ATTORNEY CIVIL DIVISION

**Diana K. May, County Attorney**

### Assistant County Attorneys

M. Cole Emmons  
Lori L. Seago  
Lisa A. Kirkman  
Steven A. Klaffky  
Peter A. Lichtman  
Mary Ritchie  
Bryan E. Schmid

December 6, 2019

MS-19-8      Wolff Run Estates (a/k/a Pony Tracks Subdivision Filing No. 2)  
(Minor Subdivision)

Reviewed by:      M. Cole Emmons, Senior Assistant County Attorney *M.C.E.*  
Edi Anderson, Paralegal

### **FINDINGS AND CONCLUSIONS:**

1. This is a proposal by Gregory and Tanya Wolff ("Applicant") for a 2 lot minor subdivision on 9.7 +/- acres of land, plus right-of-way ("Property"). The Applicant desires to replat the parcel into 2 lots. There is currently an existing single family residence and an existing well on what will be the newly created Lot 1. The property is zoned RR-5 (Residential Rural).

2. The Applicant has provided for the source of water to derive from individual on-lot wells into the Dawson aquifer pursuant to the Findings of Fact, Conclusions of Law, Ruling of Referee and Decree regarding Gregory S. Wolff and Tanya R. Wolff, District Court Water Division 2, Case No. 18CW3001 (c/r 18CW3001 Div. 1) ("Decree"). The Decree provides that the plan for augmentation permits pumping a total of 0.99 acre-feet annually from as many as 4 on-lot Dawson aquifer wells located on the property. Applicant is platting and developing only 2 lots and will apportion all of the water supply decreed between 2 lots instead of 4 lots.

3. Pursuant to the Water Supply Information Summary, the Applicant estimates its annual water needs to serve the 2 lot minor subdivision as follows: 0.80 acre-feet for household use, plus 0.19 acre-feet for uses which may include landscaping irrigation, horses, or stock watering or any mixture of said uses. The total water demand for the subdivision is 0.99 acre-feet per year (0.495 acre-feet per each lot). Based on Applicant's demand of 0.99 acre-feet per year for the subdivision, Applicant must be able to provide a supply of 297<sup>1</sup> acre-feet of water (0.99 acre-feet per year x 300 years) to meet the County's 300-year water supply requirement.

<sup>1</sup> The total amount adjudicated in the Dawson aquifer is 296 acre-feet total, however, the decree states Applicant may withdraw 0.99 acre-feet/year for 300 years which totals 297 acre-feet. This appears to be a "rounding issue." The Water Resources Report by MVE, Inc., cites a permitted withdrawal of 0.247 acre-feet/lot (based on 4 lots). Based on Applicant's proposal for 2 lots, the total amount would equal 0.494 acre-feet/lot or 0.988 acre-feet/year (296.4 acre-feet for a period of 300 years).

4. In a letter dated August 28, 2019, the State Engineer's Office reviewed the submittal to plat the 9.7 +/- acre parcel into a 2 lot minor subdivision. The State Engineer reviewed the Decree and Water Supply Information Summary and confirmed that the proposed water source for the subdivision is a bedrock aquifer in the Denver Basin. The State Engineer further stated that the water demand encompasses "household use inside one single family dwelling per lot (0.40 acre-feet/year per lot), with the remaining 0.095 acre-feet/year per lot available for other such uses such as landscape irrigation, domestic animals, or livestock watering." The Engineer noted the following amounts of water have been adjudicated and are available under the Property:

Aquifer	Tributary Status	Volume (A/F)	Annual Allocation (100/year)	Annual Allocation (300/year)
Dawson	NNT	296	*	0.99
Denver	NNT	796	7.96	*
Arapahoe	NNT	386	3.86	*
Laramie-Fox Hills	NT	281	2.81	*

\* State Engineer states these values were not included in the table in 2018CW3001.

The State Engineer stated that the "plan for augmentation decreed in Division 2 Water Court case no. 2018CW3001 allows for diversion of 0.99 acre-feet annually from Dawson aquifer for a maximum of 300 years."

The State Engineer further noted that an application had been received to register the existing well on the property. Additional information was required, so a permit has not yet been issued. The State Engineer has advised the Applicant that they will need to "apply for, and obtain a new well permit issued pursuant to Section 37-90-137(4) C.R.S., or plug and abandon this well." Finally, the State Engineer provided the opinion that "pursuant to CRS 30-28-136(1)(h)(I), that the anticipated water supply can be provided without causing material injury to decreed water rights so long as the applicant obtains well permits issued pursuant to C.R.S. 37-90-137(2) and the plan for augmentation noted herein, for all wells in the subdivision and operates the wells in accordance with the terms and conditions of any future well permits."

5. Decree, Case No. 18CW3001. The Water Court Decree adjudicates water in all four Denver Basin aquifers underlying the Property in the respective amounts identified in the Table in Paragraph 4 above. The Decree approves the plan for augmentation to allow withdrawal of the not nontributary Dawson aquifer water for this subdivision using septic return flows to replace depletions to the stream system during 300 years of pumping the Dawson aquifer and using Laramie-Fox Hills water to replace post-pumping depletions. The Decree advises that Applicant or their successors cannot use either of the not nontributary Denver or Arapahoe aquifers without first obtaining a plan for augmentation.



The Decree provides for maximum withdrawal of the Dawson aquifer water through Wolff Well Nos. 1-4 for 300 years, but recognizes that if only two lots are developed, as planned for this subdivision, either lesser proportionate amounts or the full allotment may be withdrawn. The plan for augmentation, as applied to this 2-lot subdivision, allows for a maximum total withdrawal of 0.99 acre-feet annually from the Dawson aquifer or 0.495 acre-feet annually for each of the 2 lots. Indoor use will be 0.4 acre-feet annually per lot and other uses including irrigation and stock watering of up to 4 horses or equivalent livestock per residence will be approximately 0.094 acre-feet annually for each of the 2 lots. Beneficial uses include domestic, commercial, irrigation, stock water, recreation, wildlife, wetlands, fire protection, piscatorial, and storage and augmentation associated with these uses.

Replacement of Depletions During Pumping. The plan for augmentation provides for a pumping period of a minimum of 300 years. For any wells constructed into the non-tributary Dawson aquifer, the Applicant is required to replace actual stream depletions on an annual basis during the 300 years of pumping by residential return flows from non-evaporative septic systems. While depletions will occur to both the South Platte River and Arkansas River systems, the plan requires Applicant to replace depletions only to the Arkansas River system. The Decree indicates the consumptive use for non-evaporative septic systems is 10% per year per residence; therefore, at an annual household use rate of 0.4 acre-feet per lot totaling 0.8 acre-feet for both lots pumping the maximum 0.99 acre-feet annually, 0.72 acre-feet will be replaced to the stream system per year using non-evaporative septic systems. Based on the Division Engineer's Consultation Report, the maximum annual stream depletions over the 300-year pumping period will be approximately 24.3% or 0.243 acre-feet annually; thus, the Decree concludes that stream depletions will be more than adequately augmented with the following caveat: "... provided at least 2 residences are constructed on the Applicant's Property and are receiving annual deliveries for in-house use and septic system return flows are made in the amounts described [in Paragraph 22.C of the Decree]." The caveat goes on to state "[i]f only one residence is constructed on the Applicant's Property, the full amount of 0.99 acre feet per year cannot be withdrawn, as septic return flows . . . would not be sufficient to replace maximum annual depletions. . . ." (Decree, P. 7, n. 2). Therefore, Applicants, their successors and assigns, must use nonevaporative septic systems and leach fields for each single-family dwelling, and must have at least two dwellings on the property in order to use the full allotment of 0.99 acre-feet annually.

Replacement of Post-Pumping Depletions. The Decree requires the Applicant to replace any injurious post-pumping depletions by reserving up to 267 acre-feet of water from the nontributary Laramie-Fox Hills aquifer, or greater amounts as necessary, and constructing wells into the Laramie-Fox Hills aquifer to replace post-pumping depletions. The Water Supply Report prepared by MVE, Inc., states that the remaining 14 acre-feet shall also be reserved as a source for replacing post-pumping depletions; therefore, Applicant will need to reserve the entire 281 acre-feet of adjudicated Laramie-Fox Hills aquifer water for replacement purposes. The reserved Laramie-Fox Hills aquifer groundwater will be used to replace any injurious post-pumping depletions, and the Decree requires that these waters may not be severed from ownership of the overlying property.

6. Analysis. Applicant's water demand for the Wolff Run Estates Minor Subdivision is 0.495 acre-feet per lot or 0.99 acre-feet annually using the full allotment of Dawson aquifer water allowed under the plan for augmentation for the 2 lot subdivision for a total demand of 297 acre-feet for the subdivision for 300 years. The decree and augmentation plan in District Court Water Division 2, Case No. 18CW3001 authorizes withdrawal of 0.99 acre-feet/year of Dawson aquifer water per year for a period of 300 years. Applicant proposes to use only 2 of the 4 wells allowed in the Decree but will use all of the water decreed in the Dawson aquifer so will use the total amount allowed to be pumped annually: 0.99 acre-feet total for 2 lots. Therefore, there appears to be a sufficient water supply to meet the water demands of the Pony Tracts Subdivision Filing No. 2.

7. Section 8.4.7.B.10.g., of the Land Development Code allows for the presumption of acceptable water quality for minor subdivision projects such as this.

8. Therefore, based upon the Water Supply Information Summary, based on the finding of sufficiency and no injury by the State Engineer, based on the decree and augmentation plan in District Court Water Division 2 Case No. 18CV3001, 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. There is a presumption of sufficient water quality.

#### **REQUIREMENTS:**

A. Applicant, its successors and assigns, shall comply with all requirements of District Court Water Division 2, Case No. 18CW3001 (c/r 18CW3001 Div. 1), specifically, that water use shall not exceed 0.99 acre-feet annually for the 2 lot subdivision (the Decree limits withdrawal to 0.99 acre-feet annually for the subdivision based on 4 lots, which equates to 0.2475 acre-feet/lot annually for 4 lots or 0.495 acre-feet/lot annually for 2 lots), and that all stream depletions will be replaced with non-evaporative septic system return flows for a period of 300 years, pursuant to the Court's augmentation plan.

B. The County prefers that when there is a plan for augmentation, that Applicant, its successors and assigns, create a homeowners' association ("HOA"); however, alternatively to establishing an HOA, especially for minor subdivisions such as this, Applicant, its successors and assigns, shall create restrictive covenants upon and running with the property which shall advise and obligate future lot owners of this subdivision, their successors and assigns, regarding all applicable requirements of District Court Water Division 2, Case No. 18CW3001, as well as their obligations to comply with the plan for augmentation, including, but not limited to, ensuring that return flows by the use of non-evaporative septic systems are made to the stream systems, and that such return flows shall only be used to replace depletions and shall not be 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, their successors and assigns, of their obligations regarding costs of operating the plan for augmentation, which will include pumping of the Dawson wells in a manner to replace depletions during pumping and the cost of drilling a Laramie-Fox Hills aquifer well in the future to replace post-pumping depletions. Such Covenants shall also address responsibility for any metering and data collecting that may be required regarding water withdrawals from wells pursuant to the plan for augmentation, 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 297 acre-feet of not nontributary Dawson aquifer water pursuant to the plan for augmentation in District Court Water Division 2, Case No. 18CW3001 to satisfy El Paso County's 300 year water supply requirement for the 2 lots of the Wolff Run Estates Minor 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 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 plan for augmentation in District Court Water Division 2, Case No. 18CW3001 and the water rights 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, their successors and assigns, of their responsibility for any metering and data collecting that may be required regarding water withdrawals from the existing Dawson aquifer well and future wells which may be constructed in the Laramie-Fox Hills aquifer.

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 Wolff Run Estates Minor Subdivision pursuant to the plan for augmentation in District Court Water Division 2, Case No. 18CW3001. 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 Division 2 Water Court approving such amendment, with prior notice to El Paso County Planning and Community Development 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 the plan for augmentation in District Court Water Division 2, Case No. 18CW3001 are also terminated by order of the Division 2 Water Court, and a change of water supply is approved in advance of termination by the Board of County Commissioners of El Paso County.”

C. Applicant, its successors and assigns, shall reserve in the Covenants and in any deeds of the Property the decreed amount of at least 0.495 acre-feet per lot annually and shall reserve a total decreed amount of at least 0.99 acre-feet of Dawson aquifer water for the 2 lots in the subdivision for 300 years for a total of 297 acre-feet for the 2 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 of the 2 lots of the Wolff Run Estates Minor 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 shall reserve in the Covenants and/or in any deeds of the Property all 281 acre-feet of water in the Laramie-Fox Hills aquifer for use in the augmentation plan to replace post-pumping depletions. Pursuant to the Decree and plan for augmentation, Applicant shall recite that this water shall not be separated from transfer of title to the Property and shall be used exclusively for augmentation supply. Applicant shall convey by recorded warranty deed these reserved Laramie-Fox Hills aquifer water rights to the HOA or to the individual lot owners (with appropriate deed restrictions) for use in the augmentation plan. Pursuant to the Decree, "Applicant shall comply with C.R.S. §37-90-137(9)(b), requiring the relinquishment of the right to consume two percent (2%) of the amount of the nontributary groundwater withdrawn annually. Ninety-eight percent (98%) of the nontributary groundwater withdrawn annually may therefore be consumed." Applicant shall provide copies of 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.

E. Applicant, its successors and assigns, at the time of lot sales, shall convey by warranty deed to individual lot owner(s) sufficient water rights in the Dawson aquifer, pursuant to District Court Water Division 2, Case No. 18CW3001, underlying the respective lots to satisfy El Paso County's 300 year water supply requirement. Dawson aquifer requirements for each lot are as follows: 148.5 acre-feet for each lot (0.495 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 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 of the minor subdivision plat.

F. Applicant, 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 District Court Water Division 2, Case No. 18CW3001 (including plan for augmentation) and shall identify the obligations of the individual lot owners thereunder.

G. Applicant, its successors and assigns, shall record all applicable documents, including, but not limited to, the decree in District Court Water Division 2, Case No. 18CW3001 (including plan for augmentation) and agreements, assignments, and warranty deeds regarding

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

H. As noted by the State Engineer's Office, the Applicant must obtain well permits pursuant to C.R.S. § 37-90-137(2) and pursuant to the Decree and plan for augmentation in District Court Water Division 2, Case No. 18CW3001.

**I. Prior to recording the minor subdivision plat, Applicant shall provide proof acceptable to both the Planning and Community Development Department and the County Attorney's Office that it has complied with the State Engineer's requirement that if Applicant intends to permit the existing well pursuant to the plan for augmentation, that it has obtained a new well permit issued pursuant to C.R.S. § 37-90-137(4) or that it has plugged and abandoned that well.**

J. 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."

cc: Lindsay Darden, Planner II