

COMMISSIONERS: STAN VANDERWERF (CHAIR) CAMI BREMER (VICE-CHAIR) LONGINOS GONZALEZ, JR. HOLLY WILLIAMS CARRIE GEITNER

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT CRAIG DOSSEY, EXECUTIVE DIRECTOR

TO: El Paso County Planning Commission

Brian Risley, Chair

FROM: John Green, Planner II

Lupe Packman, PE Engineer I
Craig Dossey, Executive Director

RE: Project File #: MS-21-001

Project Name: D. Johnson Subdivision

Parcel No.: 61000-00-157

OWNER:	REPRESENTATIVE:
	Classic Consulting Engineers and Surveyors, LLC
1 3 /	619 North Cascade Avenue Colorado Springs, CO 80903

Commissioner District: 1

Planning Commission Hearing Date:	7/15/2021
Board of County Commissioners Hearing Date	8/10/2021

EXECUTIVE SUMMARY

A request by Delroy and Janet Johnson for approval of a minor subdivision to create four (4) single-family residential lots. The 28.62 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 Highway 83 and Old North Gate Road and is within Section 34, Township 11, and Range 66 West of the 6th P.M. The property is located within the <u>Tri-Lakes Comprehensive Plan</u> (2000) area.



A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: A request by Delroy and Janet Johnson, for approval of a minor subdivision to create four (4) single-family residential lots.

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

Authorization to Sign: Final Plat, Subdivision Improvements Agreement, Detention Pond Maintenance Agreement 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)	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 parcel was legally created by deed on June 12, 1968 (Book 2230, Page 670). The property was initially zoned A-4 (Agricultural) on January 3, 1955 when zoning was first initiated for this portion of the County. Due to nomenclature changes to the Land Development Code, the A-4 district has been renamed as the RR-5 (Rural Residential) district.

The applicant is requesting approval of a minor subdivision create four (4) single-family residential lots from the existing 28.62-acre parcel. The proposed lots will range from 5 to 13 acres in size. The property is currently developed with a single-family dwelling constructed in 1994. The existing dwelling has an approved well and septic system that will be fully contained within the boundaries of proposed Lot 1. The existing dwelling will comply with all setback, lot coverage, and height standards of the RR-5 (Rural Residential) district for proposed Lot 1 of the subdivision.

In November of 2020, the El Paso County Board of County Commissioners approved three (3) separate waiver requests (PCD File No. WV-20-001) allowing the applicant to construct a private road, to create three (3) lots without frontage onto a public roadway, and to allow a private road that did not need to meet County design standards.

F. ANALYSIS

1. Land Development Code Compliance

The final plat application meets the preliminary plan and 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 28.62-acre property is within the RR-5 (Rural Residential) zoning district. 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 front setback line: 200 feet Setbacks: 25 feet on front, rear, and side

Maximum lot coverage: 25 percent

Maximum height: 30 feet

The request is to subdivide an existing unplatted parcel into four (4) single-family residential lots. The proposed lots range in size from 5 to 13 acres. The parcel is currently developed with a single-family dwelling and existing well and septic system. The existing dwelling, well, and septic system will be fully contained within the boundaries of proposed Lot 1. The existing dwelling will comply with all setback, lot coverage, lot width, and height standards for the RR-5 district for proposed Lot 1 of the subdivision. The applicant's intent is to create four (4) single-family residential lots from the existing parcel. The proposed lots will be

accessed by a private easement onto State Highway 83. Should the request for a minor subdivision be approved, the applicant will need to complete a site plan prior to initiation of any residential use on the proposed lots.

3. Policy Plan Analysis

The <u>El Paso County Policy Plan</u> (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 Old Northgate Road and Colorado State Highway 83. applicant intends to subdivide the existing parcel to create four (4) single-family residential lots. The proposed lots will range in size from five (5) acres to 13 acres. The subject property is surrounded by properties zoned RR-5 that are developed with single-family dwellings. Specifically, the three (3) parcels south of the subject property range in size from 3 to 10 acres, while properties to the west of the subject property, within the Rosholt Retreat subdivision, are approximately 5 acres in size. In reviewing the broader neighborhood context, the subject property is bordered on the south and west by parcels matching the density proposed with this subdivision, while properties farther north and east represent larger rural parcels. As such, the proposed subdivision is consistent with the character of the surrounding neighborhood and is compatible with the density of development in the area (Policy 6.1.3 and Policy 6.1.11). Additionally, the proposed subdivision complies with the goals of the Tri-Lakes Comprehensive Plan (2000), which specify that the area can support a broad mix of residential densities and that new development should complement the density of surrounding development (Policy 6.1.7).

4. Small Area Plan Analysis

The proposed minor subdivision is located within the boundaries of the <u>Tri-Lakes Comprehensive Plan</u> (2000) and is specifically identified as being within the Northgate Cooperative Area. The <u>Plan</u> recommends that this area include a mix of residential densities, with some non-residential uses supported. The relevant goals and policies are as follows:

Goal 7.1.14 – Encourage carefully planned residential development that is consistent with adjacent developments in the unincorporated Planning Area

Objective 5.2 - To reduce the adverse impacts of existing and future transportation systems through a combination of careful planning and mitigation techniques.

The subject property is located within a transition area between urban residential densities to the southwest and more rural residential densities to the north and east. The <u>Plan</u> recommends that the density of development in the Northgate Cooperative Area be determined by the individual ability of each property to support the development and does not specifically limit the density for new development in the area. The subject property is surrounded by rural properties of similar size, developed with single-family dwellings. The proposed subdivision is consistent with the rural residential character of the surrounding neighborhood, which is in compliance with Goal 7.1.14.

The applicant is proposing to limit access onto Highway 83 to the existing driveway for the current residence. The applicant intends to provide access to the three (3) proposed lots through a private access agreement. The access agreement must be recorded at the time of recordation of the minor plat. By limiting the access onto Highway 83 to the one (1) existing access point, the proposed subdivision demonstrates compliance with Objective 5.2 of the Plan.

5. Water Master Plan Analysis

The <u>El Paso County Water Master Plan</u> (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:

Policy 5.2.4 – Encourage the locating of new development where it can take advantage of existing or proposed water supply projects that would allow shared infrastructure costs.

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

The subject parcel is in Region 2 of the El Paso County Water Master Plan and is served by an individual onsite well. 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 of a finding of water sufficiency with this application indicates that this request is in compliance with Goal 5.5. 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 the El Paso County Community Services Department, Environmental Division, were each sent a referral request for the application and have no outstanding comments.

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

Please see the Parks 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 2016 Major Transportation Corridor Plan (MTCP).

G. PHYSICAL SITE CHARACTERISTICS

1. Hazards

The soils and geology report submitted with the application was prepared by Entech Engineering on April 8, 2021. The report identified areas of seasonal

shallow groundwater within the proposed subdivision area. The areas of seasonally shallow groundwater have been identified as no-build areas on the final plat.

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 08041C0295G, dated December 7, 2018.

4. Drainage and Erosion

The property is located within the Black Squirrel Creek (FOMO3600) drainage basin, which is included in the El Paso County Drainage Basin Fee program. Drainage fees in the amount of \$8,968 and bridge fees in the amount of \$565, per impervious acre, shall be paid at the time of plat recordation. The applicant qualifies for a 25 percent reduction of drainage fees per ECM L.3.10.2a.

Per the submitted drainage report, the site generally drains to the southeast. A portion of the site drains to adjacent residential properties and the remaining section of the site ultimately drains to CDOT right-of-way. Colorado Department of Transportation (CDOT) was sent a referral on the application and had no comments relating to the runoff draining to State Highway 83.

No public improvements are required for this project. Water quality and detention facilities are not required due to the nature and size of the lots.

5. Transportation

Access to Lot Nos. 2-4 will be provided via a paved driveway that connects to State Highway 83. The applicant obtained a driveway access permit from CDOT. A traffic study was not required as the proposed subdivision is not expected to generate 100 daily vehicle trips.

Three (3) waivers were approved on November 10, 2020 (PCD File No. WV-20-001) for Section 8.4.4.E.2 of the <u>LDC</u> to allow a driveway to provide access to 4 lots, Section 8.4.4.E.3 of the LDC, to allow the proposed driveway to not meet County standards for private roads, and Section 8.4.3.C.2.E of the <u>LDC</u> to allow lots that do not meet the required minimum lot frontage.

The El Paso County 2016 Major Transportation Corridors Plan Update depicts roadway improvements to Highway 83, which is forecasted to be updated to a principal arterial by 2040. CDOT is the agency responsible for determining whether the applicant is required to make any improvements, which is typically enforced by CDOT through the access permit.

The development is subject to the El Paso County Road Impact Fee Program (Resolution No. 19-471, as amended). Road impact fees shall be paid in full at the time of subsequent building permits if not paid at the time of final plat recordation.

H. SERVICES

1. Water

Sufficiency:

Quality: Sufficient
Quantity: Sufficient
Dependability: Sufficient

Attorney's summary: Water service to the subject property is provided by an onsite well. 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 property has an approved septic system (Permit No. 7963). The applicant must receive approval from El Paso County Public Health for any additional septic systems for the proposed lots.

3. Emergency Services

The property is within the Donald Westcott Fire Protection District. The District was sent a referral for the minor subdivision and has not provided 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 minor subdivision.

5. Metropolitan Districts

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

6. Parks/Trails

The <u>El Paso County Parks Master Plan</u> (2013) does not identify any existing or proposed regional trails within the area of the proposed subdivision. Fees in lieu of regional park land dedication (Area 3) in the amount of \$1,840 will be due at the time of plat recordation.

7. Schools

Fees in lieu of school dedication in the amount of \$1,224 for the benefit of Academy School District No. 20 are required with the minor subdivision application and are due at the time of plat recordation.

I. APPLICABLE RESOLUTIONS

Approval Page 19 Disapproval Page 20

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

- 3. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
- 4. The applicant shall submit the Mylar to Enumerations for addressing.
- 5. A joint access easement granting access from Lot 1 to Lots 2, 3, and 4 shall be provided and recorded with the minor subdivision plat.
- 6. The 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.
- 7. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits are obtained from the El Paso County Planning and Community Development Department.
- 8. The Subdivision Improvements Agreement, including the Financial Assurance Estimate, as approved by the El Paso County Planning and Community Development Department, shall be filed at the time of recording the Final Plat.
- Collateral sufficient to ensure that the public improvements as listed in the approved financial assurance estimate shall be provided at the final plat is recorded.
- 10. 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.
- 11. Park fees in lieu of land dedication for regional parks (Area 3) in the amount of \$1,840 shall be paid at the time of plat recordation.

- 12. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
- 13. Drainage fees in the amount of \$37,672 and bridge fees in the amount of \$15,409 for Sand Creek drainage basin (FOFO4000) shall be paid to El Paso County at the time of final plat recordation.

NOTATIONS

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

L. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified 10 adjoining property owners on June 29, 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

El Paso County Parcel Information MS-21-001 PARCEL NAME File Name: 6100000157 JOHNSON DELROY L Zone Map No. --Date: June 28, 2021 OUTLOOK DR RAESSNERIN ROSHOLTLOOP SITE OLD LASSO PT



LETTER OF INTENT Johnson Estates Filing No. 1 Minor Subdivision — Final Plat

Owner: Delroy Johnson

14502 Highway 83

Colorado Springs, CO 80921

(719) 352-9833

Applicant/

Consultant: Classic Consulting, LLC

619 N. Cascade Ave., Suite 200 Colorado Springs, CO 80903 Marc A. Whorton. P.E.

(719) 785-2802

Tax Schedule No. 61000-00-157

REQUEST:

Minor Subdivision/Final Plat containing four rural residential lots on 28.65 ac. All lots will be 5.0 ac. minimum in size per the current RR-5 zoning. All lots will access a single paved driveway within a 30' private access and public utility easement. The current CDOT permit allows for the proposed four lots to access at the current location at Highway 83. Previously approved waivers related to private access and lot configuration support this request. This request meets all other intent of the LDC for a Minor Subdivision and the current RR-5 zoning as follows: (Reference the Justification portion of this letter)

LDC 7.2.1.C.1 Applicability – This final plat will result in the creation of four lots that do not discernably impact the surrounding properties, environmental resources or public facilities. No land use change is proposed and the large lot rural residential use is consistent with the surrounding properties.

El Paso County Policy Plan – This minor subdivision and final plat remains consistent with the County's Policy Plan for land use of large lot rural residential RR-5 zoning.

Small Area Plan - This minor subdivision and final plat remains consistent with the Tri-Lakes Small Area Plan showing land use of large lot rural residential within the current RR-5 zoning district.

El Paso County Water Master Plan – This minor subdivision meets all requirements of the County Water Master Plan as prepared by Forsgren Associates, Inc.

SITE DESCRIPTION:

This letter is prepared to provide sufficient information in support of a Minor Subdivision – Final Plat for a 28.65 acre parcel. Four total rural residential lots are planned for the property which currently has the owners home and a single driveway connection to Highway 83. The three additional residential homes proposed will take access from the same driveway and all lots be a minimum of 5.0 ac. in size. No land use change proposed.

The site is located in a portion of section 34, township 11 south, range 66 west of the sixth principal meridian, El Paso County, Colorado. More specifically, located 0.64 miles north of the intersection of Highway 83 and Old North Gate Rd., west side of Highway 83, south of unplatted residential property (zoned RR-5) and due east of the Rosholt Retreat Subdivision (zoned RR-5). The entire property is zoned RR-5.

The property is dimensionally constrained, with only 575 feet of frontage to Highway 83 and the remaining 4,600+ feet perimeter of the property being adjacent to private residential land with no other access to a public road. It is also limited to the current single access point to Highway 83. Given these constraints and to meet the intent of the zoning code dimensional standards, one lot will have direct frontage to Highway 83 while the other three will not have direct frontage to a public roadway. Ownership and maintenance of a private driveway with access to all four lots will be handled with special agreement prepared with the Minor Subdivision - Final Plat.

In November 2020, three subdivision waivers for this property were approved by BOCC. (See Resolution 20-393 under reception number 220182496) The approved waivers include the following:

Waiver 1: Waiver for private road (per definition, a driveway cannot serve more

than 3 lots – LDC 8.4.4.E.2) Proposing 4 lots

Waiver 2: Waiver for private roads to meet County standards (LDC 8.4.4.E.3)

Proposing private road design criteria similar to driveway criteria

Waiver 3: Minimum lot frontage (8.4.3.C.2.E) Not all lots will have direct

frontage to Highway 83 based on shape of property and limited

access allowed to Highway 83.

The intent of the waivers is to provide a safe, reasonable private access to four rural, heavily forested residential lots without significant disturbance to the natural setting. Thus, these waivers only deal with private access and lot configuration and meet all other intent of the LDC. Based on these waiver approvals, this subdivision remains consistent with the County Subdivision Design Standards and regulations and meets all planning and engineering requirements.

PROJECT DESCRIPTION:

Lot 1 will contain the current property owner's home, well/septic and paved driveway. This lot will be about 13.0 ac. in size. Lots 2, 3 and 4 will be 5.0 ac. minimum in size with a single home planned on each. The existing paved driveway will be extended further west within a 30' private access and public utility easement to provide access to the three additional lots. This private access is required to have a street name and all four lots will be addressed off this private access. The current owner on Lot 1 will be required to process an address change form with RBD. Construction, ownership and maintenance of the driveway will be described in a special agreement recorded with the Final Plat.

TRAFFIC

The property frontage adjacent to Highway 83 is approximately 575 feet. Currently, there exists a single paved driveway to the property along the west side of Highway 83 accessing one single family residence. CDOT has recently approved an updated access permit allowing up to 5 residential lots from this single driveway. (See CDOT Permit No. 220062) This permit is based on meeting all criteria as found in the State Highway Access Code. Also, the following El Paso County criteria seems to be met for not requiring a TIS as found in ECM Appendix B (B.1.2.D):

Vehicular traffic

- 1) Daily trip generation is less than 100 (consistent with CDOT criteria for no study)
- 2) No additional intersections with State Highway none proposed
- 3) Increase in trips does not increase by more than 100 daily trips less than 100 trips total
- 4) No change in traffic type proposed residential use
- 5) Acceptable LOS on adjacent roadways is maintained proposed traffic increase vs. existing trips on Highway 83 is negligible
- No accident or safety problems on adjacent roadway in immediate vicinity none documented
- 7) No change in land use with access to State Highway none proposed

Pedestrian/Bicycle traffic

No existing or new pedestrian/bicycle facilities or traffic is required along Highway 83

UTILITIES

Lot 1 (current owner's residence) already has it own well and septic system permitted Lots 2-4 responsible for providing their own well and septic system

Per the Water Resources Report, prepared by JDS Hydro Consultants, Inc., these lots meet all the requirements regarding water supply in terms of quantity, quality and dependability and methods of sewage disposal per the LDC Chapter 8.

All lots served by Mountain View Electric taken from overhead along Highway 83 All lots served by Black Hill Energy (gas) taken from separate service lines from the gas main crossing the site

Wescott Fire Protection District will provide fire protection

El Paso County Road Impact Fee method: Each lot will pay full fee of \$3,830 at building permit

SOILS, GEOLOGIC HAZARDS & DRAINAGE

Per the Soils, Geology and Geologic Hazard Report prepared by Entech Engineering, Inc., this subdivision will adequately mitigate all topographical conditions and soil hazards as presented. These site-specific areas will be cited on the plans and Final Plat and notated as "no-build" areas. All lots will be able to provide their own well and septic system within each individual lot. All natural drainageways within the site conveying 15 cfs or more will be placed in drainage easements as shown in the Final Drainage Report and on the Final Plat.

JUSTIFICATION:

Conformance with the El Paso County Policy Plan

Johnson Estates Filing No. 1 conforms to the following goals and Policies of the El Paso County Policy Plan in the following manner:

Policy 2.1.11 Encourage approaches to natural system preservation and protection which also accommodate reasonable development opportunities. **Development proposal is based on existing RR-5 Zoning.**

Policy 2.2.3 Evaluate the impact from proposed developments on watersheds and wildlife habitat with appropriate government agencies early in the development process. *The drainage Report, the Wildfire Hazard Report and the Water Resources Report address this policy.*

Policy 2.3.1 Preserve significant natural landscapes and features. The most significant natural features of the site are the natural drainageways within the Ponderosa Pine forest and meadow area closer to Highway 83. These features are respected by the Plan by providing associated drainage easements and no proposed development of the natural meadow area.

Policy 2.3.7 Encourage the mitigation of visual impacts caused by construction including road cuts, utility lines, outside storage, water tanks and building scale. **Visual impacts are** addressed by the plan as the proposed lots off an extension of the existing driveway and are not visible from Highway 83.

- **Policy 3.1.8** Promote water supply systems and augmentation arrangements which maximize the effective use of near-surface ground water supplies without jeopardizing existing water rights or established wells. **This development has water rights and augmentation plan in place that meets the 300-year water supply requirement and anticipates 0.395 acre-feet (AF) of water per year for each of the new residential lots.**
- Policy 3.3.6 Evaluate the consequences of surface water from new development including run off of natural soils, as chemical compounds that may result from the proposed uses including pesticides, herbicides and hydrocarbons. Given the 5-ac. min. lot development and driveway extension disturbing less than 1-ac., WQCV is not required and stormwater runoff reduction for these large rural single family lots does not required detention. However, sediment basins are planned to control potential erosion during construction.
- **Policy 6.1.6** Direct development toward areas where the necessary urban-level supporting facilities and services are available or will be developed concurrently. **While this is a rural subdivision, it will be served with urban fire protection services by Wescott Fire District.**
- **Policy 6.1.7** Encourage infill development which complements existing uses, is consistent with Small Area and other adopted plans. **This plan is consistent with the Tri-Lakes Comprehensive Plan as detailed below.**
- **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. **Land uses in the Plan are consistent with those of surrounding subdivisions.**
- **Policy 9.2.3** Strictly limit direct access onto major transportation corridors in order to preserve their functional capacity. **The access to this development respects the access plan** for Highway 83 corridor and utilizes the single existing access point with CDOT approval.
- **Policy 11.1.14** Require development plans to effectively address both quantitative and qualitative impacts of drainage within the project site. **The Drainage Plan addresses this policy and meets all requirements per the DCM and ECM.**
- **Policy 11.3.1** Where feasible, support the use of natural or naturalistic drainage approaches rather than hard line solutions. **The Drainage Plan addresses this policy with the use of runoff reduction techniques.**
- **Policy 11.3.4** Promote the effective use of innovative short and long term strategies including sediment ponds, buffer strips, and constructed wetlands as a means of reducing peak flows and improving storm water quality. **The Drainage Plan addresses this policy and incorporates the use of such facilities.**
- **Policy 11.3.5** Protect the integrity of wetlands, riparian areas and associated wildlife habitat through a combination of careful land development and drainage system design. **The Drainage Plan addresses this policy.**

Policy 11.3.6 Encourage the effective use of control measures to mitigate the short and long term erosion impacts of development. **The Drainage Plan addresses this policy by utilizing sediment basins and rock check dams.**

Policy 12.1.3 Approve new urban and rural residential development only if structural fire protection is available. **This site is located less than a mile away from the Wescott Fire Station No. 2 off Highway 83. Fire protection is available.**

Policy 12.1.9 Develop and implement area-wide and parcel-specific Wildfire Mitigation Plans in zones identified as having high wildfire potential. **A Wildfire Hazard Report and mitigation plan was submitted with this Minor Subdivision application.**

Policy 15.3.3 Encourage innovative approaches to the problem of financing solutions to the off-site fiscal impacts of development. This project will be required to participate in the El Paso County Road Impact Fee Program. The proposed lots will participate in the fee program by paying the full fee of \$3,830 at building permit.

Conformance with the Tri-Lakes Comprehensive Plan

Johnson Estates Filing No. 1 is located in the Ponderosa Breaks Sub Area 9 and conforms to the following goals and Objectives of the Tri-Lakes Comp. Plan in the following manner:

Objective 1.1.4. Consider the erosive characteristics of the coarse-grained soils and define and govern measures necessary to prevent erosion or to contain soils with construction limits. **Stormwater runoff reduction techniques are being utilized along with construction of sediment basins and rock check dams to help mitigate erosion during construction.**

Objective 1.2.1. Carefully consider the possibility for property damage or personal injury resulting from geological and other environmental hazards that exist in the planning area. Minimal disturbance is planned for the driveway extension and building sites. Erosion control techniques will be implemented as discussed above.

Objective 3.2. To ensure the adequate fire protection and emergency services are available at levels commensurate with local needs and circumstances. This site is located less than a mile away from the Wescott Fire Station No. 2 off Highway 83. Fire protection is available.

Objective 4.1. To promote comprehensive planning and management approaches to preserve or improve the integrity of the drainage basins and minimize long-term system-wide environmental impacts. **The Drainage Plan addresses this objective by providing stormwater runoff reduction techniques and utilizing sediment basins and rock check dams.**

Objective 5.2. To reduce the adverse impacts of existing and future transportation systems through a combination of careful planning and mitigation techniques. **This development** plans to utilize the single existing access point to Highway 83 with CDOT approval of the revised Access Permit.

Objective 7.1.14. Encourage carefully planned residential development that is consistent with adjacent developments in the unincorporated planning area. **This plan is consistent with the surrounding RR-5 zoning and the adjacent property uses.**

Conformance with the El Paso County Water Master Plan

Johnson Estates Filing No. 1 lies in the Water Master Planning Area Region 2 and conforms to the following goals and Policies in the following manner:

Policy 4.1.2. Encourage more systematic monitoring and reporting of water quality in individual wells. This plan and its water resources report conforms to this policy by requiring all new wells to be drilled, screened, test pumped and completed in accordance with the Colorado Division of Water Resources Rules and Regulations.

Policy 4.3.6. Encourage well monitoring throughout the County, with an emphasis on the Denver Basin aquifer fringe areas. **As described in the Water Resources Report, this plan conforms to this policy.**

Policy 5.3.2. Promote water conscious developments through improved land-use policies. This development proposes 5-ac. lots within the RR-5 zoning area within Black Forest with reduced need for outside watering requirements.

Policy 6.0.1. Continue to require documentation of the adequacy or sufficiency of water, as appropriate, for proposed developments. **This plan is consistent with this policy per the water resources report, as it provides adequate water sufficiency and reliability.**

Reports Included by Reference

- Soil, Geology, Geologic Hazard Study, Johnson Estates Filing No. 1 by Entech Engineering, Inc.
- OWTS Wastewater Study by Entech Engineering, Inc.
- Water Resources Report for Delroy Johnson Subdivision by JDS Hydro Consultants, Inc.
- Final Drainage Report for Johnson Estates Filing No. 1 by Classic Consulting
- Wildfire Hazard and Mitigation Report by Steve Spaulding, Forestry Consultant

JOHNSON ESTATES FILING NO. 1

A PORTION OF SECTION 34, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO CÓUNTY, COLORADO

KNOW ALL MEN BY THESE PRESENTS:

THAT DELROY L. JOHNSON AND JANET M. JOHNSON BEING THE OWNERS OF THE FOLLOWING DESCRIBED TRACT OF LAND TO WIT:

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 11 SOUTH RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBE AS FOLLOWS:

BASIS OF BEARINGS: A PORTION OF THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 11 SOUTH RANGE 66 WEST OF THE SIXTH PRINCIPAL END. AT THE SOUTHWEST CORNER OF SAID SECTION 34 BY A 3-1/4" ALUMINUM SURVEYORS CAP WITH APPROPRIATE MARKINGS, BY WAYNE NO. 4 REBAR AND WASHER WITH NO MARKING, IS ASSUMED TO BEAR N89°45'42"E, A DISTANCE OF 1735.96 FEET.

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 34, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, SAID POINT BEING THE SOUTHEASTERLY CORNER OF LOT 3 AS PLATTED IN ROSHOLT RETREAT RECORDED IN PLAT BOOK L-3, AT PAGE 38 RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING THE POINT OF

SOUTHWESTERLY CORNER OF A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 210029218: THENCE S81°55'50"E, ON THE SOUTHERLY BOUNDARY OF SAID PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 210029218 A DISTANCE OF 2097.05 FEET TO THE

STATE HIGHWAY 83 AS DESCRIBED IN BOOK 2031 AT PAGE 369; THENCE S3412'01"W, ON SAID WESTERLY RIGHT OF WAY LINE A DISTANCE OF 594.46 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 34; THENCE S89°45'42"W, ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 34 A

CONTAINING A CALCULATED AREA OF 28.653 ACRES.

OWNERS CERTIFICATE:

SUBDIVIDED, AND PLATTED SAID LANDS INTO LOTS AND EASEMENTS AS SHOWN HEREON UNDER THE NAME AND SUBDIVISION OF JOHNSON ESTATES FILING NO. 1. ALL PUBLIC IMPROVEMENTS 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 UTILITY LINES AND RELATED FACILITIES.

OWNER:

THE AFOREMENTIONED DELROY L. JOHNSON HAS EXECUTED THIS INSTRUMENT THIS ____ DAY OF WITNESS MY HAND AND OFFICIAL SEAL.

DELROY L. JOHNSON

COUNTY OF EL PASO

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 20___, A.D. BY DELROY L. JOHNSON.

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES:

THE AFOREMENTIONED JANET M. JOHNSON HAS EXECUTED THIS INSTRUMENT THIS ____ DAY OF

WITNESS MY HAND AND OFFICIAL SEAL.

STATE OF COLORADO

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS_ ___, 20___, A.D. BY JANET M. JOHNSON.

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES:

NOTARY PUBLIC

MERIDIAN, EL PASO COUNTY, COLORADO, BEING MONUMENTED AT THE WEST CLARK & ASSOCIATES COLORADO PLS 4842 AND AT THE EAST END BY A

THENCE NO0°26'54"W. ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 34 AND THE EASTERLY BOUNDARY OF SAID ROSHOLT RETREAT A DISTANCE OF 793.28 FEET TO THE

SOUTHEASTERLY CORNER OF SAID PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 210029218 SAID POINT BEING ON THE WESTERLY RIGHT OF WAY LINE OF

DISTANCE OF 1735.96 FEET TO THE POINT OF BEGINNING.

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, SO PLATTED ARE HEREBY DEDICATED TO PUBLIC USE AND SAID OWNER DOES HEREBY 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

STATE OF COLORADO

NOTARY PUBLIC

OWNER:

JANET M. JOHNSON

COUNTY OF EL PASO

Note needs to include statement that all hazardous areas are dedicated as no-build. Must show areas as

no-build on plat.

GENERAL NOTES:

- 1. THE DATE OF PREPARATION IS DECEMBER 17, 2020.
- INDIVIDUAL WELLS ARE THE RESPONSIBILITY OF EACH PROPERTY OWNER. PERMITS FOR INDIVIDUAL DOMESTIC WELLS MUST BE OBTAINED FROM THE STATE ENGINEER WHO BY LAW HAS THE AUTHORITY TO SET CONDITIONS FOR THE ISSUANCE OF THESE PERMITS.
- SEWAGE TREATMENT IS THE RESPONSIBILITY OF EACH INDIVIDUAL PROPERTY OWNER. THE EL PASO COUNTY HEALTH DEPARTMENT MUST APPROVE EACH SYSTEM. LOTS 3 AND 4 REQUIRE AN ENGINEER DESIGNED SYSTEM PRIOR TO PERMIT APPROVAL.
- 4. ALL STRUCTURAL FOUNDATIONS SHALL BE DESIGNED BY A PROFESSIONAL ENGINEER, CURRENTLY LICENSED IN THE STATE OF COLORADO. SOILS REPORT BY RMG DATED NOVEMBER 9, 2018.
- THE TRACT OF LAND HEREIN PLATTED LIES WITHIN SECTION 34, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN.
- ALL LOT LINES ARE HEREBY PLATTED WITH A 10.00 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT EXCEPT THE SUBDIVISION BOUNDARY WHICH IS HEREBY PLATTED WITH A 20.00 FOOT WIDE PUBLIC UTILITY AND DRAINAGE EASEMENT, WITH THE SOLE RESPONSIBILITY FOR THE SURFACE MAINTENANCE OF EASEMENTS BEING VESTED WITH THE INDIVIDUAL PROPERTY OWNER.
- 7. THE FOLLOWING REPORTS HAVE BEEN SUBMITTED IN ASSOCIATION WITH THE FINAL PLAT FOR THIS SUBDIVISION AND ARE ON FILE AT THE EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT (FILE NO. MS-211): DRAINAGE REPORT: WATER RESOURCES REPORT: WASTEWATER DISPOSAL REPORT; GEOLOGY AND SOILS REPORT; FIRE PROTECTION REPORT; WILD FIRE HAZARD
- 8. THE TOTAL NUMBER OF LOTS BEING PLATTED IS 4.
- 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 DEPARTMENT OF PARKS AND WILDLIFE, COLORADO DEPARTMENT OF TRANSPORTATION, U.S. ARMY CORP. OF ENGINEERS, THE U.S. FISH & WILDLIFE SERVICE AND/OR COLORADO DEPARTMENT OF PARKS AND WILDLIFE REGARDING THE ENDANGERED
- 10. THE ADDRESSES EXHIBITED ON THIS PLAT ARE FOR INFORMATIONAL PURPOSES ONLY. THEY ARE NOT THE LEGAL DESCRIPTION AND ARE SUBJECT TO CHANGE.
- 11. PURCHASERS OF LOTS WITHIN THIS SUBDIVISION ARE HEREBY ALERTED THAT THESE LOTS CONTAIN STORM WATER CONVEYANCE PATHS. SAID PURCHASERS ACKNOWLEDGE ACCEPTANCE OF THESE FLOWS ONTO, AND THROUGH, THESE LOTS. THE PURCHASER OF THESE LOTS SHALL BE RESPONSIBLE FOR MAINTAINING THESE PATHS AND FOR PROVIDING MEASURES TO ELIMINATE EROSION, IF SUCH
- 12. 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, WHICH IS BASED ON AN ALLOCATION APPROACH. 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 INDICATED DUE TO ANTICIPATED WATER LEVEL DECLINES. FURTHERMORE, THE WATER SUPPLY PLAN SHOULD NOT RELY SOLELY UPON NON-RENEWABLE AQUIFERS, AND APPLICANTS AND THEIR SUCCESSORS AND ASSIGNS, INCLUDING INDIVIDUAL LOT OWNERS IN THE SUBDIVISION MAY BE REQUIRED TO ACQUIRE, DEVELOP, AND INCORPORATE ALTERNATIVE RENEWABLE WATER SOURCES IN A PERMANENT WATER SUPPLY PLAN THAT PROVIDES FUTURE GENERATIONS WITH WATER SUPPLY.
- THIS SITE, JOHNSON ESTATES FILING NO. 1, IS NOT WITHIN A DESIGNATED F.E.M.A. FLOODPLAIN AS DETERMINED BY THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NUMBER 08041C0295G, EFFECTIVE DATE DECEMBER 7, 2018.

GENERAL NOTES (CONT.):

COUNTY LINE ROAD

SITE

HWY. 106

14. DUE TO WILDFIRE CONCERNS, THE APPLICANTS AND SUBSEQUENT HOMEOWNERS ARE ENCOURAGED TO INCORPORATE WILDFIRE FUEL BREAKS PROVISIONS AS RECOMMENDED BY THE COLORADO STATE FOREST SERVICE AND ILLUSTRATED THROUGH PUBLICATIONS AVAILABLE THROUGH THE STATE FOREST SERVICE. A WILDFIRE MITIGATION REPORT WAS PREPARED FOR THIS SITE AND IS ON FILE WITH THE PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT.

VICINITY MAP

DOUGLAS COUNTY EL PASO COUNTY

WALKER

- 15. MAILBOXES SHALL BE INSTALLED IN ACCORDANCE WITH ALL EL PASO AND UNITED STATES POSTAL SERVICE REGULATIONS.
- 16. FIRE PROTECTION IS BY DONALD WESCOTT FIRE PROTECTION DISTRICT.
- 17. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT OR LAND BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, C.R.S.
- 18. THIS PLAT DOES NOT CONSTITUTE A TITLE SEARCH TO DETERMINE OWNERSHIP OR EASEMENTS OR RECORD. FOR ALL INFORMATION REGARDING EASEMENTS, RIGHT-OF-WAY AND TITLE OF RECORD, CLASSIC CONSULTING ENGINEERS AND SURVEYORS AND THE SURVEYOR OF RECORD RELIED UPON THE TITLE COMMITMENT ORDER NUMBER SR55090428-3 PREPARED BY LAND TITLE GUARANTEE COMPANY AS AGENT FOR LAND TITLE INSURANCE CORPORATION, WITH AN EFFECTIVE DATE OF DECEMBER 4, 2020 AT 5:00 P.M.
- 19. THE SUBDIVIDER 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.
- 20. ACCESS TO THIS SUBDIVISION IS PERMITTED BY CDOT PERMIT NO. 220062.
- 21. THERE SHALL BE NO DIRECT LOT ACCESS TO STATE HIGHWAY 83 EXCEPT BY THE PRIVATE ACCESS EASEMENT.
- 22. ALL PROPERTY OWNERS ARE RESPONSIBLE FOR MAINTAINING PROPER STORMWATER DRAINAGE IN AND THROUGH THEIR PROPERTY. STRUCTURES, FENCES, MATERIALS OR LANDSCAPING THAT COULD IMPEDE THE FLOW OF RUNOFF SHALL NOT BE PLACED IN THE STORMWATER CONVEYANCE PATHS.
- 23. APPROVAL OF THIS PLAT HEREBY VACATES AND RELEASES ANY RIGHTS EL PASO COUNTY MAY HAVE ACQUIRED OR BE ENTITLED TO IN THE 30 FEET ADJACENT TO THE SOUTH LINE OF SECTION 34 RECORDED IN ROAD BOOK A, AT PAGE 78, AS IT AFFECTS THE PLAT.
- 24. THE AREA INCLUDED IN THIS PLAT IS SUBJECT TO THE COVENANTS AND PROVISIONS OF DECLARATION OF RESTRICTIVE COVENANTS RECORDED UNDER RECEPTION NO. 203163099.
- 25. ALL PROPERTY WITHIN THIS SUBDIVISION IS SUBJECT TO THE DECLARATION OF PROTECTIVE

JUDGMENT AND DECREE RECORDED UNDER RECEPTION NO. 203163100.

- COVENANTS FOR JOHNSON ESTATES RECORDED UNDER RECEPTION NO. _____ 26. THE AREA INCLUDED IN THIS PLAT IS SUBJECT TO THE FINDINGS OF FACT, CONCLUSIONS OF LAW.
- 27. THE AREA INCLUDED IN THIS PLAT IS SUBJECT TO AN EASEMENT 20' WIDE, 10' ON EACH SIDE OF
- POWER LINES AND GUY ANCHORS RECORDED UNDER RECEPTION NO. 208102631 THE SUBDIVISION HAS BEEN FOUND TO BE IMPACTED BY GEOLOGIC CONSTRAINTS. MITIGATION MEASURES AND EXPLANATION OF CONSTRAINTS IN THE AREA CAN BE FOUND IN THE REPORT SOIL, GEOLOGIC HAZARD STUDY BY ENTECH ENGINEERING, INC, JANUARY 19, 2021 IN FILE NO. MS-211,

AVAILABLE AT THE EL PASO COUNTY PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT.

- PSW- POTENTIALLY SEASONALLY HIGH GROUNDWATER
- DSC- DOWN SLOPE CREEP
- 29. INDIVIDUAL LOT PURCHASERS ARE RESPONSIBLE FOR CONSTRUCTING DRIVEWAYS, INCLUDING NECESSARY DRAINAGE CULVERTS FROM CROSS RIDGE HEIGHTS PER LAND DEVELOPMENT CODE SECTION 6.3.3.C.2 AND 6.3.3.C.3. DUE TO THEIR LENGTH, SOME OF THE DRIVEWAYS WILL NEED TO BE SPECIFICALLY APPROVED BY THE DONALD WESCOTT FIRE PROTECTION DISTRICT.
- 30. THE PRIVATE ROAD, CROSS RIDGE HEIGHTS, AS SHOWN ON THIS PLAT WILL NOT BE MAINTAINED BY EL PASO COUNTY UNTIL AND UNLESS THE STREET IS CONSTRUCTED IN CONFORMANCE WITH THE EL PASO COUNTY STANDARDS IN EFFECT AT THE DATE OF THE REQUEST FOR DEDICATION AND MAINTENANCE.
- 31. IF THE DEVELOPER DOES NOT COMPLETE THE COMMON DRIVEWAY IMPROVEMENTS, INCLUDING ALL DRAINAGE AND EROSION CONTROL MEASURES AS SPECIFIED IN THE SUBMITTED GRADING AND EROSION CONTROL PLANS (PCD FILE NO. MS-211) INDIVIDUAL LOT PURCHASERS WILL BE RESPONSIBLE FOR CONSTRUCTING SAID COMMON IMPROVEMENTS AS NECESSARY TO OBTAIN ACCESS TO THEIR LOTS IN ACCORDANCE WITH LAND DEVELOPMENT CODE SECTION 6.3.3.C.3. DUE TO THEIR LENGTH. THE DRIVEWAYS NEED TO BE APPROVED BY THE DONALD WESCOTT FIRE PROTECTION DISTRICT. ANY CULVERTS NEEDED TO ACCESS THE COMMON DRIVEWAY FROM THE LOTS SHALL ALSO BE THE RESPONSIBILITY OF THE LOT PURCHASERS.

SURVEYOR'S STATEMENT:

I, DOUGLAS P. REINELT, A DULY LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THIS PLAT TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE ON DATE OF SURVEY, 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 PROVISION OF THE EL PASO COUNTY LAND DEVELOPMENT CODED.

I	ATTEST	THE	ABOVE	ON	THIS	 DAY	OF	,	20

DOUGLAS P. REINELT, PROFESSIONAL LAND SURVEYOR COLORADO P.L.S. NO. 30118 FOR AND ON BEHALF OF CLASSIC CONSULTING, ENGINEERS AND SURVEYORS, LLC.

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.

BOARD OF COUNTY COMMISSIONERS CERTIFICATE

THIS PLAT FOR JOHNSON ESTATES FILING NO. 1 WAS APPROVED FOR FILING BY THE EL PASO COUNTY. COLORADO BOARD OF COUNTY COMMISSIONERS ON THIS ____ DAY OF_ 2019, SUBJECT TO ANY NOTES SPECIFIED HEREON AND ANY CONDITIONS INCLUDED IN THE RESOLUTION OF APPROVAL. THE DEDICATIONS OF LAND TO THE PUBLIC (STREETS AND EASEMENTS) ARE ACCEPTED, BUT PUBLIC IMPROVEMENTS THEREON WILL NOT BECOME 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.

CHAIR, BOARD OF COUNTY COMMISSIONERS	DATE
EXECUTIVE DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT	DATE

CLERK AND RECORDER:

STATE OF COLORADO COUNTY OF EL PASO

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN MY OFFICE __O'CLOCK__.M. THIS_____DAY OF______, 20___, A.D., AND IS DULY RECORDED AT RECEPTION NO._ RECORDS OF EL PASO COUNTY, COLORADO.

CHUCK BROERMAN, RECORDER

DRAINAGE (BLACK	SQUIRREL	CREEK	FOMO3600): _	

BRIDGE FEES: _____ URBAN PARK: SCHOOL FEE ACADEMY SCHOOL DISTRICT 20:



OWNER: DELROY L. JOHNSON AND JANET M. JOHNSON 14502 STATE HIGHWAY 83 COLORADO SPRINGS, CO 80921

PCDD FILE NO.: MS 211 REVISION DATE COUNTY COMMENTS 4-13-21

JOHNSON ESTATES FILING NO. 1 JOB NO. 2575.10 DECEMBER 17, 2020 SHEET 1 OF 2

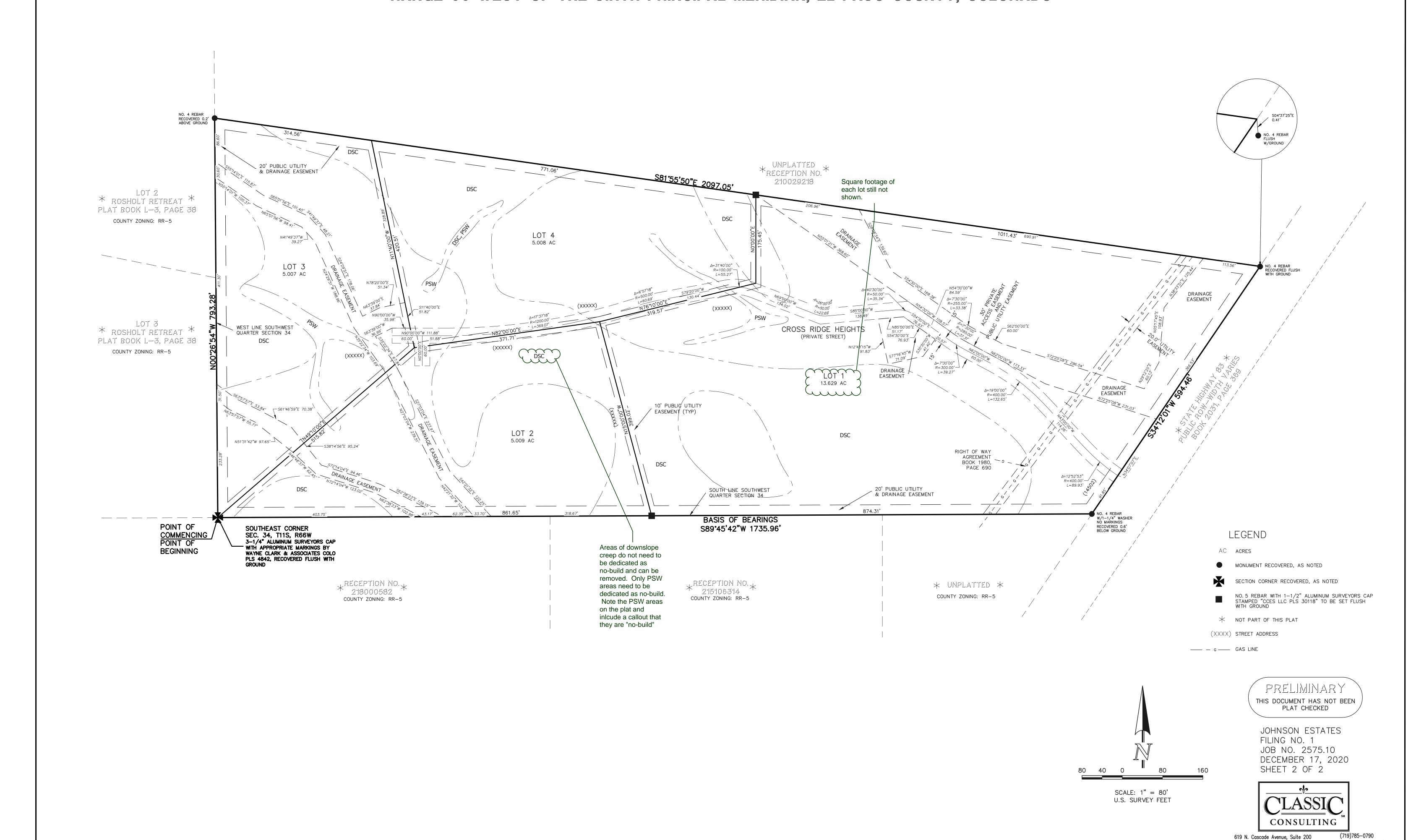


619 N. Cascade Avenue, Suite 200 Colorado Springs, Colorado 80903

(719)785-0790 (719)785-0799 (Fax)

JOHNSON ESTATES FILING NO. 1

A PORTION OF SECTION 34, TOWNSHIP 11 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO



Colorado Springs, Colorado 80903

PCDD FILE NO.: MS-211

(719)785-0799(Fax)



March 15, 2021

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

RE: D Johnson Subdivision SW1/4 of Sec. 34, Twp. 11S, Rng. 66W, 6th P.M. Water Division 2, Water District 10 CDWR Assigned Subdivision No. 27559

To Whom It May Concern,

We have received additional materials concerning the above referenced proposal to subdivide a $28.62 \pm \text{acre}$ tract of land into four new lots. The proposed supply of water to the subdivision will be four 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 updated Water Supply Information Summary received in the submittal, the estimated water demand for the development 1.581 acre-feet/year for the entire development. This amount breaks down 0.395 acre-foot/year for each of the four lots.

It should be noted that water use rates, as found in Division 1 Water Court case no. 02CW184 (Division 2 Water Court case no. 02CW119), are 0.27 acre-foot per year for each ordinary household, 0.011 acre-foot per year for horse, and 0.046 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 four on-lot wells producing from the Dawson aquifer that will operate pursuant to the augmentation plan decreed in Division 1 Water Court case no. 02CW184 (Division 2 Water Court case no. 02CW119). The following amounts of water shown in Table 1, below, were determined to be available underlying the 28.62 ± 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	1,570	15.70	5.23
Denver	NNT	2,530	25.30	8.43



Arapahoe	NNT	1,100	11.00	3.66
Laramie-Fox Hills	NT	816	8.16	2.72

The plan for augmentation decreed in Division 1 Water Court case no. 02CW184 (Division 2 Water Court case no. 02CW119) allows for diversion of 3.0 acre-feet annually from Dawson aquifer for a maximum of 300 years. The annual allowed diversion is reduced according to (paragraph) 13 of the court decree, to account for the existing well's cumulative withdrawals. According to the decree, this reduction must be accounted for if the subdivision creates five lots, which is not the case in this referral.

Permit No. 59979-F was issued pursuant to CRS 37-90-137(4) for use of a well constructed under Permit No. 179281, for use in ordinary household purposes inside not more than one single family dwelling, the irrigation of home gardens and lawns, and the watering domestic animals. It appears that this well is located on proposed Lot 1 of the property and the applicant has proposed to continue to utilize the existing well pursuant to the decreed plan for augmentation.

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 <u>allocation</u> 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 <u>allocation</u> approach based on three hundred years, the annual estimated demand, for the entire subdivision, is 1.581 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(4) 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.

D Johnson Minor Subdivision March 15, 2021 Page 3 of 3

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 1 Water Court case no. 02CW184 (Division 2 Water Court case no. 02CW119), 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 <u>allocation</u> 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(4) 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.

16. Julles

Water Resource Engineer

cc: Bill Tyner, Division 2 Engineer

Doug Hollister, District 10 Water Commissioner

OFFICE OF THE COUNTY ATTORNEY

CIVIL DIVISION

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June 29, 2021

MS-21-1

D. Johnson Minor Subdivision

Reviewed by:

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FINDINGS AND CONCLUSIONS:

1. This is a proposal by Delroy and Janet Johnson ("Applicant") for a 4-lot minor subdivision on a parcel of approximately 28.65 +/- acres (the "Property"). The Applicant plans to subdivide the Property into 4 lots with minimum lot sizes of 5 acres. There is currently an existing single-family home and existing well on 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 decree and plan for augmentation in Colorado District Court Water Division Consolidated Case Nos. 02CW119 (Div. 2) and 02CW184 (Div. 1) ("Decree" or "Augmentation Plan"). An existing well (Permit No. 179281) is located on the Property. Pursuant to the Water Supply Information Summary ("WSIS"), the water demand is 0.26 acre-feet for each lot for household use, plus an additional 0.113 acre-feet total for irrigation, for a total of 0.373 acre-feet/lot/year for a total demand of 1.493 acre-feet/year for the minor subdivision. Based on this total demand, Applicant must be able to provide a supply of 447.9 acre-feet of water (1.493 acre-feet per year x 300 years) to meet the County's 300 year water supply requirement.
- 3. In a letter dated March 15, 2021, the State Engineer reviewed the submittal to subdivide the 28.62 +/- acre parcel into a 4-lot minor subdivision. The State Engineer stated that the "supply of water to the subdivision will be four individual on-lot wells operating pursuant to a court decreed plan for augmentation" Further, the State Engineer stated that according to the WSIS, the "estimated water demand for the development [is] 1.581 acre-feet/year for the entire development. This amount breaks down [to] 0.395 acre-foot/year for each of the four lots."

¹ Note: This number differs from an updated WSIS and an updated Water Resources Report dated May 2021, which identified the water demand at 1.493 acre-feet/year or 0.373 acre-feet/lot.

Pursuant to the Decree, the following amounts of water have been adjudicated and were determined to be available underlying the property:

Aquifer	Tributary Status	Volume (A/F)	Annual Allocation 100 Year (AF/Year)	Annual Allocation 300 Year (AF/Year)
Dawson	NNT	1,570	15.70	5.23
Denver	NNT	2,530	25.30	8.43
Arapahoe	NNT	1,100	11.00	3.66
Laramie-Fox Hills	NT	816	8.16	2.72

The State Engineer stated that the "plan for augmentation decreed in Division 1 Water Court case no. 02CW184 (Division 2 Water Court case no. 02CW119) allows for diversion of 3.0 acre-feet annually from the Dawson aquifer for a maximum of 300 years. The annual allowed diversion is reduced according to (paragraph) 13 of the court decree, to account for the existing well's cumulative withdrawals. According to the decree, this reduction must be accounted for if the subdivision creates five lots, which is not the case in this referral."

The State Engineer further notes that "Permit No. 59979-F was issued pursuant to CRS 37-90-137(4) for use of a well constructed under Permit No. 179281, for use in ordinary household purposes inside not more than one single family dwelling, the irrigation of home gardens and lawns, and the watering [of] domestic animals. It appears that this well is located on proposed Lot 1 of the property and the applicant has proposed to continue to utilize the existing well pursuant to the decreed plan for augmentation."

The State Engineer stated that the "annual estimated demand, for the entire subdivision, is 1,581 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." Finally, the State Engineer provided the opinion "pursuant to CRS 30-28-136(1)(h)(l), 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(4) 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."

4. <u>Decree and Augmentation Plan, Colorado Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119) ("Decree"/"Augmentation Plan")</u>. The Decree/Augmentation Plan was issued to Delroy L. Johnson and Janet M. Johnson on May 5, 2003. It permits withdrawal from the not-nontributary Dawson aquifer for this subdivision. The aquifer requires the use of septic return flows from indoor uses to meet the respective requirements to replace depletions to the stream system during 300 years of pumping. Such return flows may not be otherwise used, sold, traded, or assigned.

The Decree/Augmentation Plan provides for maximum withdrawal of 3.0 acre-feet/year for the subdivision; however, the "number of acre feet of water each well shall be allowed to

divert on an annual basis shall be calculated by dividing the number of lots into the number 3.0, but in no event to exceed 1.0 acre feet per well per year." As detailed in the *Water Resources Report for Delroy Johnson Subdivision* dated May 2021 ("Report"), it is anticipated that each lot will use 0.373 acre-feet of water each year, for a total water demand of 1.493 acre-feet/year for the subdivision. The beneficial uses permitted by the decree are household use, irrigation, and stock watering.

Replacement of Depletions During Pumping. The Augmentation Plan provides for a pumping period of a minimum of 300 years. For any wells constructed into the not-nontributary 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 a non-evaporative septic system to the Black Squirrel Creek drainage, which is tributary to Monument Creek, Fountain Creek, and the Arkansas River. As stated in the Decree/Augmentation Plan, "[b]ased on pumping of 3.0 acre feet annually, maximum stream depletions during the pumping period would be 0.69 acre feet annually. Septic system return flows from even only three single family homes will equal 0.73 acre feet annually, and will be used to replace such depletions."

Replacement of Post-Pumping Depletions. The Decree/Augmentation Plan requires that Applicant's "post-pumping replacement obligation will be determined by multiplying the average annual Dawson pumping by the appropriate stream depletion factor according to the total depletion percentages shown on Table III². Annually, that amount of water shall then be pumped from the Laramie-Fox Hills aquifer" The Decree/Augmentation Plan further requires that successors in interest shall be required to construct a Laramie-Fox Hills aquifer well for the purpose of meeting the post-pumping obligations and that a total of up to 816 acre-feet of Laramie-Fox Hills groundwater will be used to replace any injurious post-pumping depletions. The Decree/Augmentation Plan requires that these waters may not be severed from ownership of the overlying Property.

- 5. Analysis. Applicant's water demand for the D. Johnson Subdivision is 1.493 acrefeet per year from the Dawson aquifer for total demand of 447.9 acre-feet for the subdivision for 300 years. Colorado Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119) authorizes withdrawal of 1,570 acre-feet of water (5.23 acre-feet/year) of Dawson aquifer water for a period of 300 years. Based on the demand of 1.493 acre-feet/year for the 4-lot subdivision and the Decree/Augmentation Plan permitting withdrawals in the amount of 1.0 acre-feet/year for each well on each of the 4 lots on the Property, there appears to be a sufficient water supply to meet the water demands of the D. Johnson Minor Subdivision.
- 6. Section 8.4.7.B.10.g., of the <u>Land Development Code</u> allows for the presumption of acceptable water quality for minor subdivision projects such as this.
- 7. Therefore, based upon the Water Supply Information Summary, a finding of sufficiency and no injury by the State Engineer, the Decree and Augmentation Plan in Colorado

² Table III attached to the Decree/Augmentation Plan and attached hereto to this document.

Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119) 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 Colorado Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119), specifically, that water use shall not exceed 1.0 acre-feet/lot/year for the 4-lot subdivision 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.
- The County prefers that when there is a plan for augmentation Applicant create a homeowners' association ("HOA"); however, alternatively to establishing an HOA, especially for minor subdivisions such as this, Applicant may 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 Colorado Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119) 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 separately sold, traded, or assigned in whole or in part for any other purpose. The Covenants more specifically shall require that each lot served by Dawson aquifer wells have 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 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 Laramie-Fox Hills aquifer wells 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 447.9 acre-feet of not-nontributary Dawson aquifer water pursuant to Colorado Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119) to satisfy El Paso County's 300-year water supply requirement for the 4 lots of the D. Johnson Minor Subdivision.

- 2) Require non-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 actual 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, assigned, or used for any other purpose. The Covenants more specifically shall require that each lot served by Dawson aquifer wells have 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 Colorado Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119) 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, their successors and assigns, of their responsibility for any metering and data collecting that may be required regarding water withdrawals from the existing or future wells in the Dawson aquifer 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 D. Johnson Minor Subdivision pursuant to the plan for augmentation in Colorado Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119). Further, written approval of any such proposed amendments must first be obtained from the El Paso County Planning and Community Development Department, and as may be appropriate, by the Board of County Commissioners, after review by the County Attorney's Office. Any amendments must be pursuant to a Decree from

the Water Court 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 the plan for augmentation in Colorado Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119) are also terminated by order of the 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 and its successors and assigns shall reserve in the Covenants and in any deeds of the Property the decreed amount of at least 1.493 acre-feet annually for the subdivision for a period of 300 years for a total of 447.9 acre-feet for the 4-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 4 lots of the D. Johnson 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 and its successors and assigns shall reserve in the Covenants and in any deeds of the Property a total of 816 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/Augmentation Plan, 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. 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 and its successors and assigns at the time of lot sales, shall convey by warranty deed to individual lot owners sufficient water rights in the Dawson aquifer pursuant to Colorado Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119) underlying the respective lots to satisfy El Paso County's 300 year water supply requirement. Dawson aquifer requirements are 111.9 acre-feet (0.373 acre-feet/year x 300 years). 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 the minor subdivision plat.
- F. Applicant and its successors and assigns shall submit a 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 Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119) and shall identify the obligations of the individual lot owners thereunder.
- G. Applicant and its successors and assigns shall record all applicable documents, including, but not limited to, the decree in Colorado Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119), 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(4) and pursuant to Colorado Water Division 1 Court Case No. 02CW184 (Division 2 Water Court Case No. 02CW119).
- I. <u>Prior to plat recording</u>, Applicant shall upload an updated Colorado Division of Water Resources letter to eDARP that confirms the accurate water demand of 1.493 acrefeet/year for the subdivision, as noted in footnote 1.
- 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 <u>allocation</u> 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: John Green, Planner II

TABLE III

Dawson Stream Depletion Factors Johnson Property (as % of pumping)

YRS	Arkansas River	South Platte River	YRS	Arkansas River	South Platte River
10	0.50	0.09	310	12.34	10.69
20	1.05	0.28	320	12.08	10.88
30	1.60	0.54	330	11.80	11.01
40	2.13	0.84	340	11.54	11.09
50	2,65	1:18	350	11.29	11.12
60	3,17	1.52	360	11.03	11.15
70	3.67	1.88	370	10.78	11.16
80.	4.16	2,25	380	10.53	11.17
90	4.65	2.61	390	10.31	11.15
100	5.11	3.00	400	10.08	11.15
110	5.57	3.38	410	9.86	11.14
120	6.02	3.77	420	9.65	11.12
130	6.47	4.14	430	9.43	11.11
140	6.88	4:55	440	9.22	11.09
150	7,31.	4.93	450	9.02	11.06
160	7.74	5.27	460	8.82	11.03
170	8.12	5.65	470	8.63	. 11.00
180	8.51	6.01	480	8.45	10.95
190	8.91	6.36	490	8.25	10.92
200	9.29	6.72	500 -	8.08	10.86
210	9.63	7.11	510	7.90	10.82
220	9.99	7.47	520	7.75.	10.75
230	10.33	7.84	530	7.56	10.71
240	10.67	8.21	540	7.40	10.66
250	11.01	8.57	550	7.24	10.60
260	. 11.33	8.94	560	7.09	10.53
270	11.65	9.30	570	6.94	10.47
280	11.93	9.69	580	6.78	10.41
290	12.26	10.03	590	6.64	10.34
300	12.55	10.39	600	6.51	10.27



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D. Johnson Subdivision, MS-21-1

Please accept the following comments from El Paso County Public Health regarding the project referenced above:

- The existing 28.65-acre developed lot is proposing 3 undeveloped lots at 5+ acres in size and 1-lot of 13 acres. All lots will be served water by individual private wells, and wastewater by onsite wastewater treatment systems (OWTS's).
- There is a finding for sufficiency in terms of water quality based upon the results of the sample results of Colorado Analytical Laboratories, Inc., dated 13Jan2021, for a confined aquifer.
- The Entech Engineering, Inc., 21Dec2020, OWTS-Wastewater Study
 was reviewed for OWTS suitability on the proposed new lots. The
 report supports the use of OWTS's on this site. There is a possibility
 for an engineer designed OWTS a few sites showed shallow weathered
 sandstone, other tests were suitable for more conventional OWTS's.
 - The proposed new lots require full compliance with the El Paso County Board of Health Regulations, Chapter 8, Onsite Wastewater Treatment Systems.
 - Adjacent property well locations were not shown; therefore, be aware of the specific 100'+ setback requirements to exterior wells.

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