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PLANNING & COMMUNITY DEVELOPMENT

TO: El Paso County Planning Commission
Brian Risley, Chair

FROM: Christian Haas, Planner I
Carlos Hernandez, Engineer I
Meggan Herington, AICP, Executive Director

RE: Project File #: VA-23-001
Project Name: 4775 Ford Drive Additional Dwelling Unit
Parcel No.: 62140-00-026

OWNER:	REPRESENTATIVE:
Joshua & Katherine Patterson 4775 Ford Drive Colorado Springs, CO 80908	Vertex Consulting Services Nina Ruiz PO Box 1385 Colorado Springs, CO 80901

Commissioner District: 1

Planning Commission Hearing Date:	3/16/2023
Board of County Commissioners Hearing Date	4/18/2023

EXECUTIVE SUMMARY

A request by Nina Ruiz, with Vertex Consulting Services, for approval of a variance of use for a second dwelling unit in the RR-2.5 (Residential Rural) district. The 2.89-acre property is located on the southwest corner of the intersection of Ford Drive and Milam Road and addressed as 4775 Ford Drive.

2880 INTERNATIONAL CIRCLE
OFFICE: (719) 520 – 6300



COLORADO SPRINGS, CO 80910
PLNWEB@ELPASOCO.COM

WWW.ELPASOCO.COM

A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

Request: Approval of a variance of use for a second dwelling in the RR-2.5 (Residential Rural) district.

Waiver(s)/Deviation(s): No waivers are being requested as part of this application.

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

B. APPROVAL CRITERIA

Pursuant to Section 5.3.4 of the Land Development Code, the Planning Commission and Board of County Commissioners may consider the following criteria in approving a variance of use:

- The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.
- The variance of use is generally consistent with the applicable Master Plan;
- The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and County;
- The proposed use will be able to meet air, water, odor or noise standards established by County, State or federal regulations during construction and upon completion of the project;
- The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;
- The proposed use will not adversely affect wildlife or wetlands;
- The applicant has addressed all off-site impacts;
- The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
- Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.



C. LOCATION

North:	RR-5 (Residential Rural)	Religious
South:	RR-5 (Residential Rural)	Single Family Residential
East:	RR-5 (Residential Rural)	Single Family Residential
West:	RR-2.5 (Residential Rural)	Single Family Residential

D. BACKGROUND

The parcel is 2.89 acres in the RR-2.5 zoning district (Residential Rural) and was created by deed on August 3, 1965 (Reception No. 425693). The original 984 square foot dwelling was converted to an "Accessory Living Quarters" (EPC project number ADU2235) upon the approval of a site plan for a new single-family dwelling (EPC project number SFD221211) on August 23, 2022. The property owners are requesting a variance of use to convert the previously approved "Accessory Living Quarters" into a second dwelling.

E. ANALYSIS

1. Land Development Code Analysis

The Land Development Code defines "Accessory Living Quarters" as:

"Lodging, which may include a kitchen, that is accessory to the principal dwelling which may be occupied only by occasional, non-paying guests of the family residing in the principal dwelling. Accessory living quarters are not considered dwelling units. The term does not include farm/ranch residence, caretakers quarters, or an additional dwelling."

The Land Development Code defines "Dwelling, Additional" as:

"A dwelling unit, allowed in the A-35 District only, either within or added to an existing single-family detached dwelling or located as a separate accessory structure on the same lot or parcel as the principal single-family dwelling, for use as a complete, independent living facility with provisions within the dwelling unit for cooking, eating, sanitation, and sleeping. The additional dwelling shall be considered an accessory use to the principal dwelling."

Pursuant to Table 5-1 of the Land Development Code, an additional dwelling is not a permitted use in the RR-2.5 (Residential Rural) zoning district and is therefore not consistent with the use allowances of the RR-2.5 zoning district without approval of a variance of use.



2. Zoning Compliance

The RR-2.5 (Residential Rural) zoning district density and dimensional standards are as follows:

- Minimum lot size: 2.5 acres
- Minimum front yard setback: 25 feet (Principal & Accessory Structures)
- Minimum side yard setback: 15 feet (Principal & Accessory Structures)
- Minimum rear yard setback: 25 feet (Principal & Accessory Structures)
- Maximum lot coverage: none
- Maximum structure height: 30 feet

The proposed site plan complies with the RR-2.5 zoning district density and dimensional standards. The applicant is not proposing any setback encroachments or dimensional variances.

Should the variance of use request be approved, approval of a site development plan will not be required as no changes are being proposed to the previously approved site plan for the "Accessory Living Quarters" (ADU2235). The previously approved site development plan review is in compliance with the dimensional standards included in Chapter 5 as well as the Development Standards of Chapter 6 of the Code.

F. MASTER PLAN ANALYSIS

Criteria for approval of a Variance of Use request should be generally consistent with applicable components of Your El Paso County Master Plan (2022) according to the current (2022) version of the Land Development Code. The following is an analysis of the Plan as it applies to the application being considered with a specific focus on Chapter 3 (Land Use), including a discussion of Key Areas, Areas of Change, and Placetype designations.

1. Your El Paso Master Plan

a. Placetype: Large-Lot Residential

Placetype Character:

The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more, and are generally large and dispersed throughout the area so



as to preserve a rural aesthetic. The Large-Lot Residential placetype generally supports accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote than Rural areas. Large-Lot Residential neighborhoods typically rely on well and septic, but some developments may be served by central water and waste-water utilities. If central water and wastewater can be provided, then lots sized less than 2.5 acres could be allowed, if 1.) the overall density is at least 2.5acres/lot, 2.) the design for development incorporates conservation of open space, and 3.) it is compatible with the character of existing developed areas.

Conservation design (or clustered development) should routinely be considered for new development within the Large-Lot Residential placetype to provide for a similar level of development density as existing large-lot areas while maximizing the preservation of contiguous areas of open space and the protection of environmental features. While the Large-Lot Residential placetype is defined by a clear set of characteristics, the different large-lot areas that exist throughout the County can exhibit their own unique characters based on geography and landscape.

Recommended Land Uses:

Primary

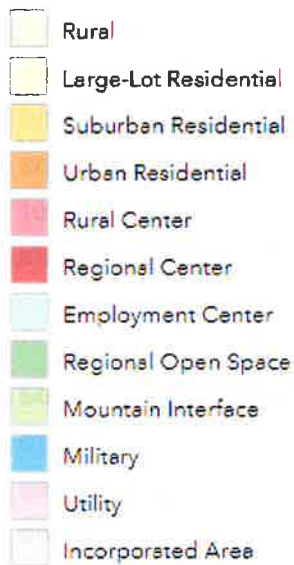
- Single-Family Detached Residential (typically 2.5-acre lots or larger)

Supporting

- Parks/Open Space
- Commercial Retail (Limited)
- Commercial Service (Limited)
- Agriculture



LEGEND



F.1: Placetype Map



Analysis:

The property is located within the Large-Lot Residential placetype. The Large-Lot Residential placetype supports the rural character of the County while providing for unique and desirable neighborhoods.

Land Use (Goal LU3): *"Encourage a range of development types to support a variety of land uses."*

Specific Strategy: *"The Minimal Change: Developed areas are likely to see more intense infill development with a mix of uses and scale of redevelopment that will significantly impact the character of an area. Regardless of the development that may occur, if these areas evolve to a new development pattern of differing intensity, their overall character should be maintained."*

Housing & Communities (Goal HC1): *"Promote development of a mix of housing types in identified areas."*



Objective HC1-5: *"Focus detached housing development in Large-Lot Residential and Suburban Residential areas given the increasing infrastructure and environmental constraints associated with such development to help maintain the established character of rural communities."*

b. Area of Change Designation: Minimal Change: Undeveloped

"The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall there will be no change to the prioritized rural and natural environments."

Figure F.2: Area of Change Map



c. Key Area Influences:

The subject property is located within the Forested Area

LEGEND

- Military Installations
- Potential Areas for Annexation
- Enclaves or Near Enclaves
- Small Towns & Rural Communities
- Fountain Creek Watershed Flood Control & Greenway District
- Forested Area
- Pikes Peak Influence Area
- Tri-Lakes Area
- Colorado Springs Airport/Peterson Field
- Uncommon Natural Resources



G. Water Master Plan Analysis

Consistency with the El Paso County Water Master Plan (2018) is not a required review criterion for a variance of use request. For background, the Water Master Plan has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

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

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

Goal 1.2 – Integrate water and land use planning.

Goal 4.3 – Collaborate with the State and other stakeholders to extend the economic life of the Denver Basin aquifers.



Policy 4.3.6 – Encourage well monitoring throughout the County, with an emphasis on the Denver Basin aquifer fringe areas.

The subject parcel is in Region 2 of the El Paso County Water Master Plan. Region 2 has a current central water supply 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 sufficient supply of water for central water providers in this region of the County.

Water sufficiency is not required for a variance of use application. Water is proposed to be provided by an individual onsite well. There are two permitted onsite wastewater treatment systems (OWTS).

H. Other Master Plan Elements

The Master Plan for Mineral Extraction (1996): 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 (2022).

Please see the Transportation Section below for information regarding conformance with the 2016 Major Transportation Corridor Plan (MTCP).

I. PHYSICAL SITE CHARACTERISTICS

1. Hazards

No hazards were identified as part of this Variance of Use application.

2. Wildlife

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



3. Floodplain

The subject property is located within Zone X, an area of minimal flood hazard outside of the 500-year floodplain.

4. Drainage and Erosion

The site is located within the Kettle Creek drainage basin. This drainage basin is included in the El Paso County drainage basin fee program. Drainage and bridge fees are not assessed for a Variance of Use application.

5. Transportation

The subject property is located north of Shady Lane and east of Milam Road. Milam Road is a Minor Arterial and is owned and maintained by El Paso County. A traffic study was not required for this application. The applicant will be required to obtain an access permit if there is not one on file.

The development is subject to the El Paso County Road Impact Fee program (Resolution No. 19-471).

J. SERVICES

1. Water

Water will be provided by an onsite well. An individual onsite well permit (no. 108125) allows for a principal dwelling and an "Accessory Living Quarters". Once the variance is approved, Vertex will seek approval from the state for an updated well permit that allows for two dwelling units.

2. Sanitation

Wastewater is provided by two permitted onsite wastewater treatment systems (OWTS).

3. Emergency Services

The property is within the Black Forest Fire Protection District. El Paso County Sheriff's Department will respond to any emergencies.

4. Utilities

Mountain View Electric Association (MVEA) will provide electricity to the property and Black Hills Energy will provide natural gas. Both MVEA and Black Hills Energy were notified of the variance of use. MVEA noted that any damage, removal or relocation of facilities on the parcel will be at the expense of the applicant.



5. Metropolitan Districts

The subject property is not located within a metropolitan district.

6. Parks/Trails

Land dedication and fees in lieu of park land dedication are not required for a variance of use application.

7. Schools

The subject property is in the Academy School District 20. Land dedication and fees in lieu of school land dedication are not required for a variance of use application.

K. APPLICABLE RESOLUTIONS

See attached resolution.

L. STATUS OF MAJOR ISSUES

There are no major issues associated with the Variance of Use application.

M. 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 5.3.4 of the El Paso County Land Development Code (2022), staff recommends the following conditions and notations:

CONDITIONS

1. Approval is limited to the use of a second dwelling, as discussed, and depicted in the applicant's letter of intent and site plan drawings. Any subsequent addition or modification to the use beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to approval of a new variance of use request.
2. The applicant shall obtain approval from the State to amend the existing well permit to allow for two dwelling units onsite from the current allowance of one dwelling unit and one "Accessory Living Quarters" within six (6) months of the date of Variance of Use approval by the Board of County Commissioners. The deadline may be extended by the PCD Director, at her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.



NOTATIONS

1. Variance of Use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification, or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or Variance of Use conditions/standards are being violated, preceded by notice and public hearing.
3. If the Variance of Use is discontinued or abandoned for two (2) years or longer, the Variance of Use shall be deemed abandoned and of no further force and effect.

N. PUBLIC COMMENT AND NOTICE

The Planning and Community Development Department notified eighteen (18) adjoining property owners on January 24, 2023, for the Planning Commission and Board of County Commissioner meetings. Responses will be provided at the hearing.

O. ATTACHMENTS

Vicinity Map
Letter of Intent
Site Plan
Public Comments
Draft PC Resolution

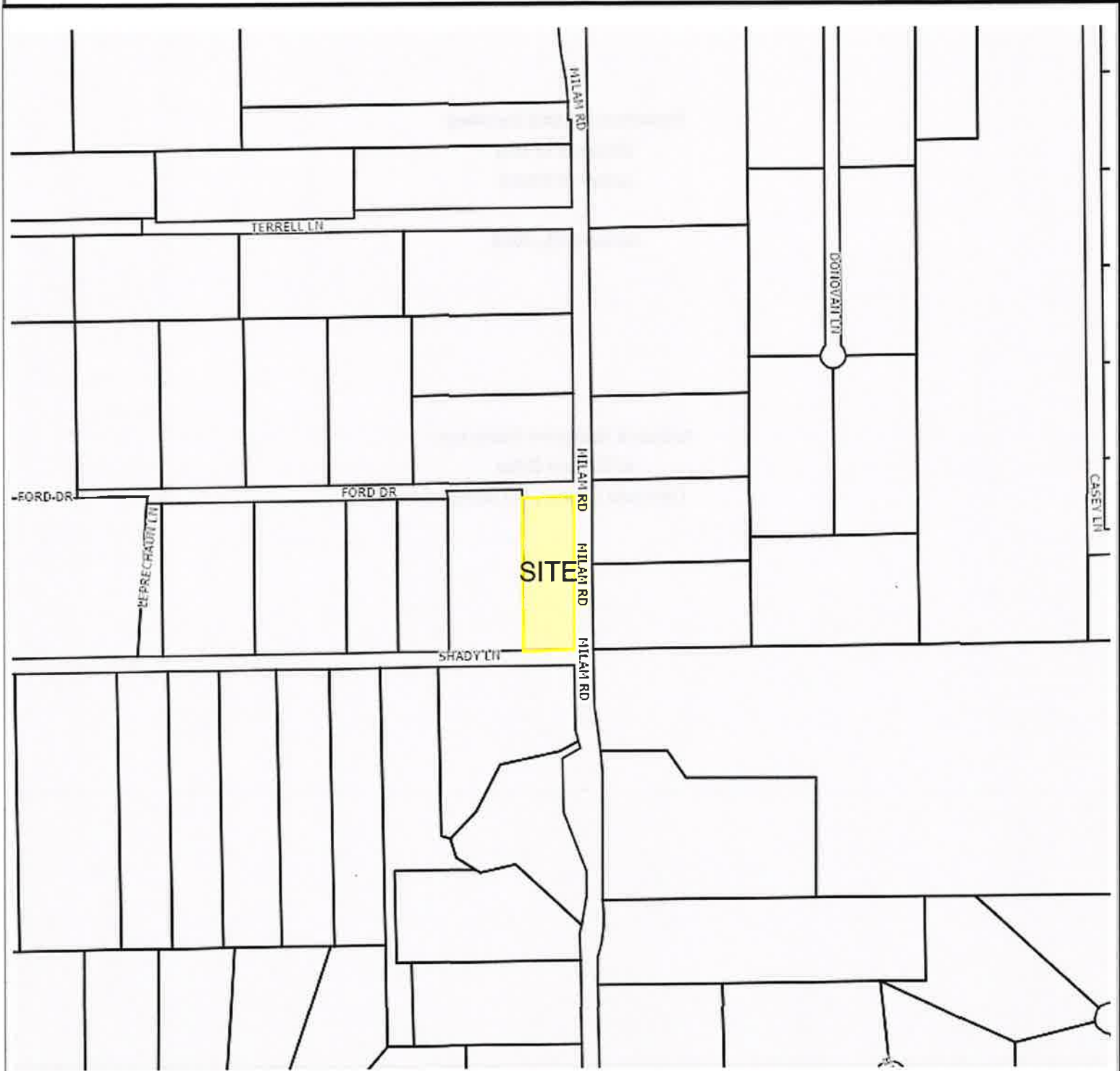


El Paso County Parcel Information

File Name: VA231

Date: 2/24/2023

PARCEL	NAME	ADDRESS
6214000026	JOSHUA & KATHERINE PATTERSON	4775 FORD DR, COLORADO SPRINGS CO, 80908



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



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Vertex Consulting Services, LLC
455 Pikes Peak Avenue, Suite 101
Colorado Springs, CO 80903-3672
719-733-8605

**Patterson Second Dwelling
Variance of Use
Letter of Intent**

January 23, 2023

**Joshua & Katherine Patterson
4775 Ford Drive
Colorado Springs, CO 80908**

Planner: Vertex Consulting Services, LLC, Nina Ruiz
455 E Pikes Peak Avenue, Suite 101
Colorado Springs, CO 80903
719-733-8605
Nina.ruiz@vertexcos.com

Tax Schedule No: 6214000026

Acreage: 2.89 Acres

Zoning: RR-2.5 (Residential Rural)

Site Location, Size, Zoning:

Vertex Consulting Services, LLC, on behalf of Joshua and Katherine Patterson, is respectfully submitting a variance of use application for a proposed second dwelling unit. The property is located west of Milam Road and approximately 0.3 miles south of Shoup Road. The 2.89-acre property is zoned RR-2.5 (Residential Rural). The proposed variance of use is compatible with the surrounding planned and existing development and is consistent with the Your El Paso Master Plan.

Background

A 984 square foot dwelling with an attached garage and septic system was constructed in 1960. The 2.89-acre parcel was created by deed on August 3, 1965 (book 2086, page 246, reception no. 425693) and is considered a legal parcel. The 1960's dwelling was converted to an "Accessory Living Quarters" on August 23, 2022, when a site plan was approved to allow for the construction of a new larger dwelling. "Accessory Living Quarters" may only be utilized for occasional temporary stays of friends and family, limited to a maximum of 30 days at a time. The property owners wish to convert the "Accessory Living Quarters" into a second dwelling.

Utilities

Mountain View Electric Association (MVEA) provides electric service and Black Hills Energy provides natural gas service to the existing structures. There are two permitted onsite wastewater treatment systems (OWTS) onsite; one for the 1960's home (now "Accessory Living Quarters") and one for the newly constructed home. Water is provided by an individual onsite well (permit no. 108125). The well permit allows for a principal dwelling and an "Accessory Living Quarters". If the variance of use is approved, Vertex will consult with a water attorney to seek approval from the State for an amended well permit to allow for two dwelling units onsite. The well permit will be in place prior to utilizing the second dwelling unit for full-time residency. We anticipate the well permit needing to be in place prior to initiation of the use as a notation on the BoCC Resolution.

Request & Justification:

The purpose of this application is to request approval of a variance of use to allow a second dwelling in the RR-2.5 zoning district. Although the existing structure has been permitted as an "Accessory Living Quarters", the variance of use request is submitted to remove the limitation of

the occupancy being only for temporary, occasional stays and to allow for full-time habitation.

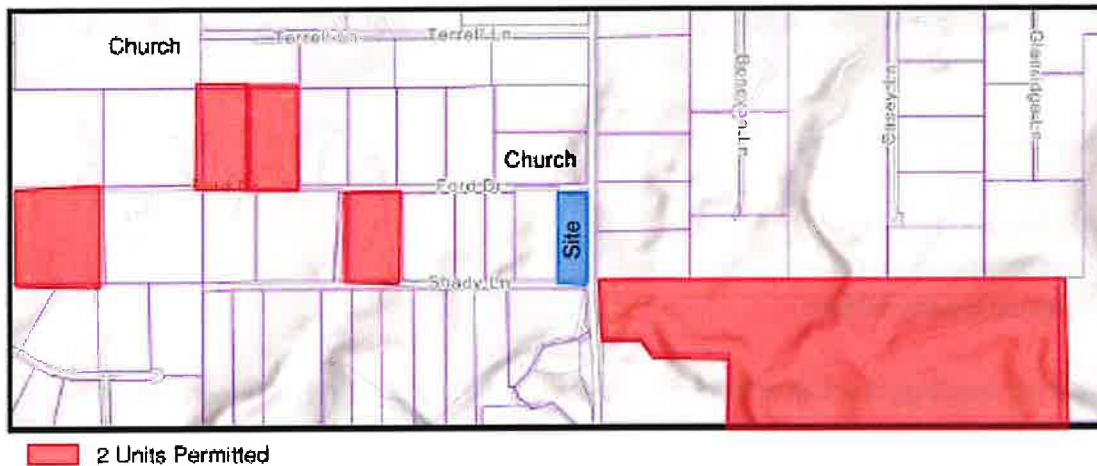
The pages that follow address each one of the Variance of Use criteria included within Section 5.3.4 of the El Paso County Land Development Code:

The strict application of any of the provisions of this Code would result in peculiar and exceptional practical difficulties or undue hardship.

The current Land Development Code does not permit a second dwelling in any zoning district other than the multi-family zoning districts. Applicants who wish to have two dwelling units on their property have no choice but to either rezone to a multi-family zoning district or to request a variance of use. Rezoning the property to a multi-family zoning district, such as the RM-12 zoning district, is inadvisable in this situation since a residential development of up to 12 dwelling units per acre would not be compatible with the existing surrounding residential development. There are five other residential properties in close proximity to the subject property which have previously received approval for a second dwelling unit without needing to rezone their property to a multi-family zoning district. The second dwelling on four of the five properties are permitted for full-time occupancy. The concept of permitting and constructing a permanent second dwelling is not unique to the Black Forest area. There have been seven variance of use requests to allow for second dwellings approved in El Paso County in the last five years. This represents one-sixth of the total number of variances of use requests submitted to El Paso County during that time frame. This trend of constructing additional dwelling units on single family-zoned properties throughout El Paso County is likely to continue due to reduced housing stock and increased housing prices.

The County, including the appointed steering committee, anticipated the construction of additional dwelling units on single family-zoned properties when guiding the development of Your El Paso County Master Plan (2020). The Plan, as detailed below, recommends the County amend the Land Development Code to encourage Additional Dwelling Units in residential zoning districts as a way to alleviate the housing deficit in the region. This code-based measure has not yet been implemented, which is likely due to the continued high workload and staff turnover in the Planning Department. The contradiction between the recently updated Master Plan and the existing Land Development Code presents a peculiar and exceptional practical difficulty for any property owner who wishes to further implement the guidance of the County's new Master Plan by constructing a second dwelling on their property in order to provide additional housing.

Please see the below map, which further illustrates the number of parcels which already contain more than one dwelling:



- *The variance of use is generally consistent with the applicable Master Plan;*

Please see the Master Plan analysis beginning on page 6.

- *The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and County;*

The property is surrounded by the RR-2.5 zoning district to the west and the RR-5 zoning district to the north, south, and east. There are two religious institutions within the vicinity of the subject property. Although the RR-2.5 and RR-5 zoning districts do not permit second dwellings, there are five parcels within a close proximity that include more than one dwelling unit, four of which allow for permanent habitation. Having multiple dwelling units on a single parcel is in keeping with the existing character of the neighborhood.

Additionally, the two dwelling units onsite access from opposing ends, one from Ford Drive while the other gains access from Shady Lane. The two access points allow for the traffic to be divided amongst each one of the roadways, resulting in traffic impacts to each road being the same as one single-family dwelling. The second dwelling is a custom home that matches the character and massing of the surrounding rural residential homes and is not a detriment to the neighborhood. All utilities for the second dwelling have been permitted and are already in place.

- *The proposed use will be able to meet air, water, odor or noise standards established by County, State or federal regulations during construction and upon completion of the project;*

The proposed use is a single-family dwelling being served by an individual onsite well and an onsite wastewater treatment system (OWTS). The dwelling has been constructed in compliance with all El Paso County and State air quality regulations.

- *The proposed use will comply with all applicable requirements of this Code and all applicable County, State and federal regulations except those portions varied by this action;*

The proposed dwelling is within the RR-2.5 zoning district. Table 5-4 of the Land Development Code identifies the density and dimensional standards of the RR-2.5 zoning district:

- Minimum lot size: 2.5 acres
- Front Setback: 25 feet
- Side Setback: 15 feet
- Rear Setback: 25 feet
- Maximum Height: 30 feet

The two existing dwellings meet all setback and height requirements of the RR-2.5 zoning district, as depicted on the variance of use site plan.

El Paso County allows for a detached “Accessory Living Quarters” within the RR-2.5 zoning district, but is limited to temporary, occasional stays. The variance of use need not meet the use specific standards for an “Accessory Living Quarters”, however, the additional dwelling does meet all those standards included within Section 5.2.1 of the Land Development Code, with the exception of the use being limited to temporary occupancy. As discussed above, there are five parcels within close proximity of the subject parcel that contain more than one dwelling unit.

- *The proposed use will not adversely affect wildlife or wetlands;*

The dwelling has been constructed. No additional impacts to wildlife are anticipated as a result of the approval of the second dwelling. There are no wetlands onsite.

- *The applicant has addressed all off-site impacts;*

There are no anticipated additional off-site impacts except for a minor increase in traffic, which has been addressed by the construction of a second driveway on Shady Lane.

- *The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or*

The Land Development Code requires a minimum of 2 parking spaces per dwelling. The site plan depicts 6 parking spaces within the garages with additional space within the driveway, which exceeds the parking requirement of 4 spaces. No screening, open space, fencing, screening, or landscaping are required for single-family development, therefore, none are depicted beyond the vegetation presently onsite.

- *Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.*

Water is provided by an individual onsite well and septic is provided by two approved onsite wastewater treatment systems. The property is within the Black Forest Fire Protection District. El

Paso Sherriff's Department will respond to any emergency. Access is taken from Ford Drive and Shady Lane.

Master Plan Elements

Below is an analysis of the various El Paso County Master Plan elements.

Your El Paso County Master Plan Analysis

Chapter 1 of Your El Paso Master Plan (2021) states that the Plan is "general in nature-it cannot tackle every issue in sufficient detail to determine every type of necessary action." In addition, Chapter 1 goes on to state that the Plan "is intended to provide clearer and more coordinated policy, resulting in a document that effectively communicates County goals and identifies specific actions to achieve both County-wide and local area objectives." When taken together, these two statements suggest to the reader that the Plan may only address certain issues at a cursory level and that specific steps or actions for addressing such issues may not be offered within the Plan. That conclusion is certainly the case in numerous instances and with regard to a variety of topical areas. However, where that is not the case is with respect to the variance of use request, as identified below.

Key Area Analysis

The subject property is identified in the Plan as being within the Forested Area Key Area. The Plan further describes the Key Areas as:

"This Key Area includes parts of the County where natural forests are the predominant feature such as Black Forest, areas north of Peyton, and areas along Highway 115 as well as lands within Pike National Forest. Pike National Forest is one of the County's largest natural amenities and tourist destinations. Continued coordination with the U.S. Forest Service is critical to ensuring future development in areas adjacent to the Forest do not negatively impact the natural environment. There are also many established communities within Pike National Forest particularly in Ute Pass and along Highway 115. New development and any redevelopment in these locations should be of a lower intensity to mitigate any impacts on the Forest, properly manage stormwater, provide safe access to major roads and state highways for the traveling public and emergency response vehicles and adhere to the strictest building codes to prevent any hazards such as fires and soil erosion related to poor planning, design, and construction.

Managed residential growth, along with supportive commercial uses, have helped the other forested areas preserve their natural amenities while supporting the daily needs of a thriving local community. The seamless connection between the natural environment and small-scale, low intensity development is critical to their identity. All new development and redevelopment in this Key Area should strictly adhere to the transportation and infrastructure, stormwater requirements, built form, and transition guidelines outlined in their appropriate placetypes. Each development proposal should also be reviewed on a

case-by-case basis to determine its specific impact on the forested area and the established character of the individual community.” (emphasis added)

The two existing access points have been approved by El Paso County with access permits. All necessary utilities are in place and are sized to allow for the additional dwelling unit, with the exception of the well permit. If the variance of use is approved the applicant will seek approval from the State to allow for the existing well to serve two dwelling units. All El Paso County Stormwater Division and Regional Building Code requirements have been satisfied. Please review the placetype section below for additional detail regarding an analysis of how the variance of use is in compliance with the recommendations for the placetype. The proposed variance of use is in general conformance with the Key Area.

Area of Change Analysis

The subject property is identified in the Areas of Change map within the Plan as being within the “Minimal Change: Undeveloped” area of change.

Page 21 of the Plan characterizes areas of “Minimal Change: Undeveloped” by stating:

“The character of these areas is defined by a lack of development and presence of significant natural areas. These areas will experience some redevelopment of select underutilized or vacant sites adjacent to other built-out sites, but such redevelopment will be limited in scale so as to not alter the essential character. New development may also occur in these areas on previously undeveloped land, but overall there will be no change to the prioritized rural and natural environments.”
(Emphasis added)

The subject property is currently developed and is surrounded by other residential properties and other parcels with more than one dwelling. The Master Plan anticipates some redevelopment as long as the character can be maintained. As discussed above, the proposed second dwelling is in conformance with the physical attributes of the surrounding development as well as the other five second dwellings within a close proximity.

Placetype Analysis

The subject property is shown on the Placetypes map of Your El Paso Master Plan as being within the Large-Lot Residential Placetype. Page 26 of the Plan identifies the following land uses as being Primary Land Uses within the Large-Lot Residential Placetype:

- Single-Family Detached Residential (typically 2.5 acre lots or larger)

In addition, the Placetype includes the following Supporting Land Uses:

- Parks/Open Space
- Commercial Retail
- Commercial Service
- Agriculture

The Large-Lot Residential Placetype is described further on page 26 as follows:

“The Large-Lot Residential placetype consists almost entirely of residential development and acts as the transition between placetypes. Development in this placetype typically consists of single-family homes occupying lots of 2.5 acres or more, and are generally large and dispersed throughout the area so as to preserve a rural aesthetic. The Large-Lot Residential placetype generally supports accessory dwelling units as well. Even with the physical separation of homes, this placetype still fosters a sense of community and is more connected and less remote than Rural areas. Large-Lot Residential neighborhoods typically rely on well and septic, but some developments may be served by central water and waste-water utilities. If central water and wastewater can be provided, then lots sized less than 2.5 acres could be allowed if; 1.) the overall density is at least 2.5 acres/lot, 2.) the design for development incorporates conservation of open space, and 3.) it is compatible with the character of existing developed areas.

Conservation design (or clustered development) should routinely be considered for new development within the Large-Lot Residential placetype to provide for a similar level of development density as existing large-lot areas while maximizing the preservation of contiguous areas of open space and the protection of environmental features. While the Large-Lot Residential placetype is defined by a clear set of characteristics, the different large-lot areas that exist throughout the County can exhibit their own unique characters based on geography and landscape.” (emphasis added)

Page 27 of the Plan identifies the Placetype Characteristics, including but not limited to the following:

“Accessory Dwelling Units (ADUs) are compatible in this placetype and should function in the context of the existing neighborhood.”

“Single-family detached homes oriented to the street.”

“Attached and detached garages and accessory buildings that reflect the architectural style and scale of the surrounding residential.”

The existing dwelling units are oriented towards the street and also have been constructed to reflect the architectural style and scale of the surrounding area. The placetype specifically identifies accessory dwelling units as being supported within the placetype and specifically states that this use is compatible with the placetype. The proposed variance of use is in conformance with the placetype recommendations.

Housing & Communities

The Housing and Communities chapter specifically contemplates accessory dwelling units and recommends that the County can proactively promote them as a housing type (page 61):

“Allowing alternative forms of density, such as small-lot homes or accessory dwelling units (“granny flats”), would provide more attainable housing units without altering neighborhood character. Allowing accessory dwelling units (ADUs), where appropriate, would be another tool to support more affordable rents. Accessory dwelling units can work well for people in various life stages, including students, young professionals, and empty nesters. Proactively promoting the construction of ADUs can take numerous forms including local fee waivers, pre-approved unit plans, assistance navigating the permit process, and working with local lenders to ensure construction and permanent financing is available for homeowners wishing to build ADUs.”

The following goal and strategy further supports the requested variance of use:

Goal HC3- Locate attainable housing that provides convenient access to goods, services, and employment.

- *Allow accessory dwelling units (ADUs), where appropriate, as another tool to support more affordable rents and proactively promote the construction of ADUs by considering local fee waivers, pre-approved unit plans, assistance navigating the permit process, and by working with local lenders to ensure construction and permanent financing is available for homeowners wishing to build ADUs.*

The Master Plan not only recommends ADUs as a supported land use, but suggests that the County should promote ADUs and provide a clear path to approval by waiving fees and ensuring the process is seamless for those who desire to construct an ADU.

The proposed variance of use is in conformance with all aspects of the Master Plan.

El Paso County Water Master Plan

The Executive Summary from the Water Master Plan (2018) states that “The Plan Water Master Plan (WMP) was developed for the Board of County Commissioners, El Paso County officials and staff, developers, citizens, and water providers within the County for the purpose of identifying and addressing water supply issues earlier in the land use entitlement process.” For that reason, water supply should be discussed even with a variance of use. This does not mean that a full water sufficiency finding should be made since sufficiency findings in El Paso County are made at either the preliminary plan or final plat stage of development, both of which are part of the subdivision stage of development, which has already taken place. It should be further noted that the Water Master Plan only contemplates centralized providers and did not provide an analysis for individual well, as is proposed here.

The subject property is located within Planning Region 2 of the Water Master Plan, pursuant to Figure 3-1 on page 25. The Plan identifies the current supply and demand forecasts at full build out (year 2060) for each of the Planning Regions. The Table indicates that the current water supplies for Region 2 amounts to 13,607 AF of water per year with 2060 being 20,756 AF of water per year; therefore, there is projected to be a surplus supply of water for central water providers in this

region of the County.

El Paso County Parks Master Plan

The El Paso County Parks Master Plan (2022) does not depict any planned or existing trails or open space on the subject property. Land dedication, or fees in lieu of land dedication are not required with a variance of use request.

Other Topical Elements of the County Master Plan

The proposed variance of use is in compliance with the other topical elements of the County Master Plan, including the Master Plan for Mineral Extraction, and the El Paso County Wildlife Habitat Maps and Descriptors.

Christian Haas

From: Steve and Carol Helmreich <schelm@centurylink.net>
Sent: Saturday, March 4, 2023 9:38 AM
To: Christian Haas
Cc: Steve and Carol Helmreich
Subject: 4775 Ford Dwelling Variance March 16, 2023 (VA231)

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

Dear Mr. Haas.

We are writing to state our objection to the Variance of Use proposal for Parcel No. 6214000026. This is the house and property at the corner of Ford and Milam Roads, abutting Shady Lane.

Allowing this property to change from an Accessory Living Quarters (ALQ) to a second dwelling sets a precedent that others may follow, doubling the number of houses on 2.5 or 5 acre plots in the Black Forest.

This type of development adds to the water use in the Black Forest, road congestion, loss of privacy, and loss of the character of the Black Forest. During many years of living in the Black Forest, I have watched the nibbling around the edges (and in the middle) of the Black Forest with high density developments. Zoning is supposed to protect neighbors and ways of life and this request denies the zoning.

Possibly more annoying is the timing of this variance request. The house is not yet complete – windows are not installed, and yet the ALQ condition is already being appealed for a second residence. *It appears the owner had no intent of ever wanting this to be an ALQ.*

We ask that you recommend the Planning Commission deny this request.

Sincerely,

Steve and Carol Helmreich
4545 Shady Lane
Black Forest, CO 80908

Mr. Christian Haas, El Paso County Planner

March 3, 2023

Dear Mr. Haas,

We have lived on Shady Lane off of Milam Road in Black Forest for thirty years. Almost all the lots in this area have houses built on them. Most are 5 or more acres, only a few like the Patterson's are 2 ½ acres. Few have small accessory dwellings. The Pattersons have begun building a second much larger home on the south end of their lot. Their building permit this past fall show their zoning required an affidavit pledging not to lease either dwelling. A sign went up at the property recently announcing there are county hearings about waiving this leasing requirement. This waiver should be denied.

Commented [SH1]: accessory

The RR2.5 and RR5 zoning are intended to maintain a rural atmosphere. Accessory dwellings are needed to allow families to accommodate their own unique needs. However, if a residential building can now be leased for profit, then it's no longer family needs but profit that prevails. If removing this leasing restriction on these homes is granted, then the rural residential zoning won't preserve the rural nature of Black Forest. Overriding zoning in this case would show additional dwellings are allowed to be built and profitably leased. More homes increase impact on traffic, wells, and the natural forest. If properties can be profitably subdivided, they will be. This rural area would become a forested subdivision.

Commented [SH2]: Accessory

The new county Master Plan halved planning density to 2 ½ acre lots per house in the Black Forest, still two separate houses on Pattersons +2 ½ acre lot double the plan density. Given this waiver, perhaps their next step is to ask to split the lot and separately sell each. Setting a precedence of allowing this denser development for profit would let down the citizens who have worked and invested in homes believing zoning would protect the special rural character of the Black Forest.

We ask the Planning Commission to recommend the Board of County Commissioners deny this request. Zoning was created to protect existing use of land and this waiver would harm that use. Please respect zoning and how it protects Black Forest as irreplaceable treasure.

Commented [SH3]: an

Most sincerely,

Colleen and Don Nelson
4595 Shady Lane 80908

Review Comments

Link	Comment	Date
	The Black Forest Land Use Committee has reviewed this project and recommends DENIAL. The purpose of an accessory or secondary dwelling was to provide temporary permission to have elderly parents or disabled relatives be able to live near their care givers. To allow this to be a permanent dwelling is the same as having two separate homes on the same lot. This lot is less than 3 acres so that makes it even more dense. This should be denied so as to not set a precedent of increased density on existing lots in Black Forest.	2/25/2023 9:16:02 AM

VARIANCE OF USE (RECOMMEND APPROVAL)

_____ moved that the following Resolution be adopted:

BEFORE THE PLANNING COMMISSION

OF THE COUNTY OF EL PASO

STATE OF COLORADO

RESOLUTION NO. VA-23-001

4775 FORD DRIVE – ADDITIONAL DWELLING UNIT

WHEREAS, Vertex Consulting Services did file an application with the El Paso County Planning and Community Development Department for approval of a variance of use to allow for a Second Dwelling within the RR-2.5 (Residential Rural) zoning district for property in the unincorporated area of El Paso County as described in Exhibit A, which is attached hereto and incorporated herein by reference; and

WHEREAS, a public hearing was held by this Commission on March 16, 2023; and

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

1. The application was properly submitted for consideration by the Planning Commission;
2. Proper posting, publication and public notice were provided as required by law for the hearing before the Planning Commission;
3. The hearing before the Planning Commission was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested persons and the general public were heard at that hearing;
4. All exhibits were received into evidence;
5. The proposed land use does not permit the use of an area containing a commercial mineral deposit in a manner which would interfere with the present or future extraction of such deposit by an extractor;

6. All data, surveys, analyses, studies, plans, and designs as are required by the State of Colorado and El Paso County have been submitted, reviewed, and found to meet all sound planning and engineering requirements of the El Paso County Subdivision Regulations; and
7. For the above-stated and other reasons, the proposed special use is in the best interest of the health, safety, morals, convenience, order, prosperity, and welfare of the citizens of El Paso County.

WHEREAS, as stated in Section 5.3.4.C of the El Paso County Land Development Code (2022), the Planning Commission and Board of County Commissioners may consider the following criteria in approving a variance of use:

1. The strict application of any of the provisions of the Code would result in peculiar and exceptional practical difficulties or undue hardship;
2. The variance of use is generally consistent with the applicable Master Plan;
3. The proposed use is compatible with the surrounding area, harmonious with the character of the neighborhood, not detrimental to the surrounding area, not detrimental to the future development of the area, and not detrimental to the health, safety, or welfare of the inhabitants of the area and County;
4. The proposed use will be able to meet air, water, odor or noise standards established by County, State, or Federal regulations during construction and upon completion of the project;
5. The proposed use will comply with all applicable requirements of the Code and all applicable County, State, and Federal regulations except those portions varied by this action;
6. The proposed use will not adversely affect wildlife or wetlands;
7. The applicant has addressed all off-site impacts;
8. The site plan for the proposed variance of use will provide for adequate parking, traffic circulation, open space, fencing, screening, and landscaping; and/or
9. Sewer, water, storm water drainage, fire protection, police protection, and roads will be available and adequate to serve the needs of the proposed variance of use as designed and proposed.

NOW, THEREFORE, BE IT RESOLVED, the El Paso County Planning Commission recommends approval of the variance of use to allow for a Second Dwelling within the RR-2.5 (Residential Rural) zoning district with the following conditions and notations:

CONDITIONS

- 1. Approval is limited to the use of a second dwelling, as discussed, and depicted in the applicant's letter of intent and site plan drawings. Any subsequent addition or modification to the use beyond that described in the applicant's letter of intent and as shown on the site plan shall be subject to approval of a new variance of use request.
- 2. The applicant shall obtain approval from the State to amend the existing well permit to allow for two dwelling units onsite from the current allowance of one dwelling unit and one "Accessory Living Quarters" within six (6) months of the date of Variance of Use approval by the Board of County Commissioners. The deadline may be extended by the PCD Director, at her discretion, if the Director finds that the applicant has made a good faith effort to secure such approval.

NOTATIONS

- 1. Variance of Use approval includes conditions of approval and the accompanying site plan and elevation drawings. No substantial expansion, enlargement, intensification, or modification shall be allowed except upon reevaluation and public hearing as specified in the El Paso County Land Development Code.
- 2. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or Variance of Use conditions/standards are being violated, preceded by notice and public hearing.
- 3. If the Variance of Use is discontinued or abandoned for two (2) years or longer, the Variance of Use shall be deemed abandoned and of no further force and effect.

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

_____ seconded the adoption of the foregoing Resolution.

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

Brian Risley	aye / no / abstain / absent
Thomas Bailey	aye / no / abstain / absent
Tim Trowbridge	aye / no / abstain / absent
Becky Fuller	aye / no / abstain / absent
Sarah Brittain Jack	aye / no / abstain / absent

Jay Carlson	aye / no / abstain / absent
Eric Moraes	aye / no / abstain / absent
Joshua Patterson	aye / no / abstain / absent
Bryce Schuettpelz	aye / no / abstain / absent
Christopher Whitney	aye / no / abstain / absent
Brandy Merriam	aye / no / abstain / absent

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

DONE THIS 16th day of March 2023, at Colorado Springs, Colorado.

EL PASO COUNTY PLANNING COMMISSION

By: _____
_____, Chair

DATED: March 16, 2023

EXHIBIT A

That portion of the Southeast 1/4 of the Northeast 1/4 of Section 14 in Township 12 South, Range 66 West of the 6th Principal Meridian, described as follows: Commencing at the Northeast corner of the Southeast 1/4 of the Northeast 1/4 of said Section 14; thence South 690 feet on the East line thereof; thence West 30 feet, parallel with the North line of the Southeast 1/4 of said Northeast 1/4, to the Point of Beginning of the Tract to be described hereby; thence continue West, on said parallel line, 200 feet; thence South, parallel with the East line of said Northeast 1/4, 630 feet to the South line thereof; thence East 200 feet, on said South line, to intersect a line drawn South from the Point of Beginning and parallel with the East line of said Northwest Quarter; thence North 630 feet, on said parallel line, to the Point of Beginning, County of El Paso, State of Colorado.