Atkinson
AR Rezone RZ-17-0047
Minor Residential Development MD-17-0048

PLANNING COMMISSION HEARING
August 7, 2018

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SECTION 1:
STAFF REPORT
SUMMARY OF REQUEST
The applicants, Dale and Julie Atkinson, submitted an application requesting a rezone from A-Agriculture to AR-Agriculture Residential and an application for a Minor Residential Development (MRD) to create four residential lots. The subject property is 40 acres in size. The property is located at the northwest corner of the intersection of County Roads 17/21 and 106.

Administrative Variance to Lot Size
The minimum lot size for an AR-Agriculture (AR) zoned property is 10 acres. The property fronts onto County Road 17/21 and County Road 106. As part of the proposed MRD there is a requirement for the dedication of additional right-of-way (ROW) to Elbert County to accommodate existing and future roadway needs per the West Elbert County Transportation Master Plan. This additional ROW dedication requirement resulted in 3 of the 4 proposed lots being slightly less than the 10 acre minimum lot size. As a result, a variance to the 10 acre minimum lot size was requested prior to proceeding with the proposed AR rezoning and the MRD. The proposed lot size reductions (Lot 2, 9.33; Lot 3, 9.58; Lot 4, 8.92) fall within the 15% variance allowance for an Administrative Variance. On May 17, 2018 Interim Community & Development Services (CDS) Director Vince Harris approved case # AV-18-0020, granting a variance to the minimum lot size requirement as requested. The proposed lot sizes contained within the Atkinson MRD are in compliance with the approved case # AV-18-0020.
Project Location – Elbert County
**PERTINENT DATA**

Legal Description: SE¼ of the SE¼ of Section 20, T 9 S, R 64 W, 6th P.M.

Site Description: The subject property is 40 acres in size. It is bounded by CR 21 to the east and CR 106 to the south. The property is currently vacant.

Topography: The land form gently rises from south to north. Very small, shallow drainage ways are evident from aerial photography of the site. There is also evidence of what appears to have been an old railroad bed crossing the site.

Floodplain: There are no designated flood hazard areas on the property.

Existing Zoning: A-Agriculture.


Surrounding Zoning / Land Use:
- North: Agriculture Zoning / Residential and agriculture
- South: Agriculture Zoning / Agriculture
- East: Agriculture Zoning / Agriculture
- West: Agriculture Zoning / Residential and agriculture

**MOTIVE FOR REQUEST:** The applicants desire to subdivide this 40 acre parcel into four legal lots for future sale. The rezoning to AR Zoning is requested to accommodate the resulting minimum lot size (with the previously approved variance to required minimum lot size).
APPLICATION SUBMITTAL: The formal applications for the proposed rezoning and MRD were submitted in January of 2018 and discussed throughout early 2018 as CDS and the applicant worked to resolve issues concerning the ROW, variance and plat.

COMPLETENESS REVIEW: CDS reviewed the application to ensure that all required submittal items were included, and considered the application to be complete.

REFERRAL PROCESS: The applications were sent to referral agencies per Elbert County regulations. The first round of referrals were sent out January 30, 2018. There were three subsequent referrals.

- Elbert Fire District
- Colorado Division of Water Resources
- Elbert County Historical Society
- Elbert School District #200
- Kiowa Conservation District
- CenturyLink
- Intermountain Rural Electric Assn.
- Mountain View Electric Assn., Inc.
- XCEL Energy of Colorado
- Elbert County Assessor
- Elbert County Mapper
- Elbert County Clerk and Recorder
- Elbert County Building Dept
- Elbert County Office of Emergency Management
- Elbert County Public Works
- Environmental Health
- Elbert County Treasurer
- Elbert County Sheriff

Referral Comments Received Summary:

Mountain View Electric Assn., Inc. - MVEA will serve new lots and requested additional utility easements.

Intermountain Rural Electric Assn. - Property not within service territory.

Elbert School District #200 – District requested limiting new lots to a single driveway access of CR 106 because of traffic concerns; request School District land dedication in the form of cash-in-lieu, at a rate of $1,040 per lot for a total of $3,120; expressed concerns with surrounding densities and Master Plan compliance.

Elbert Fire District – No objections.

Elbert County Environmental Health – Septic systems must meet setback requirements.
Elbert County Public Works – mineral rights owners must be notified; existing prescriptive easements for CR 21 and CR 106 must be converted to dedicated ROW; numerous redline comments on plat; driveway locations must meet Elbert County separation requirements.

Elbert County Building Dept. – No objections.

Colorado Division of Water Resources – provided opinions that water supply is adequate and can be provided without causing injury.

CenturyLink – No objections

CDS – Numerous Rezoning Exhibit and plat redline comments provided.

**Referral Comments Resolved**

All referral comments have been addressed either through the applicant providing additional documentation or by making revisions to the proposed application materials.

**PUBLIC NOTICE**

Pursuant to Resolution 17-36 public notices, in the form of newspaper notice, sign posting and mailings to adjacent property owners within 1320 feet are required 14 days in advance of the public hearings (on or before July 25th 2018) for both the Rezoning and MRD. The applicant is required to provide affidavits of public notice prior to the public hearings. These affidavits are not required to be provided until after this staff report is due to be provided to the Planning Commission. The applicant will need to provide the affidavits to staff in advance of the public hearing. Staff will update the Planning Commission on the status of the affidavits at the public hearing.

**COMMUNITY & DEVELOPMENT SERVICES REVIEW:** CDS staff found the application to be in compliance with the Elbert County Zoning Regulations, Part I, Section 6, Rezoning.

**IMPACT FEES**

The Elbert County Zoning Regulations require the applicant to pay rezoning impact fees and subdivision land dedication/cash-in-lieu fees. Fees that are applicable to this rezoning and MRD application include:

- Road Impact Fees TAZ 2 = $1,998/dwelling unit
- Growth/Facilities Impact Fees
  - Road & Bridge = $1,481/dwelling unit
  - Recreation = $198/dwelling unit.
  - Public Facilities = $381/dwelling unit
  - Sheriff = $393/dwelling unit
- Open Space/Parks Cash-In-Lieu = based upon appraised value 20% x 20% + $1,000/lot.
- School Dedication Fee = $1,040/dwelling unit (determined by School District).
- Fire Protection District = determined by Fire Protection District.
REZONING EVALUATION:
Below is Staff's evaluation of the proposals compliance with the Elbert County Zoning Regulations. Code sections are in italics to differentiate the comments from the Staff comments in regular text.

ELBERT COUNTY ZONING REGULATIONS

Part I. Section 6.B. General Rezoning Approval Standards
The following criteria shall be considered by the Planning Commission and the Board of County Commissioners in reviewing all Rezoning applications:

1. Whether the proposed rezoning complies with the goals and policies of the Elbert County Master Plan.
   
   **Staff comment:** The proposed rezoning complies with the goals and policies of the 2018 Elbert County Comprehensive Plan Update.

2. Whether the proposed rezoning is compatible with surrounding land uses.
   
   **Staff comment:** The immediately adjacent land uses are agricultural and large lot single family residential. In the larger surrounding area, within about one mile of the subject property there are several clusters of similar sized/RA zoned properties more closely matching the proposed rezoning to AR.

3. Whether the proposed rezoning would adversely impact the provision of public services.
   
   **Staff comment:** The referral responses that services are available, combined with compliance to the Development Impact Fee and Land Dedication/Cash-in-Lieu requirements suggest that there will be no adverse impact to public services.

4. Whether the proposed rezoning would adversely impact the environment.
   
   **Staff comment:** The property does not contain any land within the 100-year floodplain, or any slopes 20% or greater. Elbert County restricts development within floodplains and on steep slopes in order to prevent damage to riparian habitat and to reduce soil erosion. Additionally, site specific improvements which could potentially impact the environment will be addressed at the time of the building permit review.

5. Whether the proposed rezoning would create traffic congestion or burden the existing road system.
   
   **Staff comment:** The Public Works Department has found that, once the required ROW dedication has been made, the capacity of the existing road system is adequate for the proposed use.

6. Whether the proposed rezoning will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of Elbert County.
**Staff comment:** The proposed rezoning and corresponding uses will not create any detrimental impacts to the health, safety of welfare or Elbert County.

**REZONING FINDINGS & RECOMMENDATION**

Staff recommends that the Planning Commission find that:

1. The proposal is in general conformance with the Elbert County Comprehensive Plan; and
2. With the granting of the minimum lot size variance the proposal meets all the criteria for approval in the Elbert County Zoning Regulations; and
3. The Elbert County Subdivision Regulations are not applicable to this rezoning; and
4. The proposal is compatible with existing and allowable land uses in the surrounding area; and
5. The proposal will not result in significant impact to the health, safety, and welfare of the residents and landowners of the surrounding area.

**AND**

Because this rezoning application has met the criteria set forth in the Elbert County Zoning Regulations and as we understand it that there are no objections from other governing bodies, the recommendation of Community & Development Services is that the Planning Commission recommend approval of **CASE # RZ-17-0047 ATKINSON REZONE TO AR** on a 40 acre property at 25676 County Road 21 SUBJECT TO THE FOLLOWING CONDITIONS:

1. The applicant will be required to remove the Public Hearing sign(s) within seven (7) days of a decision by the Board of County Commissioners, and
2. The rezoning shall not become effective until all fees are paid including impact fees and cash-in-lieu of land dedications, conditions of approval are met, and the Rezone Exhibit is recorded, and
3. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners’ approval.

**MINOR RESIDENTIAL DEVELOPMENT SUBDIVISION EVALUATION**

A Minor Residential Development (MRD) Subdivision is an exemption from the regular subdivision process which requires preliminary and final plats. Below is Staff’s evaluation of the proposals compliance with the Elbert County Subdivision Regulations. **Code sections are in italics** to differentiate the comments from the Staff comments in regular text.

**ELBERT COUNTY SUBDIVISION REGULATIONS**

**Section I.C. Acceptance of a Subdivision**

1. Whether the application is in compliance with the requirements of these regulations, the Elbert County Zoning Regulations, and the intent and policies of the Elbert County Master Plan.

**Staff comment:** The application is in compliance with the Elbert County Subdivision Regulations, Zoning Regulations, and Comprehensive Plan Update.
2. Whether the application is in compliance with all applicable statutory provisions.

**Staff comment:** To the knowledge of CDS staff, the application is in compliance with all applicable statutory provisions.

3. Whether the application is in compliance with the Colorado Health Department and Colorado Department of Transportation regulations.

**Staff comment:** Elbert County Health and Human Services (HHS) is the local regulatory and enforcement body for Colorado health regulations. HHS has stated that they have no objection to this Minor Residential Development.

Colorado State transportation regulations do not apply to this project, as it does not rely on access from any state highway. For this reason the project was not referred to the Colorado Department of Transportation.

**Section X.C. Required Submittal Information for Minor Residential Developments**

**Staff comment:** The applicant has submitted all required information.

**Section X.D. Criteria For Approving Or Denying Minor Residential Development**

1. Community & Development Services (CDS) shall make written recommendations and findings of fact, as to any minor residential development. The Applicant may respond to such recommendations and findings.

**Staff comment:** This staff report constitutes the Community and Development Services (CDS) written recommendations and findings of fact. CDS has communicated extensively with the applicants regarding the application, and the applicant is aware that they may respond to CDS’s recommendations and findings of fact at Planning Commission and Board of County Commissioners hearings.

2. The Planning Commission and Board of County Commissioners, at duly noticed public hearings, shall consider all evidence presented and applicable statutes, in their review of the application.

**Staff comment:** This staff report and associated packet contain all available evidence pertaining to the case, including application documents, staff recommendations. In addition, the Planning Commissioners have access to all Elbert County regulations through the Community and Development Services office.

**MINOR DEVELOPMENT FINDINGS & RECOMMENDATION**

Staff recommends that the Planning Commission find that:

1. The proposal is in general conformance with the Elbert County Comprehensive Plan; and
2. The proposal meets the criteria for approval in the Elbert County Subdivision Regulations; and
3. With the granting of the minimum lot size variance the proposal is in general conformance with the standards of the Agriculture Residential zone district, should it be approved; and
4. The proposed land use is compatible with existing and allowable land uses in the surrounding area; and
5. The proposed land uses will not result in significant impact to the health, safety, and welfare of the residents and landowners of the surrounding area.

AND
Because this application has met the criteria set forth in the Elbert County Regulations and as we understand it that there are no objections from other governing bodies, the recommendation of Community & Development Services is that the Planning Commission recommends that the Board of County Commissioners approve **CASE # MD-17-0048 ATKINSON MINOR RESIDENTIAL Development SUBJECT TO THE FOLLOWING CONDITIONS:**

1. The applicant will be required to remove the Public Hearing sign within seven (7) days of a decision by the Board of County Commissioners; and
2. The minor residential development will not become effective until all fees are paid, including impact fees and cash-in-lieu of land dedications, conditions of approval are met, and the minor development documents are recorded; and
3. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners’ approval; and
4. Driveway locations for each lot must meet the separation requirements as defined in the Elbert County Road Standards.

Respectfully submitted to and on behalf of Elbert County,

Vincent Hooper, PMP
Senior Planner
Baseline Corporation

CC: Vince Harris, AICP, Interim Director of Community and Development Services
Christina Stanton, AICP, CDS Director

Attachments
SECTION 2: Application Materials
COUNTY OF ELBERT

COMMUNITY & DEVELOPMENT SERVICES
P.O. BOX 7
215 COMANCHE STREET
KIOWA, COLORADO 80117
303-621-3136 FAX: 303-621-3165
cds@elbertcounty-co.gov

FINAL PLAT CHECK LIST
SEE SUBDIVISION REGULATIONS SECTION IX

Date: 1/15/18

Project Name: ATKINSON MINOR DEVELOPMENT

Owner(s) Name(s): DALE L. & JULIE N. ATKINSON

Address: 4702 S 80 106, ELIZABETH CO 80107

Phone Number: 303-638-8390

Application must contain the following information:

1. Completed application form
   A. Disclosure form
   B. Agreement form

2. Application fees paid $ 7440.00 (amount)

3. Completed Final Plat Map 1 (copies)
   (See Subdivision Regulations, Section IX D)

4. Completed Narrative 1 (copies)
   (See Subdivision Regulations,)

5. Two copies of street and road plans with profiles

6. Approved covenants to be recorded

7. Estimated construction costs and proposed financing for public facilities

8. Completed subdivision summary form

9. Subdivision improvement agreement

10. Development Guide

11. Erosion control and drainage from SCS

12. Valuation and appraisal of project area

13. Statement of Taxes (From EC Treasurers Office)

14. Road access permit

15. Other information requested by the CDS Dept.
   A. Description of request

Not more than 30 days after approval by BOCC, the applicant shall record the plat in the office of the Elbert County Clerk and Recorder.
REZONING CHECK LIST

Date: 1-15-18
Project Name: ATKINSON REZONE
Owner(s) Name(s): JULIE N. & DALE L. ATKINSON
Address: 470 E. CITY RD. 106, ELIZABETH 80107
Phone Number: 303-635-8384

The application must include the following information:

1. Completed Application Form
   Completed Disclosure Form
   Completed Agreement Form
   Statement of Taxes (from the Assessor’s Office)
2. Application Fees Paid $6700, (Amount)
3. Completed Narrative (Copies)
4. Completed Site Plan Exhibit (Copies)
   (Prepared by an Engineer, Surveyor,
   Registered Architect or Landscape Architect)
5. Proof of Ownership (Title Report or Property Deed)

Date Completed: 1-15-18

Public Hearing Date Set For Planning Commission

Date: 
Time: 

Public Hearing Date Set For Board of County Commissioners

Date: 
Time: 

35 Day Review Period:

6. Referral Agencies Notified. Due on ____________
   (See Referral Agency Check List)

30 Days Prior to the Public Hearing:

7. Notice of Public Hearing in the Newspaper


24 Days Prior:

8. Map of Adjacent Land Owners
    Copy of the Notice Mailed to Property Owners
    Alphabetical List of Adjacent Property Owners
    White Postal Receipts for Certified Mailing

9. Notarized Affidavit Verifying Sign Posting
    Photograph of the Sign Posting

5 Business Days Prior:

10. Publishers Affidavit
    Green Postal Return Receipts
ATKINSON MINOR
APPLICATION
DISCLOSURE FORM
AGREEMENT FORM
COMMUNITY & DEVELOPMENT SERVICES
P.O. BOX 7
215 COMANCHE STREET
KIOWA, COLORADO  80117
303-621-3136  FAX: 303-621-3165
cds@elbertcounty-co.gov

ELBERT COUNTY LAND USE APPLICATION

PROJECT NAME: ATKINSON MINOR DEVELOPMENT AND REZONE
PROJECT ADDRESS: 25676 CR 21, ELBERT CO 80106
LOCATION: 25676 CR 21, ELBERT CO 80106
LEGAL OWNER'S NAME(S): DALE L. AND JULIE M. ATKINSON
ADDRESS: 4702 CO Rd 106 ELIZABETHTOWN CO 80107
TELEPHONE #: 303-638-8390

*ATTACH PROOF OF OWNERSHIP*

Water Rights Owner(s): APPLICANT
Mineral Rights Owner(s): 
Special Districts: NA
Proposal/Request: MINOR DEVELOPMENT AND REZONE FROM A TO AR
Authorized Representative: TONY MAHONEY
Name/Address: PO BOX 902 ELIZABETHTOWN CO 80107
Telephone #: 720-556-5666 TONY@010ESEROW.COM

Legal Description of Property: Township 9 Range 64
Section(s) 5645, Section 20 Subdivision
Lot Block

Property Tax Parcel Number: R116590
COMPLETE ALL APPLICABLE SECTIONS

Present Zoning: A
Proposed Zoning: AR
Gross Site Acreage: 40
Net Site Acreage: 40
Gross Site Density/acre: 10
# Lots/Dwelling Units: 4

Sources of Utilities:
- Water: well
- Sanitation: septic
- Electricity: FREA
- Natural Gas: 
- Other: 

Elbert County School Attendance (K-12): [Signature]
Fire District: [Signature] 18
Proposed Public Roadway Access: 80 RD 108 80 RD 17
TOTAL APPLICATION FEE $ 2440 AMOUNT RECEIVED $ 2440

DOCUMENTS SUBMITTED:

- Authorization for Representative
- Cost estimates
- Drainage Report
- Final Construction Plans
- Landscape Plans
- Narrative
- Pavement Design Report
- Statement of Taxes (available from Assessors Office)
- Grading, Drainage & Erosion Control Plan (required if adding, moving, or removing more than 300 cubic yards of dirt)
- Plat Map
- Preliminary Construction Plans
- Proof of Ownership
- Soils Report
- Traffic Control Plan
- Traffic Report
- Subdivision Summary Form
- Other

Review of this application and supportive documentation will not begin until the Community & Development Services Department deems the application complete. Applicant acknowledges that there is no mutually agreed upon time between the County and the applicant during which this application will be approved, conditionally approved or denied.

In addition to the standard Land Use Fees, the applicant is responsible for all Public Notice Costs (signs, legal notices, certified mail, etc.), as well as large envelopes and postage for Referral Agencies, Planning Commissioners and the Board of County Commissioners, etc.

Applicant's Signature(s): [Signature] 1-15-18

State of County 

The above and foregoing instrument was subscribed and sworn to before me, in my presence, a Notary Public in and for the County of Douglas, State of Colorado, this 17 day of May, 2018.

(SEAL)

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DISCLOSURE LETTER

PROJECT NAME: ATKINSON MINOR DEVELOPMENT AND REZONE

PROJECT LOCATION: 25676 CR 17-21 ELBert CO 80106

I/we, DALE L. AND JULIE W. ATKINSON, do hereby acknowledge my/our full awareness of the application/request being presented to Elbert County by [Signature]

for the parcel of land indicated, and for the reason(s) noted on the completed application/request submittal. I/we hereby acknowledge the person(s) noted is/are my/our authorized representative(s) in the matter.

I/we hereby grant permission for the Elbert County Community & Development Services Department, or any referral agency they require, to access the parcel of land indicated for reasons of reviewing and evaluating the land use application.

Signature(s):

PRINT NAME AND COMPLETE ADDRESS OF PROPERTY OWNER(S) BELOW:

Name: DALE L. AND JULIE W. ATKINSON. Date: 1-12-18

Address: 25676 CR 17-21 Elbert CO 80106

State of: [Signature] [Signature]

County [Signature] [Signature]

The above and foregoing instrument was subscribed and sworn to before me, in my presence, a Notary Public in and for the County of [Signature] [Signature], State of [Signature] [Signature], this [Signature] day of [Signature] [Signature].

(SEAL)

THOMAS MARGARET
Notary Public
State of Colorado
Notary ID 20104000340

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APPLICATION AGREEMENT FORM

The applicant agrees to pay for reasonable additional engineering and/or consultation when requested by the Community & Development Services Department, Planning Commission or Board of County Commissioners when, in their opinion, additional information, studies, or investigations are needed to help clarify the proposal made.

[Signature]

Applicant or Authorized Representative

[Date]

1/18/18
AGREEMENT TO REMOVE PUBLIC NOTICE

I/We hereby agree to remove the Public Notice Sign posted for hearing notification within 7 days after the Board of County Commissioner's final hearing. I/We understand this must be completed as a condition of approval prior to the recording of the Mylars or Final Plats.

NAME: DAREL L. ATKINSON
SIGNATURE: [Signature]
DATE: 1-17-18

NAME: JULIE W. ATKINSON
SIGNATURE: [Signature]
DATE: 1-17-18
The applicant’s are Dale L. Atkinson and Julie N. Atkinson, 4702 County Road 106, Elizabeth, CO 80107.

The applicant’s representative is Tom Maroney, PO Box 902, Elizabeth, CO 80107.

The request is to rezone 40 acres from A to AR and to subdivide by the Minor Development process the same into 4 ten plus acre lots.

Access to the lots will be by individual driveways from County Road 17-21 and County Road 106.

Water will be provided by individual wells, a water supply letter is part of this application that shows a 2300 year water supply is available to each lot. Wastewater shall be by individual septic systems.

The property is located in the Elbert Fire Protection District.

The property is located in the Elbert School District.

The property is gently rolling, there are no areas of 20% or greater slope, there are no historic sites or geologic hazards located on the site.

The community has the necessary resources and infrastructure to support the application.

The application complies with the goals and policies of the Elbert County Master Plan.

The application is compatible with surrounding land uses.

The proposal will not adversely impact the provisions of public services.

The proposal will not adversely impact the environment.

The proposal will not create traffic congestion or burden the existing road system.

The proposal is not detrimental to the health safety or welfare of the present or future inhabitants of Elbert County.

A cash in lieu fee will be paid for Open Space dedications.

The minerals are severed from the property, the mineral estate holders will be given notice via certified mail at the time the property is noticed for a public hearing.
COMMUNITY & DEVELOPMENT SERVICES
P.O. BOX 7
215 COMANCHE STREET
KIOWA, COLORADO 80117
303-621-3136 FAX: 303-621-3165
cds@elbertcounty-co.gov

COUNTY OF ELBERT

SUBDIVISION SUMMARY FORM

DATE: 1-15-18

TYPE OF SUBMISSION:
Request for Exemption
Preliminary Plan
Final Plat

SUBDIVISION NAME: ATKINSON MINOR
FILING:
LOCATION OF SUBDIVISION: Section 9 Township: 36 Range: 64 Section: 20
OWNER(S) NAME(S): DALE L. AND JULIE W. ATKINSON
AND ADDRESS: 4202 CO RD 106 ELIZA CO 80107
APPLICANT(S) REPRESENTATIVE:
ADDRESS:

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ESTIMATED WATER REQUIREMENTS: GALLONS/DAY
PROPOSED WATER SOURCE: INDIVIDUAL WELLS - SEE ATTACHED
ESTIMATED SEWAGE DISPOSAL REQUIREMENTS: SEPTIC
PROPOSED MEANS OF SEWAGE DISPOSAL: SEPTIC

6
ACTION:
STAFF RECOMMENDATION:
APPROVAL ( ) DENIAL ( )
REMARKS: ____________________________________________

DATE:__________________________________________

PLANNING COMMISSION RECOMMENDATION:
APPROVAL ( ) DENIAL ( )
REMARKS: ____________________________________________

DATE:__________________________________________

BOARD OF COUNTY COMMISSIONERS:
APPROVAL ( ) DENIAL ( )
EXEMPTION UNDER C.R.S 30-28-101(d):
REMARKS (IF EXEMPTION, STATE REASON): ____________________________________________

DATE:__________________________________________

NOTE: THIS FORM IS REQUIRED BY COLORADO REVISED STATUTES.
SUBDIVISION IMPROVEMENT
AGREEMENT
AND RESTRICTION ON CONVEYANCE
RELATING TO THE SUBDIVISION
AND DEVELOPMENT OF

ATKINSON MINOR
(Name of Subdivision)

THIS AGREEMENT dated this ___ (day) of ____________ (month), 20__ , between the BOARD OF
COUNTY COMMISSIONERS OF ELBERT COUNTY, COLORADO, (hereinafter sometimes called
"County") and (Name of Applicant), JULIC N. ATKINSON (a Colorado Corporation, hereinafter
sometimes called "Subdivider").

WITNESSETH:

WHEREAS, Subdivider has this date submitted to County for approval, execution and recordation a
subdivision plat designated (Name of Subdivision) ATKINSON MINOR (hereinafter sometimes referred to
as the "plat"); and

WHEREAS, County has fully considered said plat, the proposed development and improvement of the land
therein and the requirements to be imposed upon other adjoining or neighboring properties by reason of the
proposed development and improvement of the land included in the plat; and

WHEREAS, the County is willing to approve, execute, and accept for recordation said plat upon the agreement
of Subdivider to the matters hereinafter described, and subject to all requirements, terms and conditions of the
Elbert County Subdivision Regulations now in effect and other laws, rules, and regulations; and

WHEREAS, County and Subdivider mutually acknowledge and agree that the matters hereinafter set forth are
reasonable conditions and requirements to be imposed by County in connection with its approval, execution,
and acceptance for recordation of the plat, and that such matters are necessary to protect, promote and enhance
the public welfare; and

WHEREAS, it is further mutually acknowledged that County is entitled to other assurance that the matters
hereinafter agreed to will be performed as agreed by Subdivider, and in that regard the statutes of the State of
Colorado pertaining to County Planning provide that the collateral used as security for the construction and
improvement of public improvements as are required by County Subdivision Regulations may include
"Restriction on the conveyance, sale, or transfer of any lot, lots, tract or tracts of land within the subdivision as
set forth on the plat or as recorded by separate instrument"); and

WHEREAS, County agrees that it is appropriate to provide Subdivider with said alternate method of
collaterally securing the construction and improvement of the public improvements as set forth in Exhibits ____
and ____, attached hereto.

NOW, THEREFORE, in consideration of the premises, the mutual
covenants herein contained, and the approval, execution, and acceptance of the plat for recordation by County, it is agreed as follows:

**IMPROVEMENTS TO BE COMPLETED**

1. All streets, curb, gutter, sidewalk, pans, roads, drainage, water and sewer and other improvements within the plat and other conditions and stipulations for impacts or dedications as reflected in the Board of County Commissioner’s approved Resolution , dated , 20 , a copy of which is attached hereto as Exhibit “A,” and made a part hereof, shall be constructed and improved by Subdivider according to the applicable standards, rules, and regulations of County, and according to the approved road or street plans and profiles submitted by Subdivider.

**TIME OF COMPLETION**

2. Except where a lesser time period is prescribed, all improvements herein described and all matters herein agreed to be performed shall be installed, constructed, or performed by Subdivider within eighteen (18) months from the date hereof, provided however, that labor disputes, fire, unusual delay in transportation, unavoidable casualties, causes beyond the Subdivider’s control by any cause which County may determine justifies the delay shall extend the said time period for performance of this agreement. All construction shall be performed in a good and professional manner and in accordance with applicable County standards, rules, and regulations governing such construction.

**OWNERSHIP OF IMPROVEMENTS**

3. Subject to the provisions of the Elbert County Subdivision Regulations relating to County’s acceptance of streets and roads for maintenance purposes, upon completion of construction of the streets and roads herein described, all such streets and roads shall remain the sole property of the subdivider or individual lot owner. However, subdivider and lot owners shall grant an easement for road right-of-way and road purposes, as shown on the final plat, over all said streets and roads.

**RESTRICTION ON BUILDING PERMITS**

4. The Subdivider understands and agrees that no building permit will be issued by the Elbert County Building Department for any lot, lots, tract or tracts until the improvements required by Exhibits , and have been approved, released or accepted on probation.

**PARTIAL OR FULL RELEASE OF PLAT RESTRICTION**

5. At any time Subdivider may offer substituted security or collateral which if sufficient in the judgement of the Board of County Commissioners to assure completion of all or any portion of the public improvements set forth in Exhibits , and , in compliance with the requirements of Exhibits , and , will release the plat restriction on that portion of the development covered by the substituted security or collateral, or release a portion of any cash bond which may have been posted.

**UTILITY RESPONSIBLE FOR INSTALLATION**

6. Subdivider agrees to be responsible for contracting for installation of any or all utilities where required, including, but not limited to water, sewer, natural gas, and electricity where applicable. It is agreed that electrical and telephone service for this subdivision shall be either installed or brought to the subdivision property line in accordance with the Elbert County Regulations. Subdivider understands that no building permits shall be issued prior to assurances to the Elbert County Planning Department that adequate
roadways and water availability are available or provided for each lot seeking a building permit and that water and utility service is available before a certificate of occupancy is granted.

COLLATERAL

7. These restrictions on the conveyance, sale or transfer of any lots, tract or tracts within (Name of Subdivision) and on the issuance of building permits or certificates of occupancy with respect to improvements thereon shall be the collateral securing the performance of the public improvements set forth in Exhibits ___, and ___.

LEGAL ENCUMBRANCE

8. The restrictions, covenants and conditions as set forth above constitute both a formal restriction and a legal encumbrance on (Name of Subdivision) and that the same shall run with such land and shall extend to and be binding upon the successors, legal representatives, and assigns of the Subdivider.

EXECUTION - NO GUARANTEE

9. The execution of this agreement by the Board of County Commissioners of Elbert County in no way represents that the County will accept the public improvements set forth in Exhibits ___, and ___. Agreement for title or maintenance purposes until said improvements have been completed in strict compliance with Elbert County standards, rules and regulations.

ENFORCEMENT

10. This agreement between the parties shall be enforceable pursuant to the provisions of Section 30-28-137(3), C.R.S. 1973, as amended. The restrictions on conveyance, sale or transfer of any lot, lots, tract or tracts and on the issuance of building permits or certificates of occupancy shall apply to all successors, legal representatives and assigns of the Subdivider.

STANDARDS FOR ACCEPTANCE

11. County shall accept the streets and roads constructed under this agreement for full maintenance under the following terms and conditions:

A. As soon as all the streets which are covered by the agreement are built in accordance with the terms of this agreement, Subdivider shall send a letter to County requesting inspection to be made of said streets and roads for county approval. The County will send a letter to Subdivider showing the results of the inspection of said streets for street and road approval, setting forth therein all matters required to be completed before County approval.

B. The streets and roads constructed pursuant to this agreement will be inspected by County upon written request from the Subdivider two (2) years after approval and a list of any deficiencies will be sent to Subdivider for correction. Subdivider shall correct all of said deficiencies to County's satisfaction within six (6) months from the date of said deficiency list.

C. After all deficiencies have been corrected by Subdivider then County may accept said streets and roads for full maintenance, but in no event will streets or roads be accepted for County
maintenance until two (2) years following completion.

PERFORMANCE SECURITY

12. Prior to the release of the entire plat restriction or prior to the final release on the remaining portion of the plat restriction, the County, shall require from the Subdivider, security or collateral in the amount of 100% of the total cost of improvements in a letter of credit or cashier's check, supported by a minimum of two (2) written construction bids, independent and acceptable to the County. This security or collateral shall be held until the improvements have been accepted by the County for full maintenance purposes.

PRESERVATION OF OTHER REMEDIES

13. The rights and remedies of the County provided in this agreement shall not be exclusive and are in addition to any other rights or remedies provided by law. The Subdivider in developing the property contained within the plat, and the other improvements herein described, shall fully comply with all applicable rules, regulations, standards, and laws of the County and other governmental agencies, and bodies having jurisdiction.

STIPULATIONS

14. This agreement in addition to the consideration of the premises, the mutual covenants herein contained, and the approval, execution, and acceptance of the plat for recordation by Elbert County shall be and is subject to the stipulation(s) contained in Exhibit "A" and Subdivider agrees to perform all of said stipulations.

SECTION HEADINGS

15. The section headings are inserted herein only for convenience of reference and in no way shall they define, limit or describe the scope or intent of any provisions of this agreement.
ATTEST: THE BOARD OF COUNTY COMMISSIONERS OF ELBERT COUNTY, COLORADO

_________________________ ________________________________
COUNTY CLERK CHAIRMAN OF THE BOARD

ATTEST:

______________________________
BY

______________________________
TITLE

______________________________
DEVELOPER

STATE OF COLORADO } } ss
COUNTY OF ELBERT }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ________ (DAY) OF _______ (MONTH), 20______, BY __________________________, CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS, ELBERT COUNTY, COLORADO.

Witness my hand and official seal.

______________________________
Notary Public

My Commission expires: ________________________________
Elbert County Planning
215 Comanche Street
Kiowa, CO 80117

Re: Revised Water Supply Plan/4 Residential Lots on 40 Acres

Dear Sir or Madam:

The following replaces our letter dated October 17, 2017, and provides revised information on the proposed water supply to serve four residential lots located in the SE1/4SE1/4 of Section 20, T9S, R64W of the 6th P.M. (Subject Property), based on a final decree entered in Case No. 17CW3090 (copy attached). This letter provides no opinion on the actual physical supply of groundwater available.

ANNUAL AMOUNTS

The following annual amounts of groundwater are decreed in Case No. 17CW3090 and are based on annual pumping over a 100 year period.

<table>
<thead>
<tr>
<th>Aquifer</th>
<th>Annual Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upper Dawson</td>
<td>9.0 acre-feet (NNT)</td>
</tr>
<tr>
<td>Lower Dawson</td>
<td>7.2 acre-feet (NT)</td>
</tr>
<tr>
<td>Denver</td>
<td>16.7 acre-feet (NT)</td>
</tr>
<tr>
<td>Arapahoe</td>
<td>14.6 acre-feet (NT)</td>
</tr>
<tr>
<td>Laramie-Fox Hills</td>
<td>11.7 acre-feet (NT)</td>
</tr>
</tbody>
</table>

WATER SUPPLY

Each of the four lots will be served by an individual Upper Dawson aquifer well pursuant to the augmentation plan decreed in Case No. 17CW3090. Said augmentation plan allows each well to use 0.75 acre-feet per year for 300 years for the following uses:

A. Inhouse Use: 0.4 acre-feet per year.

B. Irrigation Use: 0.3 acre-feet per year limited to irrigation of 5000 square feet of home lawn, garden and trees.

C. Stockwatering Use: 0.05 acre-feet per year for watering of 4 large domestic animals.
WATER SUPPLY SUFFICIENCY

Use of Upper Dawson aquifer wells pursuant to the final decree in Case No. 17CW3090 as described above, is sufficient to supply each of the four lots for 300 years.

If you have any questions or comments, please feel free to call.

Sincerely,

PETROCK & FENDEL, P.C.

James J. Petrock
A claim for nontributary and not nontributary groundwater and approval of plan for augmentation was filed in this case on June 29, 2017. All matters contained in the application having been reviewed, testimony having been taken where such testimony is necessary, and such corrections made as are indicated by the evidence presented herein, the following is hereby the Ruling of the Referee:

**FINDINGS OF FACT**

1. **Name, address and telephone number of Applicants:**

   Dale and Julie Atkinson  
   4702 County Road 106  
   Elizabeth, CO 80107  
   c/o (303) 638-8390

2. **Objection:** No statements of opposition were filed and the time for filing such statements has expired.

3. **Subject matter jurisdiction:** Timely and adequate notice of the application was published as required by statute, and the Court has jurisdiction over the subject matter of this proceeding and over the parties affected hereby, whether they have appeared or not.
GROUNDWATER RIGHTS

4. Aquifers and location of groundwater: Applicants seek a decree for rights to all groundwater in the nontributary Upper Dawson and nontributary Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers underlying 40 acres being the SE1/4SE1/4 of Section 20, T9S, R64W of the 6th P.M., Elbert County, as shown on Attachment A hereto ("Subject Property"). Applicants are the owners of the Subject Property.

5. Well locations, pumping rates and annual amounts: The groundwater may be withdrawn at rates of flow necessary to withdraw the annual amounts deeded herein. The groundwater will be withdrawn through any number of wells necessary, to be located at any location on the Subject Property. Applicants waive any 600 foot spacing rule for wells located on the Subject Property, but must satisfy Section 37-90-137(4), C.R.S. for wells owned by others on adjacent properties. The following average annual amounts are available for withdrawal subject to the Court’s retained jurisdiction in this matter:

<table>
<thead>
<tr>
<th>Aquifer</th>
<th>Saturated Thickness</th>
<th>Annual Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upper Dawson</td>
<td>155 feet</td>
<td>9.0 acre-feet (NNT)*</td>
</tr>
<tr>
<td>Lower Dawson</td>
<td>90 feet</td>
<td>7.2 acre-feet (NT)</td>
</tr>
<tr>
<td>Denver</td>
<td>245 feet</td>
<td>16.7 acre-feet (NT)</td>
</tr>
<tr>
<td>Arapahoe</td>
<td>215 feet</td>
<td>14.6 acre-feet (NT)</td>
</tr>
<tr>
<td>Laramie-Fox Hills</td>
<td>195 feet</td>
<td>11.7 acre-feet (NT)</td>
</tr>
</tbody>
</table>

*Annual amount reduced by 3.4 acre-feet annually from the amount available as referenced in the Determination of Facts for the Upper Dawson aquifer issued in this case which water will be available for any uses which are legally available at the time well permit applications are filed. Said 3.4 acre-feet per year (340 acre-feet total) may also be available to be withdrawn through 1 exempt well on the Subject Property for exempt uses pursuant to Section 37-92-602, C.R.S. (8.5 acre-feet per surface acre).

The amounts conform to the values and amounts referenced in the State Engineer’s Determination of Facts dated August 2, 2017.

6. Decreed Uses: The water will be used, reused, and successively used for domestic, commercial, irrigation, livestock watering, fire protection, and augmentation purposes, including storage, both on and off the Subject Property.

7. Final average annual amounts of withdrawal:

   A. Final determination of the applicable average saturated sand thicknesses and resulting average annual amounts available to Applicants will be made pursuant to the retained jurisdiction of this Court, as described in paragraph 24 below. The Court shall use the acre-foot amounts in paragraph 5 herein in the interim period, until a final determination of water rights is made.

Dale and Julie Atkinson  
2017CW3090  
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B. The allowed annual amount of groundwater which may be withdrawn through the wells specified above and any additional wells, pursuant to Section 37-90-137(10), C.R.S., may exceed the average annual amount of withdrawal, as long as the total volume of water withdrawn through such wells and any additional wells therefor subsequent to the date of this decree does not exceed the product of the number of years since the date of the issuance of any well permits or the date of this decree, whichever is earliest in time, multiplied by the average annual amount of withdrawal, as specified above or as determined pursuant to the retained jurisdiction of the Court. However, amounts set forth in well permits will not be exceeded.

8. Source of groundwater and limitations on consumption:

A. The groundwater to be withdrawn from the Lower Dawson, Denver, Arapahoe and Laramie-Fox Hills aquifers is "nontributary groundwater" as defined in Section 37-90-103(10.5), C.R.S., and in the Denver Basin Rules, the withdrawal of which will not, within 100 years of continuous withdrawal, deplete the flow of a natural stream, including a natural stream as defined in Section 37-82-101(2) and Section 37-92-102(1)(b), C.R.S., at an annual rate greater than 1/10 of 1% of the annual rate of withdrawal. The groundwater to be withdrawn from the Upper Dawson aquifer is "not nontributary" as defined in Sections 37-90-103(10.7) and 37-90-137(9)(c.5), C.R.S., and the Upper Dawson aquifer groundwater decreed herein may be withdrawn pursuant to the augmentation plan decreed herein.

B. Applicants may not consume more than 98% of the annual quantity of water withdrawn from the nontributary aquifers. The relinquishment of 2% of the annual amount of water withdrawn to the stream system, as required by the Denver Basin Rules effective January 1, 1986, may be satisfied by any method selected by the Applicants and satisfactory to the State Engineer, so long as Applicants can demonstrate that an amount equal to 2% of such withdrawals (by volume) has been relinquished to the stream system.

C. There is unappropriated groundwater available for withdrawal from the subject aquifers beneath the Subject Property, and the vested water rights of others will not be materially injured by such withdrawals as described herein. Withdrawals hereunder are allowed on the basis of an aquifer life of 100 years, assuming no substantial artificial recharge within 100 years. No material injury to vested water rights of others will result from the issuance of permits for wells which will withdraw not nontributary and nontributary groundwater or the exercise of the rights and limitations specified in this decree.

9. Additional wells and well fields:

A. Applicants may construct additional and replacement wells in order to maintain levels of production, to meet water supply demands or to recover the entire amount of groundwater in the subject aquifers underlying the Subject Property. As additional wells are planned, applications shall be filed in accordance with Section 37-90-137(10), C.R.S.

B. Two or more wells constructed into a given aquifer shall be considered a well field. In effecting production of water from such well field, Applicants may produce the entire...
amount which may be produced from any given aquifer through any combination of wells within the well field.

C. In considering applications for permits for wells or additional wells to withdraw the groundwater which is the subject of this decree, the State Engineer shall be bound by this decree and shall issue said permits in accordance with provisions of Section 37-90-137(10), C.R.S.

D. In the event that the allowed average annual amounts decreed herein are adjusted pursuant to the retained jurisdiction of the Court, Applicants shall obtain permits to reflect such adjusted average annual amounts. Subsequent permits for any wells herein shall likewise reflect any such adjustment of the average annual amounts decreed herein.

10. Conditions:

For each well constructed pursuant to this decree, Applicants shall comply with the following conditions:

A. A totalizing flow meter shall be installed on the well discharge pipe prior to withdrawing any water therefrom, and shall be maintained and operational at all times for the life of the well. Applicants shall keep accurate records of all withdrawals by the well, make any calculations necessary, and submit such records to the Water Division 1 Engineer upon request.

B. The entire length of the open bore hole shall be geophysically surveyed prior to casing and copies of the geophysical log submitted to the Division of Water Resources. Applicants may provide a geophysical log from an adjacent well test hole, pursuant to Rule 9A of the Statewide Rules and acceptable to the State Engineer, which fully penetrates the aquifer, in satisfaction of the above requirement.

C. Groundwater production shall be limited to the subject aquifers. Plain, unperforated casing must be installed and properly grouted to prevent withdrawal from or intermingling of water from zones other than those for which the well was designed.

D. Each well shall be permanently identified by its permit number, this Water Court Case Number, and the name of the producing aquifer on the above-ground portion of the well casing or on the pump house.

PLAN FOR AUGMENTATION

11. Plan for augmentation:

A. Water to be augmented: 3 acre-feet per year for 300 years of not nontributary Upper Dawson aquifer groundwater decreed herein.

B. Water to be used for augmentation: Return flows associated with use of the not

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nontributary Upper Dawson aquifer and return flows or direct discharge of nontributary groundwater decree herein.

C. The Upper Dawson aquifer water will be used for 300 years to serve four residential lots through individual wells. Each well will use 0.75 acre-feet per year for in house use (0.4 acre-feet), irrigation of 5000 square feet of lawn, garden, and trees (0.3 acre-feet), and stock watering of up to 4 large domestic animals (0.05 acre-feet). Conservatively, water use in single family dwellings will equal at least 0.2 acre-feet of water annually for in house uses, and that use of non-evaporative septic systems typically results in consumption of approximately 10% of such use, resulting in return flows of at least 0.18 acre-feet annually from in house use. Various components of this plan for augmentation are predicated on these estimations, and Applicants shall be required to use a non-evaporative septic system to treat and dispose of water used for in house use.

D. Replacement during pumping: During pumping of the Upper Dawson aquifer groundwater, Applicants will replace actual depletions to the affected stream system pursuant to Section 37-90-137(9)(c.5), C.R.S. In the 300th year, the total depletion is approximately 22.6% of the amount withdrawn or 0.169 acre-feet for each well. Return flow associated with in house use on each lot (0.18 acre-feet per year) is sufficient to replace actual depletions associated with pumping of 0.75 acre-feet per year per well for 300 years. Such return flows accrue to the South Platte River system via Running Creek. Because return flows from all uses are estimated rather than measured, Applicants agree that such return flows shall be used only to replace depletions under this plan for augmentation and will not be sold, leased, traded, or assigned in whole or in part for any other purpose.

E. Post-pumping Depletion Augmentation: Assuming maximum pumping of 3 acre-feet per year for 300 years from the Upper Dawson aquifer, the maximum total depletion to the affected stream systems is 23% of the annual amount withdrawn or 0.69 acre-feet in the 315th year. Applicants will reserve 9 acre-feet per year and 900 acre-feet total of the nontributary Laramie-Fox Hills aquifer groundwater decreed herein for use in this plan, but reserves the right to substitute the use of other nontributary groundwater, including return flows, either underlying the Subject Property, or from another location which is legally available for such purpose, for replacement of post-pumping depletions at such time that post-pumping depletions may begin. The Court retains continuing jurisdiction in this matter to determine if the supply is adequate.

F. Applicants will begin making post pumping replacements when: the total amount of Upper Dawson aquifer groundwater allowed to be withdrawn (900 acre-feet total) has been withdrawn from the wells; the Applicants or successors in interest have acknowledged in writing that all withdrawals for beneficial use of the groundwater has permanently ceased; or for a period of 10 consecutive years that no groundwater has been withdrawn.

G. Applicants will replace post-pumping depletions for the shortest of the following periods: the period provided by Section 37-90-137(9)(c.5), C.R.S.; the expressed period specified by the Colorado Legislature, should it specify one and providing the Applicants obtain Water Court approval for such modification; the period determined by the State Engineer, should he or she choose to set such a period and have jurisdiction to do so; the period established

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through rulings of the Colorado Supreme Court on relevant cases, or until Applicants petition the Water Court and the State Engineer’s Office and proves that they have complied with any statutory requirement.

12. Failure of Applicants or successors in interest to comply with the terms of the decree may result in an order of the Division Engineer’s office to curtail or eliminate pumping of the wells. This decree shall be recorded in the real property records of Elbert County so that a title examination of the property, or any part thereof, shall reveal to all future purchasers the existence of this decree.

13. Administration of plan for augmentation:

A. Applicants shall report to the Division Engineer for Water Division 1 upon request, a summary of the annual withdrawals on an accounting form acceptable to the Division Engineer.

B. All withdrawals which are the subject of this decree will be metered.

C. Pursuant to Section 37-92-305(8), C.R.S., the State Engineer shall curtail all out-of-priority diversions, the depletions from which are not so replaced as to prevent injury to vested water rights.

D. The Applicants or successors in interest at the direction of the Division Engineer shall make post-pumping replacements to the South Platte River stream system via Running Creek pursuant to the amounts to be calculated using the percentage referenced on the depletion curve attached hereto on Attachment B.

14. Retained jurisdiction for plan for augmentation:

A. Pursuant to Section 37-92-304(6), C.R.S., the Court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The Court also has jurisdiction for the purposes of determining compliance with the terms of the augmentation plan.

B. Any person seeking to invoke the retained jurisdiction of the Court shall file a verified petition with the Court. The petition to invoke retained jurisdiction or to modify the Decree shall set forth with particularity the factual basis and the requested declaral language to effect the petition. The party lodging the petition shall have the burden of going forward to establish prima facie facts alleged in the petition. If the Court finds those facts to be established, Applicants shall thereupon have the burden of proof to show: (1) that any modification sought by Applicants will avoid injury to other appropriators, or (2) that any modification sought by Objector is not required to avoid injury to other appropriators, or (3) that any term or condition proposed by Applicants in response to the Objector’s petition does avoid injury to other appropriators.

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C. The Court retains jurisdiction for the purpose of determining whether the continued reservation of the nontributary water for use on the Subject Property is required. After notice to the State Engineer's Office, if Applicants can demonstrate to the Court that post-pumping depletions need no longer be replaced, the Court may remove the requirement that the nontributary water must be reserved.

CONCLUSIONS OF LAW

15. The Water Court has jurisdiction over this proceeding pursuant to Section 37-90-137(6), C.R.S. This Court concludes as a matter of law that the application herein is one contemplated by law pursuant to Section 37-90-137(4), C.R.S. The application for a decree confirming Applicants' right to withdraw and use all unappropriated groundwater from the nontributary aquifers beneath the Subject Property as described herein pursuant to Section 37-90-137(4), C.R.S., should be granted, subject to the provisions of this decree. The application for a decree confirming Applicants' right to withdraw and use groundwater decreed herein from the Upper Dawson aquifer should be granted pursuant to Section 37-90-137(4) and (9)(c.5), C.R.S., subject to the provisions of this decree. The withdrawal of up to 3 acre-feet per year for 300 years and no more than 900 acre-feet total of the Upper Dawson aquifer groundwater and in accordance with the terms of this decree will not result in material injury to vested water rights of others.

16. This plan for augmentation satisfies the requirements of Section 37-90-137(9)(c.5), C.R.S., for replacement of required depletions to the affected stream systems for withdrawals of the Upper Dawson aquifer groundwater.

17. Full and adequate notice of the application was given, and the Court has jurisdiction over the subject matter and over the parties whether they have appeared or not.

18. Applicants have complied with all requirements and met all standards and burdens of proof, including but not limited to Sections 37-90-137(9)(c.5), 37-92-103(9), 37-92-302, 37-92-304(6), 37-92-305(1), (2), (3), (4), (6), (8), (9), C.R.S., to adjudicate the plan for augmentation and is entitled to a decree confirming and approving the plan for augmentation as described in the findings of fact.

JUDGMENT AND DECREE

The Findings of Fact and Conclusions of Law set forth above are hereby incorporated into the terms of this Ruling and Decree as if the same were fully set forth herein.

19. Applicants may withdraw the subject groundwater herein through wells to be located anywhere on the Subject Property in the average annual amounts and at the estimated average rates of flow specified herein, subject to the limitations herein and the retained jurisdiction by this Court.

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20. Applicants may withdraw up to 3 acre-feet per year for 300 years and no more than 900 acre-feet total of the Upper Dawson aquifer groundwater under the plan for augmentation decreed herein pursuant to Section 37-90-137(9)(c.5), C.R.S.

21. Pursuant to Section 37-92-305(5), C.R.S., the replacement water herein shall be of a quality so as to meet the requirements for which the water of the senior appropriator has normally used.

22. The plan for augmentation as described in the findings of fact is hereby approved, confirmed, and adjudicated, including and subject to the terms and conditions specified herein.

23. No owners of or person entitled to use water under a vested water right or decreed conditional water right will be injured or injuriously affected by the operation of the plan for augmentation as decreed herein.

24. Retained Jurisdiction:

   A. The Court retains jurisdiction as necessary to adjust the average annual amounts of groundwater available under the Subject Property to conform to actual local aquifer characteristics as determined from adequate information obtained from wells, pursuant to Section 37-92-305(11), C.R.S. Within 60 days after completion of any well decreed herein or any test hole(ies), Applicants or any successor in interest to these water rights shall serve copies of such log(s) upon the State Engineer.

   B. At such time as adequate data is available, any person, including the State Engineer, may invoke the Court's retained jurisdiction to make a Final Determination of Water Right. Within four months of notice that the retained jurisdiction for such purpose has been invoked, the State Engineer shall use the information available to him to make a final determination of water rights findings. The State Engineer shall submit such finding to the Water Court and the Applicants.

   C. If no protest to such finding is made within 60 days, the Final Determination of Water Rights shall be incorporated into the decree by the Water Court. In the event of a protest, or in the event the State Engineer makes no determination within four months, such final determination shall be made by the Water Court after notice and hearing.

   D. In the interim, the Court retains jurisdiction pursuant to § 37-92-305(11), C.R.S.

25. Continuing Jurisdiction:

   Pursuant to Section 37-92-304(6), C.R.S., the Court retains continuing jurisdiction over the plan for augmentation decreed herein for reconsideration of the question of whether the provisions of this decree are necessary and/or sufficient to prevent injury to vested water rights of others. The Court also retains continuing jurisdiction for the purpose of determining compliance with the terms of the augmentation plan.
26. The groundwater rights decreed herein are vested property rights decreed to the Applicants and shall be owned by the Applicants until such time as the Applicants expressly conveys all the groundwater underlying the Subject Property, or a portion of the groundwater to another entity through a deed that identifies this case number, the specific aquifer, and the annual volume (based on a 100 year aquifer life) or a total volume of groundwater being conveyed. If any deed for the Subject Property is silent to the conveyance of the water rights decreed herein, it is assumed that the water rights have been conveyed with the Subject Property, unless all or part of the water rights have been specifically reserved by the Grantor in that deed.

27. After the referee ruling was entered on November 1, 2017, the reference in paragraph 1 to DJC Enterprises, Inc. was removed. The referee finds that this amendment does not require an extension of the protest period.

Date: November 6, 2017

John S. Cowan
Water Referee
Water Division 1

The court finds that no protest was filed in this matter. The foregoing ruling is confirmed and approved, and is made the judgment and decree of this Court.

Date: November 27, 2017

Todd L. Taylor
Alternate Water Judge
Water Division 1
Account: R112570

Location

Zoning

Situs Address
City ELBERT
Tax Area 0018 -- 0018
Parcel Number 4094112570

Legal Summary Section: 20 Township: 9
Range: 64 Section: 21 Township: 9 Range:
64Subdivision: SEVERED MINERALS
E2:NE4SW4: 21 9 64 360 ACRES
NE4SW: 20 9 64 40 ACRES 1/12
INTEREST 33.34 NET ACRES
MINERAL RIGHTS

Owner Information

Owner Name CARRIGAN CATHERYN
JANE
Owner Address 00269 S 22ND AVE
BRIGHTON, CO 80601

Assessment History

Actual (2017) $240
Assessed $70
Tax Area: 0018 Mill Levy: 69.059
Type Actual Assessed Acres SQFT
Land $240 $70 33.340 145290.000

Transfers

Sale Date 07/24/2000
Sale Price $0
Doc Description Personal Reps Deed

Tax History

Tax Year Images
Taxes
*2018 $4.84
2017 $4.84
* Estimated

http://services.elbertcounty-co.gov/assessor/taxweb/account.jsp?accountNum=R112570 1/15/2018
Account: R103118

Location
Zoning
Situs Address
City ELBERT

Tax Area 0018 - - 0018
Parcel Number 4094207550

Legal Summary
Section: 20 Township: 9
Range: 64 SE4SE4 1/2 INTEREST 20.00
NET ACRES Section: 21 Township: 9
Range: 64 S2SW4 1/2 INTEREST 40.00
NET ACRES Section: 29 Township: 9
Range: 64 NE4-NE4SE4 1/2 INTEREST
100.00 NET ACRES MINERAL RIGHTS
Subdivision: SEVERED MINERALS

Owner Information
Owner Name DENNING BETTE
Owner Address 00145 COVENTRY DR
CARSON CITY, NV 89703

Assessment History
Actual (2017) $1,100
Assessed $320

Tax Area: 0018 Mill Levy: 69.059
Type Actual Assessed Acres SQFT
Land $1,100 $320 160.000 6969600.000

Transfers
Sale Date
08/14/1995
Sale Price $0
Doc Description QUIT CLAIM DEED

Tax History
Tax Year Taxes
*2018 $22.08
2017 $22.08

* Estimated

http://services.elbertcounty-co.gov/assessor/taxweb/account.jsp?accountNum=R103118 1/15/2018
THIS DEED, Made the 30th day of June in the year of our Lord one thousand nine hundred and sixty-two, between
FRANCES CRAWLEY
of the County of Elbert and State of Colorado, of the first part, and
L. HARRY MORGAN and ELIENE L. MORGAN
of the County of Elbert and State of Colorado, of the second part:
WITNESSETH, that the said parcel of land, situate, lying and being in the County of Elbert and State of Colorado, described as
SM SE ¼ of Section 20, SW ¼ of Section 21, NE ¼, NW ¼ of Section 29,
in Township 9 South, Range 64 West 6th P.M., with Grantor reserving and retaining an undivided one-fourth interest in and to all of the minerals in, on and under the above described lands
TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversions and reversions, remainder and reversionary, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said parcel of said part of the first part, whether in law or equity, of, in and to the above described premises, with the hereditaments and appurtenances.
TO HAVE AND TO HOLD the said premises above described and included, with the appurtenances, unto the said parties of the second part, their heirs and assigns forever. And the said parcel of the first part, for him self, his heirs, executors, administrators, and assigns forever, and the said parcel of the second part, their heirs and assigns, that at the time of the conveyance and delivery of these presents, he is well seized of the premises above conveyed, as of good, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has a good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature seuer, Subject to rights of way and easements for roads, telephone and electric lines; Subject to 1st Mortgage to the Federal Land Bank, and a 2nd Mortgage to Mary Dietrich, and other lien as now of record to the Telephone Company; and the above described premises in the quiet and peaceable possession of the said parties of the second part, their heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said parcel of the first part shall and will WARRANT AND FOREVER DEFEND.
IN WITNESS WHEREOF the said parcel of the first part has hereunto set his hand and seal the day and year above written.

Signed, Sealed and Delivered in the Presence of

[Seal]

[Seal]

STATE OF COLORADO,
County Elbert
The foregoing instrument was acknowledged before me this 30th day of June 1962, by
FRANCES CRAWLEY
My commission expires 20 February 1964. Witness my hand and official seal.

[Signature]

[Seal]
This Deed, made this 12th day of February in the year of our Lord nineteen hundred and Seventy-four

EUGENE D. CRAWLEY 1/2/3
EUGENE CRAWLEY
of the County of Morgan and State of Colorado, of the first part, and
WARREN CRAWLEY 1/2/3 WARREN A. CRAWLEY
of the County of Morgan and State of Colorado, of the second part.

Witnesseth, That the said party

of the first part, for and in consideration of the sum of $10,000.00

DOLLARS, to the said party

of the first part to be paid by the said party

of the second part, the receipt whereof is hereby confirmed and acknowledged, hath assigned, released, sold, conveyed and quit-claim to the said party

of the second part, his heirs and assigns, forever, all the right, title, interest, claim and demand which the said party

of the first part has in and to the following described property

Township 2 South, Range 64 West of the 6th P.M.

Section 20: W/N
Section 21: S/H
Section 22: E/N

To have and to hold the same, together with all and singular the appurtenances and privileges therein belonging or in any way connected therewith, and all the estate, right, title, interest and claim whatsoever of the said party

of the second part, his heirs and assigns, forever.

the day and year first above written.

Eugene D. Crawley
Eugene Crawley

State of Colorado,

County of Morgan

The said instrument was acknowledged before me this 12th day of February, 1974

Eugene D. Crawley 1/2/3

My commission expires June 1, 1976

Before me, in open court, personally appeared the above-named person, who, upon oath, deposes and says:

The Within is the true and exact copy of the instrument or instruments hereunto attached.
THIS DEED, made this 12th day of February, 1975,

by Warren Crawford 1/2/4 Warren A. Crawford, a single person,

in the County of Morgan and state of

Colorado, of the first part, and

Elenie Morgan

in the County of Elbert and state of

Colorado, of the second part.

WITNESSETH: That the said party of the first part, for and in consideration of the sum of

Ten Dollars and other valuable consideration,

to the said party of the first part in hand paid by the said party of the second part, the same

considered, received, and acknowledged, has, transferred, conveyed, and quit claimed

and by the present instrument of conveyance, released, vested, conveyed and quit claimed into the

said party of the first part be and is to be conveyed described as parcel of land situate, lying and

being in the

Township 9 South, Range 64 West of the 6th P.M.,

Section 30: SESESE
Section 31: NESENE
Section 29: NNESE

It is the intent of Grantor to convey to Grantee all of his

mineral interest to previously described property.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto

belonging or in any way connected therewith, and all the estate, right, title, interest and claim whatsoever, if the

said party of the first part, either in law or equity, in the said part of the said party of the second part, bare

hulls and undisputed.

IN WITNESS WHEREOF the said party of the first part has hereunto set his hand and

the day and year first above written.

[Signature]

Warren Crawford 1/2/4 (REAL)

[Signature]

Warren A. Crawford 1/2/4 (REAL)

STATE OF COLORADO,

County of Morgan

The foregoing instrument was acknowledged before us this 12th day of February

1975, Warren Crawford 1/2/4 Warren A. Crawford, a single person

My commission expires June 1, 1976. Witness my hand and official seal.

[Signature]

[Seal]

[Handwritten Note: 'I am not a legal term. If any legal term is incorrect, please correct it.']

[Handwritten Note: 'I am not a legal term. If any legal term is incorrect, please correct it.'}

[Handwritten Note: 'I am not a legal term. If any legal term is incorrect, please correct it.'}
QUIT CLAIM DEED

MARY V. DIETRICH

whose address is 214 Tacoma, Carson City, NV. 89703
County of Carson City, and State of Nevada, for the consideration of
Title Purposes
Dollars, in hand paid,
hereby sell(s) and quit claim(s) to BETTE DENNIS
whose address is 909 KINGSLEY, CARSON CITY, NV. 89701
County of Carson City, and State of Nevada, the following real
property, in the County of Elbert, and State of Colorado, to wit:

All of my interest in the Minerals, mineral Rights, Oil, Gas and other
minerals that are in, on and under the following lands:
TOWNSHIP 9 SOUTH, RANGE 64 W., 6th P.N.
Section 20- S@SW@;
Section 21- SW@;
Section 29- NW@, NW@SW@.

also known as street and number
with all its appurtenances

Signed this 14th day of August, 1995

MARY V. DIETRICH

STATE OF COLORADO,

County of ELBERT
The foregoing instrument was acknowledged before me this 14th day of August, 1995, by
MARY V. DIETRICH
My commission expires 19th February, 1996
WITNESS my hand and official seal.

Earl D. House
Notary Public

No. 898. Rev. 6-92. QUIT CLAIM DEED (Short form)

PERSONAL REPRESENTATIVE'S DEED

THIS DEED is made by CATHRYN JANE CARRIGAN, as Co-
Personal Representative of the Estate of ALICE E. PURSLEY
a/k/a ALICE PURSLEY, deceased, Grantor, to CATHRYN JANE
CARRIGAN, whose address is 840 Dean Drive, Northglenn, CO
80233, of the County of Denver, State of Colorado.

WHEREAS, the Last Will and Testament of the above-named
decedent was made and executed in the lifetime of the
decedent, and is dated December 16, 1998; which Will was
duly admitted to informal probate on April 7, 1999, by the
District Court in and for the County of Cheyenne, State of
Colorado, Probate No. 99 PR 9;

WHEREAS, Grantor was duly appointed Co-Personal
Representative of said Estate on April 7, 1999, and is now
qualified and acting in said capacity.

NOW, THEREFORE, pursuant to the powers conferred upon
Grantor by the Colorado Probate Code, Grantor does hereby
sell, convey, assign, transfer and set over unto said
Grantee as the person entitled to distribution of the
property in the above-captioned Will, the following
described real property situate in the County of ELBERT,
State of Colorado.

All of decedent's right, title and interest in and to all
coal, oil, gas and other minerals lying in, under or that
may be produced from:

SW1/4 of Section 21, Township 9 South, Range 64 West of the
6th P.M.
SE1/4 of Section 21, Township 9 South, Range 64 West of the
6th P.M.
SE1/4 of Section 20, Township 9 South, Range 64 West of the
6th P.M.
E1/2, NE1/4SW1/4 of Section 21, Township 9 South, Range 64
West of the 6th P.M.

With all appurtenances, subject to covenants, easements and
restrictions of record, and subject to general property
taxes for the year 2000, and subject to mineral reservations
and conveyances of record, if any, and the exigencies of
being located in special districts.

As used herein, the singular includes the plural and
the plural the singular.

Executed this 24 day of July, 2000.

                                       [Signature]
CATHRYN JANE CARRIGAN
CO-PERSONAL REPRESENTATIVE OF
THE ESTATE OF ALICE E. PURSLEY
A/K/A ALICE PURSLEY, DECEASED
PERSONAL REPRESENTATIVE'S DEED
DATED JULY 24, 2000
PAGE TWO OF TWO

STATE OF COLORADO  }
COUNTY OF DENVER  ) ss.

The foregoing instrument was acknowledged before me this 24th day of July, 2000, by Catheryn Jane Carrigan, as Personal Representative of the Estate of Alice E. Pursley a/k/a Alice Pursley, deceased.
Witness my hand and official seal. My commission expires: [Signature]

Notary Public

[Notary Public Seal]
Tax Account

Account Number R116590

Tax Billed at 2017 Rates

<table>
<thead>
<tr>
<th>Authority</th>
<th>Authority Id</th>
<th>Mill Levy</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>ELBERT COUNTY GENERAL FUND</td>
<td>0001</td>
<td>16.3300000</td>
<td>$22.86</td>
</tr>
<tr>
<td>ELBERT COUNTY ROAD &amp; BRIDGE</td>
<td>0002</td>
<td>9.5000000</td>
<td>$13.30</td>
</tr>
<tr>
<td>ELBERT COUNTY SOCIAL SERVICES</td>
<td>0004</td>
<td>1.5000000</td>
<td>$2.10</td>
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<tr>
<td>ELBERT COUNTY RETIREMENT</td>
<td>0006</td>
<td>0.7030000</td>
<td>$0.98</td>
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<tr>
<td>ELBERT 200 GENERAL FUND</td>
<td>2080</td>
<td>20.6400000</td>
<td>$28.90</td>
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<td>ELBERT 200 BOND FUND</td>
<td>2081</td>
<td>9.3700000</td>
<td>$13.12</td>
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<td>ELBERT FIRE GENERAL FUND</td>
<td>4020</td>
<td>8.5000000</td>
<td>$11.90</td>
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<td>ELBERT COUNTY LIBRARY</td>
<td>4330</td>
<td>2.5160000</td>
<td>$3.52</td>
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<td>Taxes Billed 2017</td>
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<td>69.0590000</td>
<td>$96.68</td>
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</table>

<table>
<thead>
<tr>
<th>Property Code</th>
<th>Value Type</th>
<th>Actual</th>
<th>Assessed</th>
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</thead>
<tbody>
<tr>
<td>AG-DRY FARM LAND</td>
<td>Standard</td>
<td>$4,820.00</td>
<td>$1,400.00</td>
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<tr>
<td>Total</td>
<td>Standard</td>
<td>$4,820.00</td>
<td>$1,400.00</td>
</tr>
</tbody>
</table>

The amounts of taxes due on this page are based on last year’s property value assessments. For current year values visit the Elbert Assessor’s site.

http://services.elbertcounty-co.gov/treasurer/treasurerweb/account.jsp?account=R116590&...  1/15/2018
## Account: R116590

<table>
<thead>
<tr>
<th>Location</th>
<th>Owner Information</th>
<th>Assessment History</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning NZ</td>
<td><strong>Owner Name</strong> ATKINSON DALE L &amp; JULIE N</td>
<td>Actual (2017) $4,820</td>
</tr>
<tr>
<td>Situs Address</td>
<td><strong>Owner Address</strong> 4702 CO RD 106 ELIZABETH, CO 80107</td>
<td>Assessed $1,400</td>
</tr>
<tr>
<td>City ELBERT</td>
<td></td>
<td>Tax Area: 0018 Mill Levy: 69.784</td>
</tr>
<tr>
<td>Tax Area 0018 -- 0018</td>
<td></td>
<td>Type: Actual Assessed Acres: SQFT Units</td>
</tr>
<tr>
<td>Parcel Number 9420400339</td>
<td></td>
<td>Land: $4,820 $1,400 40.000 0.000 0.000</td>
</tr>
<tr>
<td>Legal Summary Section: 20 Township: 9 Range: 64 SE4SE4</td>
<td></td>
<td></td>
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</tbody>
</table>

### Transfers

<table>
<thead>
<tr>
<th>Sale Date</th>
<th>Sale Price</th>
<th>Doc Description</th>
<th>Images</th>
</tr>
</thead>
<tbody>
<tr>
<td>06/27/2017</td>
<td>$180,000</td>
<td>WARRANTY DEED</td>
<td>&quot;GIS&quot;</td>
</tr>
<tr>
<td>06/27/2017</td>
<td>$0</td>
<td>SPECIAL WARRANTY DEED</td>
<td></td>
</tr>
<tr>
<td>06/25/2002</td>
<td>$88,000</td>
<td><em>WARRANTY DEED</em></td>
<td></td>
</tr>
<tr>
<td>10/18/1986</td>
<td>$0</td>
<td>QUIT CLAIM DEED</td>
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</table>

### Tax History

<table>
<thead>
<tr>
<th>Tax Year</th>
<th>Taxes</th>
<th>*Estimated</th>
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</thead>
<tbody>
<tr>
<td>*2017</td>
<td>$97.68</td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>$88.64</td>
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</tr>
</tbody>
</table>

http://services.elbertcounty-co.gov/assessor/taxweb/account.jsp?accountNum=R116590 10/12/2017
## Tax Account

### Summary

- **Account Id**: R116590
- **Parcel Number**: 9420400339
- **Owners**: LAIRD DAN L, LAIRD STEPHANIE D
- **Address**: 26493 CO RD 021, ELBERT, CO 80106
- **Situs Address**
- **Legal**: Section: 20 Township: 9 Range: 64 Subdivision: RURALA SE4SE4: 20 9 64 40 ACRES

### Inquiry

- **As Of**: 10/12/2017
- **Payment Type**: 
  - [ ] First
  - [x] Full
- **Total Due**: $0.00

### Value

<table>
<thead>
<tr>
<th>Area Id</th>
<th>Mill Levy</th>
<th>Actual</th>
<th>Assessed</th>
</tr>
</thead>
<tbody>
<tr>
<td>0018 - 0018</td>
<td>69.7840000</td>
<td>4,365</td>
<td>1,270</td>
</tr>
<tr>
<td>AG-DRY FARM LAND - 4127</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Taxes</strong></td>
<td></td>
<td></td>
<td>$88.64</td>
</tr>
</tbody>
</table>

The amounts of taxes due on this page are based on last year's property value assessments. For current year values visit the Elbert Assessor's site.

---

http://services.elbertcounty-co.gov/treasurer/treasurerweb/account.jsp?account=R116590 10/12/2017
WARRANTY DEED

DOE FEE: $10

THIS DEED, made the 27th day of JUNE, 2017, between Dan L. Laid and Stephanie D. Laid of the County of Elbert and State of Colorado, grantors, and Dale L. Atkinson and Julie N. Atkinson, grantee(s), with the legal address of 4702 COUNTY ROAD 106 ELIZABETH CO 80107 of the County of Elbert and State of Colorado, grantee(s), for and in consideration of the sum of ONE HUNDRED EIGHTY-FOUR THOUSAND AND FORTY-FIVE DOLLARS ($184,045.90), the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto the grantee(s), their heirs and assigns forever, Joint Tenants, all the real property, together with improvements, if any, situated, lying and being in the County of Elbert and State of Colorado, described as follows:

The SE 1/4 of the SE 1/4 of Section 29, Township 9 South, Range 6 West of the 6th P.M., County of Elbert, State of Colorado.

Also known by section and quarter as: 30X9 County Road 21, Elizabeth, CO 80107.

TO HAVE AND TO HOLD the said premises above described, together with all appurtenances, unto the grantee(s), their heirs and assigns forever.

IN WITNESS WHEREOF, the grantor has executed the deed on the day and year set forth above.

[Signature]
Dan L. Laid

[Signature]
Stephanie D. Laid

State of COLORADO
County of ALBANY

The foregoing instrument was acknowledged before me on the 27th day of June, 2017, by Dan L. Laid and Stephanie D. Laid.


[Notary Public]

WARRANTY DEED

P. D. DUNN

Notary Public

Colorado Escrow and Title Services, LLC
As agent for
Stewart Title Guaranty Company

COMMITMENT FOR TITLE INSURANCE
SCHEDULE A

1. Effective Date: January 09, 2018 at 07:30 am

2. Policy or Policies to be issued:
   A. ALTA 2006 OWNER’S POLICY
      Proposed Insured:
   B. ALTA 2006 LOAN POLICY
      Proposed Insured:

   Informational
   $ 250.00
   Total:
   $ 250.00

3. The estate or interest in the land described in this Commitment and covered herein is Fee Simple and title thereto is at the effective date hereof vested in:
   Dale L. Atkinson and Julie N. Atkinson

4. The land referred to in the Commitment is situate in the county of Elbert, State of Colorado and is described as follows:
   The SE 1/4 of the SE 1/4 of Section 20, Township 9 South, Range 64 West of the 6th P.M., County of Elbert, State of Colorado.

For Informational Purposes Only: 25676 County Road 21, Elbert, CO 80107

Countersigned
Colorado Escrow and Title Services, LLC

By: [Signature]
Barbara Pettit
Stewart Title Guaranty Company

COMMITMENT FOR TITLE INSURANCE
SCHEDULE B - SECTION I
REQUIREMENTS

Effective Date: January 09, 2018 at 07:30am

The following are the requirements to be complied with prior to the issuance of said policy or policies. Any other instrument recorded subsequent to the effective date hereof may appear as an exception under Schedule B of the policy to be issued. Unless otherwise noted, all documents must be recorded in the office of the clerk and recorded of the county in which said property is located.

The following requirements must be met:

(a) Pay the agreed amounts for the interest in the land and/or the mortgage to be insured.

(b) Pay us the premium, fees and charges for the policy.

(c) Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded:

(d) You must tell us in writing the name of anyone not referred to in this document who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions relating to the interest or the loan.

NOTE: This commitment has been issued for information purposes only and there are no requirements. The liability of the Company in terms of this Commitment is limited to the charges paid for the Commitment.
Stewart Title Guaranty Company

COMMITMENT FOR TITLE INSURANCE

SCHEDULE B - SECTION II

EXCEPTIONS

Effective Date: January 09, 2018 at 07:30 am

The Policy or Policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Rights or claims of parties in possession not shown by the Public Records.

2. Easements or claims of easements not shown in the Public Records.

3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.

4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

5. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.

6. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof.

7. Any water rights or claims or title to water, in or under the land, whether or not shown by the public records.

8. Taxes due and payable; and any tax, special assessments, charge or lien imposed for water or sewer service, or for any other special taxing district. Note: Upon verification of payment of all taxes the above exception will be amended to read, "Taxes and assessments for the current year, and subsequent years, a lien not yet due and payable."

9. Any loss or damage arising from the fact that the fence lines on or near the perimeter of subject property do not necessarily coincide with the exact property lines.

10. An undivided 1/4 interest in all oil, gas and other minerals conveyed to L. Harry Morgan and Ellene L. Morgan by Warranty Deed recorded August 3, 1961 in Book 246 at Page 95 and any and all assignments thereof or interests therein.

11. An undivided 100% interest in all oil, gas and other minerals conveyed to Warren Crawley a/k/a Warren A

NOTE: This commitment consists of insert pages labeled in Schedule A, Schedule B-Section 1, and Schedule B-Section 2. This commitment is of no force and effect unless all schedules are included, along with any Rider pages incorporated by reference in the insert pages.
Crawley by Quit Claim Deed recorded February 14, 1974 in Book 290 at Page 330 and any and all assignments thereof or interests therein.

12. An undivided 100% interest in all oil, gas and other minerals conveyed to Ellene Morgan by Quit Claim Deed recorded February 28, 1975 in Book 295 at Page 433 and any and all assignments thereof or interests therein.

13. An undivided 100% interest in all oil, gas and other minerals conveyed to Bette Denning by Quit Claim Deed recorded August 14, 1995 in Book 524 at Page 686 and any and all assignments thereof or interests therein.

14. An undivided 100% interest in all oil, gas and other minerals conveyed to Catheryn Jane Carrigan by Personal Representative's Deed recorded August 10, 2000 in Book 605 at Page 108 and any and all assignments thereof or interests therein.

15. Terms, agreements, provisions, conditions and obligations as contained in Resolution recorded February 19, 1986 in Book 389 at Page 878.

16. Terms, agreements, provisions, conditions and obligations as contained in Right of Way Easement recorded May 29, 1990 in Book 436 at Page 890.

17. Terms, agreements, provisions, conditions and obligations as contained in Right of Way Easement recorded August 16, 1993 in Book 476 at Page 482.

18. Terms, agreements, provisions, conditions and obligations as contained in Right of Way Easement recorded August 16, 1993 in Book 476 at Page 483.

NOTE: The policy(s) of insurance may contain a clause permitting arbitration of claims at the request of either the Insured or the Company. Upon request, the Company will provide a copy of this clause and the accompanying arbitration rules prior to the closing of the transaction.
SECTION 3:
Rezone Exhibit
THIS PAGE INTENTIONALLY LEFT BLANK
SECTION 4: Minor Residential Development Exhibit
THIS PAGE INTENTIONALLY LEFT BLANK
SECTION 5:
Referral Comments
THIS PAGE INTENTIONALLY LEFT BLANK
APPLICATION COMMENTS

Review Date: Feb 14, 2018
CDS Review Staff: Jaxon Fagan, Cory Miller
Name of Application: Atkinson Rezoning and Minor Development
Applicant: Julie Atkinson & Dale Atkinson
Applicant's Representative: Thomas Maroney
Address of proposal: 25676 CR 106

On January 30, 2018, Thomas Maroney submitted rezoning and minor residential development applications. The rezoning would change the zoning from the Agriculture (A) Zone District to the Agricultural Residential (AR) Zone District. The minor development would plat 4 approximately 10 acre lots. The application was reviewed for completeness and sent to internal and external referral agencies for review. The following comment letters are attached.

- Mountain View Electric Association
- Elbert Fire Protection District
- CenturyLink
- Elbert School District
- Elbert County Public Works
- Elbert County Health & Human Services
- Elbert County Building
- Elbert County Community and Development Services

NEXT STEPS
Please consider the attached comments and resubmit revised documents addressing all comments, including a cover letter describing the revisions.

Sincerely,

Jaxon Fagan
Baseline Corporation
o/b/o Elbert County Community Development Services

CC: Vince Harris, Baseline
February 6, 2018

County of Elbert, Planning Dept.
P.O. Box 7
Kiowa, CO 80117

To Whom It May Concern:

Mountain View Electric Association, Inc. (MVEA) has these comments about the following:

**Project Name:** Atkinson Minor Development  
**Description:** Dale and Julie Atkinson are requesting approval to rezone of 40 acre parcel from A to AR. The request is also to subdivide the 40 acres into four (4) residential lots. This parcel is located north of County Road 106 and west of County Road 21 in Section 20, Township 9 South, Range 64 West.

This area is within MVEA certificated service area. MVEA will serve this area according to our extension policy. Information concerning connection requirements, fees and upgrades under MVEA line extension policy can be obtained by contacting the Engineering Department of MVEA.

MVEA requests a ten (10) foot interior lot line utility easement along with a twenty (20) foot exterior development easement on the plat. If open space or tracts are designed in this development MVEA requests these areas be listed to include utilities. Additional easements may be required once a review of civil drawings with grading and erosion plan is provided to MVEA in order to serve.

MVEA has existing facilities near this parcel of land. If there is any removal or relocation of facilities it will be at the expense of the applicant.

If additional information is required, please contact our office at (719) 495-2283.

Sincerely,

[Signature]
Cathy Hansen-Lee  
Engineering Administrative Assistant

This association is an equal opportunity provider and employer.
We have received the above-referenced referral request. We have reviewed our records, and find that this property is not in our service territory.

Brooks Kaufman
Lands and Rights of Way Director
5496 N. US Hwy 85
Sedalia, CO 80123
Direct: 720.733.5493
Cell: 303.912.0765
bkaufman@irea.coop

---

Hello,

On behalf of the Elbert County Community & Development Services Department, I am sending you a revised application for a 4 lot single family residential subdivision for your review and comment. The referral period is open until 5 pm on February 13, 2018. Please respond using the attached referral comment form if you wish to comment on the project. You can download the referral packet at this Dropbox link: https://www.dropbox.com/sh/jakunwsuhg2lv6/AABO_CnvPZnoD77ViS0Vs9IQA?dl=0
Thank you,
COMMUNITY & DEVELOPMENT  SERVICE DEPARTMENT
P.O. BOX 7
215 COMANCHE STREET
KIOWA, COLORADO 80117
303-621-3136 FAX: 303-621-3165

COUNTY OF ELBERT

REFERRAL REQUEST

DATE: 1/30/2018  COMMENTS DUE BY: 2/13/2018

RE: PROJECT NAME: Atkinson RZ & MRD

PROJECT NUMBER: RZ-17-0047 & MD-17-0048

PROJECT TYPE: Rezone and Minor Residential Development

Dear Referral Organization:

Information on the proposal in Elbert County referenced above is enclosed for your review and comments. Please check one of the following:

☐ We have no objections to this proposal.

☐ Please note the following concerns this organization has with this proposal:

☐ See the attached letter for detailed comments regarding this proposal.

Date: 2/9/2018

Agency Name: Elbert School Dist #200

Your name (Please Print Clearly): Rey McGuire

Signature:

We invite you to attend the meeting/hearing, if you wish, to express your specific comments/concerns regarding this project. Hearing dates may be obtained by calling the Elbert County Planning Department at 303-621-3136. If you are unable to submit written comments by the above date or need additional materials of information, please contact this office as soon as possible.

Please note that the Planning Department considers failure to respond as approval of the proposal by all identified agencies. This consideration is based upon the language in the Colorado Revised Statutes 30-28-136(2).

Sincerely,

Project Planner
February 9, 2018

To: Elbert County Planning Department
FROM: Bev McGuire, Elbert School District 200

This is an attachment expressing the School District concerns of the proposed Atkinson RZ & MRD.

1) The plan indicates that each lot will access County Road’s 106 and 17-21 with individual driveways. We request one access should serve all four lots (possibly a road up the middle with a cul-de-sac in the interior center and road to serve all four lots running south off the cul-de-sac to CO RD 106. The intersection of County Road 106 and 17-21 is becoming too busy to have two new driveways on each road, especially as close together as these driveways could be to the intersection of 106 and 17-21 (which is a road with a speed limit of 55 miles an hour). Our school buses will serve potential new students within this development and one access point off of Co Rd 106 make sense and is the safest alternative for all individuals, school buses, students and regular everyday traffic traveling in the area.

2) The School District will ask that the cash in lieu of $1040.00 per newly created lot be a condition of approval which would be a total of $3120.00 paid to the school district for the impact of the three new lots upon any approvals granted by the county. I called to see if the $1040.00 is still the amount now days. Looking at our records we have not had a development in a while and $1040.00 per lot is what the district received on the last development with our school district.

3) Is there like-size development in the area at this time? It appears all surrounding zoning is still agriculture. Hopefully whatever the Master Plan recommends will be considered.
REFERRAL REQUEST

DATE: 1/30/2018                COMMENTS DUE BY: 2/13/2018

RE: PROJECT NAME: Atkinson RZ & MRD
    PROJECT NUMBER: RZ-17-0047 & MD-17-0048
    PROJECT TYPE: Rezone and Minor Residential Development

Dear Referral Organization:

Information on the proposal in Elbert County referenced above is enclosed for your review and comments. Please check one of the following:

[X] We have no objections to this proposal.

[ ] Please note the following concerns this organization has with this proposal:

________________________________________________________________________

________________________________________________________________________

[ ] See the attached letter for detailed comments regarding this proposal.

Date: 2/12/2018

Agency Name: Elbert Fire Protection District

Your name (Please Print Clearly): Alexyss Papi Fire Marshall

Signature: ____________________________

We invite you to attend the meeting/hearing, if you wish, to express your specific comments/concerns regarding this project. Hearing dates may be obtained by calling the Elbert County Planning Department at 303-621-3136. If you are unable to submit written comments by the above date or need additional materials of information, please contact this office as soon as possible.

Please note that the Planning Department considers failure to respond as approval of the proposal by all identified agencies. This consideration is based upon the language in the Colorado Revised Statutes 30-28-136(2).

Sincerely,

Project Planner
REFERRAL REQUEST

DATE: 1/30/2018  COMMENTS DUE BY: 2/13/2018

RE: PROJECT NAME: Atkinson RZ & MRD

PROJECT NUMBER: RZ-17-0047 & MD-17-0048

PROJECT TYPE: Rezone and Minor Residential Development

Dear Referral Organization:

Information on the proposal in Elbert County referenced above is enclosed for your review and comments. Please check one of the following:

- We have no objections to this proposal.

  - Please note the following concerns this organization has with this proposal:
    - No problems as the lots are minimum 10 acres
    - Elbert County Dept of Health and Human Services approved.

- See the attached letter for detailed comments regarding this proposal.

Date: February 6, 2018

Agency Name: ECHHS

Your name (Please Print Clearly): Gary L. Hartzell

Signature:

We invite you to attend the meeting/hearing, if you wish, to express your specific comments/concerns regarding this project. Hearing dates may be obtained by calling the Elbert County Planning Department at 303-621-3136. If you are unable to submit written comments by the above date or need additional materials of information, please contact this office as soon as possible.

Please note that the Planning Department considers failure to respond as approval of the proposal by all identified agencies. This consideration is based upon the language in the Colorado Revised Statues 30-28-136(2).

Sincerely,

Project Planner
February 6, 2018

Mr. Rory Hale, Director
Elbert County Department of Public Works
215 Comanche Street
Kiowa, Co 80117

RE: Elbert County DPW and Engineering Comments
Atkinson Rezone and Minor Residential Development Application

Dear Mr. Hale:

On behalf of the Elbert County Department of Public Works (DPW), Enertia Consulting Group has reviewed the Atkinson rezone and minor subdivision application. Specifically, the following documents included in the application were reviewed:

- Narrative
- Title Commitment dated Jan 9, 2018
- Rezone Exhibit dated Jan 6, 2018
- Final Plat dated Jan 6, 2018

Our comments on each of the above-listed documents as well as our general comments are as follows:

**Narrative** – No Comment

**Title Commitment**

1. There are several mineral rights owners identified in the B-2 exceptions. Has notice of the rezone and subdivision application been provided to mineral rights owners (or successors/assigns)?

**Rezone Exhibit**

1. Are the “terms, agreements, provisions, conditions and obligations” referred to in numbers 15-18 of the B-2 exceptions relevant to the rezone exhibit? If so, please include the locations of the right-of-way easements identified in B-2 exception No. 15-18 on the exhibit.
2. The eastern and southern boundaries of the property to be subdivided are along section lines. CR 17-21 and CR 106 are within prescriptive easements and not dedicated right-of-way. In order to subdivide the property, 45’ of right-of-way along CR 17-21 (to accommodate a 2-lane collector, per the West Elbert County Transportation Master Plan) and 30’ of right-of-way along CR 106 need to be dedicated as part of the rezone and platting process. Revise the rezone exhibit to reflect this requirement.

**Plat**

1. Modify plat to reflect rezone exhibit comments.

**Revised Water Supply Letter** – No Comment.

**General Comments**

1. Driveway locations along CR 17-21 and CR 106 will have to meet Elbert County separation criteria.

We trust that our comments on the Atkinson rezone and minor subdivision application are acceptable and complete. Please contact me should you have any questions.

Sincerely,
ENERTIA CONSULTING GROUP

[Signature]

J. Sean O’Hearn, PE
Managing Partner
ATKINSON MINOR RESIDENTIAL DEVELOPMENT
PART OF SECTION 20, T. 9 S., R. 64 W., 6TH P.M.
COUNTY OF ELBERT, STATE OF COLORADO

OWNERSHIP AND DEDICATION STATEMENT

PROPERTYiked to the 34' of Section 20, Township 9 North, Range 64 West, 6th P.M., Elbert County, State of Colorado.

DESCRIPTION

DISTANCE

30.00' RIGHT-OF-WAY DEDICATION

ADD RIGHT-OF-WAY DEDICATION STATEMENT

WAS THE TITLE COMMITMENT PROVIDED BY COLORADO ESCROW AND TITLE SERVICES, LLC, FILE NO. 22323CEW USED FOR THIS SURVEY. IF SO PLEASE STATE.

DESCRIPTION MONUMENTS

UTILITY EASEMENT ACKNOWLEDGMENT

THOSE PORTIONS OF REAL PROPERTY, WHICH ARE LABELED AS UTILITY EASEMENTS ON THIS PLAT, MUST BE MAINTAINED AND USED IN A RESPONSIBLE AND PRUDENT MANNER, SUBJECT TO THE UTILITY PLACEMENT PERMITTING PROCEDURE OF ELBERT COUNTY.

REPLACE LEGEND AS SHOWN ON REZONE EXHIBIT

PROVIDE ACREAGE OF RIGHT-OF-WAY BEING DEDICATED

LOT ACREAGES SHOULD NOT INCLUDE RIGHT-OF-WAY.

EXCEPT OUT RIGHT-OF-WAY
UTILITY EASEMENT ACKNOWLEDGMENT

THOSE PORTIONS OF REAL PROPERTY, WHICH ARE LABELED AS UTILITY EASEMENTS ON THIS PLAT, WHETHER PRIVATE OR PUBLIC, ARE TO BE UTILIZED IN A RESPONSIBLE AND PRUDENT MANNER, SUBJECT TO UTILITY PLACEMENT PERMITTING PROCEDURES FROM ELBERT COUNTY.

PLEASE REVISE WITH ALL APPLICABLE PLAT COMMENTS
REFERRAL REQUEST

DATE: 1/30/2018  COMMENTS DUE BY: 2/13/2018

RE: PROJECT NAME: Atkinson RZ & MRD
PROJECT NUMBER: RZ-17-0047 & MD-17-0048
PROJECT TYPE: Rezone and Minor Residential Development

Dear Referral Organization:

Information on the proposal in Elbert County referenced above is enclosed for your review and comments. Please check one of the following:

☐ We have no objections to this proposal.
☐ Please note the following concerns this organization has with this proposal:

☐ See the attached letter for detailed comments regarding this proposal.

Date: 1/29/18

Agency Name: Elbert County Building Department
Your name (Please Print Clearly): Faith Mehrer
Signature: Faith Mehrer

We invite you to attend the meeting/hearing, if you wish, to express your specific comments/concerns regarding this project. Hearing dates may be obtained by calling the Elbert County Planning Department at 303-621-3136. If you are unable to submit written comments by the above date or need additional materials of information, please contact this office as soon as possible.

Please note that the Planning Department considers failure to respond as approval of the proposal by all identified agencies. This consideration is based upon the language in the Colorado Revised Statutes 30-28-136(2).

Sincerely,

Project Planner
Dear Referral Organization:

Information on the proposal in Elbert County referenced above is enclosed for your review and comments. Please check one of the following:

☐ We have no objections to this proposal.

☐ Please note the following concerns this organization has with this proposal:

☐ See the attached letter for detailed comments regarding this proposal.

Date: 2/13/18

Agency Name: CenturyLink

Your name (Please Print Clearly): Dustin Pulciani, ROW Agent

We invite you to attend the meeting/hearing, if you wish, to express your specific comments/concerns regarding this project. Hearing dates may be obtained by calling the Elbert County Planning Department at 303-621-3136. If you are unable to submit written comments by the above date or need additional materials of information, please contact this office as soon as possible.

Please note that the Planning Department considers failure to respond as approval of the proposal by all identified agencies. This consideration is based upon the language in the Colorado Revised Statues 30-28-136(2).

Sincerely,

Project Planner
Minimum 2" margin on left side.

Case No: RZ-17-0045

Add phone number

NOTARY PUBLIC: County of _________  State of___________  The foregoing instrument was acknowledged before me this ____day of  _______20____, by (owner name)

By: _________ (Signature)  _________ (Name Printed)

WITNESS my hand and official seal

My commission expires: ________

Rezoning

Why didn’t they use the title policy included with the application?

Include notary block

Dedicate per comment on plat

Show locations of all proposed driveways. Refer to comment from school district.
Why didn't they use the title policy included with the application?

Ownership and Dedication Statement:

THOSE PORTIONS OF THE REAL PROPERTY WHICH ARE LABELED AS UTILITY EASEMENTS ON THIS PLAT, WHETHER PUBLIC OR PRIVATE, ARE "AS PLAT SHOWN" AND RIGHTS TO BE UTILIZED IN A RESPONSIBLE AND PRUDENT MANNER, SUBJECT TO UTILITY PLACEMENT PERMITTING PROCEDURES FROM ELBERT COUNTY.

This will be the new property boundary. ROW dedication is required.

Case No: MD-17-0048
APPLICATION COMMENTS

Review Date: April 4, 2018
CDS Review Staff: Jaxon Fagan, Cory Miller
Name of Application: Atkinson Rezoning and Minor Development
Applicant: Julie Atkinson & Dale Atkinson
Applicant’s Representative: Thomas Maroney
Address of proposal: 25676 CR 106

On March 20, 2018, Thomas Maroney submitted rezoning and minor residential development applications. The rezoning would change the zoning from the Agriculture (A) Zone District to the Agricultural Residential (AR) Zone District. The minor development would plat 4 approximately 10 acre lots. The application was reviewed for completeness and sent to internal and external referral agencies for review. The following comment letters are attached.

- Mountain View Electric Association (no objection)
- Elbert School District (no objection)
- Elbert County Health & Human Services (no objection)
- Elbert County Community and Development Services (minor formatting revisions)

NEXT STEPS
Please contact CDS to discuss next steps. CDS is comfortable setting hearing dates if the owners are willing to make the requested revisions, and once the associated minimum lot size variance is approved.

Sincerely,

Jaxon Fagan
Baseline Corporation
o/b/o Elbert County Community Development Services

CC: Vince Harris, Baseline
Either label as Tract A or simply Right-of-Way, and dedicate it to the county as such in the dedication statement. See below.

A ND DO HEREBY DEDICATE AND CONVEY TO ELBERT COUNTY [either] TRACT A FOR STREET AND ROADWAY PURPOSES [or] RIGHT-OF-WAY FOR STREET AND ROADWAY PURPOSES AS SHOWN HEREON.

If there is more, remove this certification block.
Setback should be from Lot 3 property line. Either label as Tract A or simply Right-of-Way, and dedicate it to the county as such in the dedication statement. Move it out of way of bearing label.

See below.
March 28, 2018

Jaxon Fagan
Baseline Corporation

Re: Atkinson – Minor Residential Development Plat and Rezone Exhibit
Review comments

Jaxon,
Included are the redmark sheets in PDF, with comments below.

**Plat Sheet** (see redlines)
1. Please provide copies of the current monument records for the four aliquot corners or copies of the updated records to be sent to the state.
2. Please mask all text covered by easement lines for legibility/clarity.
3. Please consider using a different line type, font or pen weight for the lot and acreage text. The current text when plotted is difficult to read.
4. Please remove Parcel A text and acreage label shown south of Lot 3. It already exists east of Lot 2.
5. Please add the fence line type to the legend.

**Rezone Exhibit** (see redlines)
1. Please use the property description as shown on the Atkinson Minor Residential Development Plat.
2. The west setback line for Lot 3 is not dimensioned correctly, please revise accordingly.
3. Please mask all text covered by easement lines for legibility/clarity.
4. Please consider using a different line type, font or pen weight for the lot and acreage text. The current text when plotted is difficult to read.
5. Please remove Parcel A text and acreage label shown south of Lots 3 and 4. It already exists east of Lot 2.
6. Please add the fence line type to the legend.
7. Please match all lot dimensions as shown on the Atkinson Minor Residential Development Plat.

If you have any questions concerning these comments, please call.

Sincerely,

Baseline Corporation
Douglas K. Lancaster, Survey Project Manager
ADD FENCE LINETYPE TO LEGEND
PLEASE MASK ALL TEXT COVERED BY EASEMENT LINES FOR LEGIBILITY.
PLEASE CONSIDER USING A DIFFERENT LINETYPE OR PEN WEIGHT. THE CURRENT TEXT IS DIFFICULT TO READ. (TYPICAL)

PLEASE PROVIDE COPIES OF THE CURRENT OR UPDATED MONUMENT RECORDS FOR THE FOUR ALIQUOT CORNERS.
ATKINSON REZONE EXHIBIT
PART OF SECTION 20, T. 9 S, R. 64 W, 6TH P.M.
COUNTY OF ELDORADO, STATE OF COLORADO

PLEASE CONSIDER USING A DIFFERENT LINETYPE OR PEN WEIGHT. THE CURRENT TEXT IS DIFFICULT TO READ. (TYPICAL)

WHERE IS THE SETBACK LINE TIED? PLEASE CLARIFY.

REMOVE FOR CLARITY ALREADY SHOWN ABOVE

PLEASE MASK ALL TEXT COVERED BY EASEMENT LINES FOR LEGIBILITY.

ADD FENCE LINETYPE TO LEGEND
REMOVE FOR CLARITY
ALREADY SHOWN ABOVE

MATCH PLAT DISTANCES

NOTES
1. MARKING PLAT: THE MARKING PLAT IS ONE OF THE ASSESSORS' DEPARTMENT ALBAMAS AND SHOWN (S) SHALL BE REMOVED BY THE OWNER OR OWNER'S AGENT PRIOR TO COMMERCIAL USE OF THE PROPERTY.

2. PLAT PROPERTY DESCRIPTION: THE DESCRIPTION OF THE PROPERTY SHOWN (S) SHALL BE DELETED, RETURNED TO THE OWNER OR OWNER'S AGENT PRIOR TO COMMERCIAL USE OF THE PROPERTY.

3. OWNER'S RIGHTS TO PRIVILEGES: THE OWNER'S RIGHTS TO PRIVILEGES SHALL BE RETURNED TO THE OWNER OR OWNER'S AGENT PRIOR TO COMMERCIAL USE OF THE PROPERTY.

4. MARKING CONTINUITY: THE MARKING CONTINUITY SHALL BE DELETED, RETURNED TO THE OWNER OR OWNER'S AGENT PRIOR TO COMMERCIAL USE OF THE PROPERTY.

5. OWNER'S RIGHTS TO PRIVILEGES: THE OWNER'S RIGHTS TO PRIVILEGES SHALL BE RETURNED TO THE OWNER OR OWNER'S AGENT PRIOR TO COMMERCIAL USE OF THE PROPERTY.

FRANE SURVEYING INC.

DATE: 10/15/15

SIGNATURE: [Signature]

STANDARD LEGEND STATEMENT

THE SURVEYED PROPERTY COORDINATES SHOWN ON THIS REPORT ARE THE SURVEYED PROPERTY COORDINATES SHOWN ON THE ATTACHED SURVEY PLAT. THESE SURVEYED PROPERTY COORDINATES ARE ACCURATE AND LEGAL AND ARE SHOWN IN THE ATTACHED SURVEY PLAT.
REFERRAL REQUEST

DATE: 3/21/2018  COMMENTS DUE BY: 4/4/2018

RE: PROJECT NAME: Atkinson RZ & MRD

PROJECT NUMBER: RZ-17-0047 & MD-17-0048

PROJECT TYPE: Rezone and Minor Residential Development

Dear Referral Organization:

Information on the proposal in Elbert County referenced above is enclosed for your review and comments. Please check one of the following:

☐ We have no objections to this proposal.

☐ Please note the following concerns this organization has with this proposal:
   Thank you for the opportunity to review Atkinson Minor and for the requested utility
   easements. Contact MVEA for additional info on cost, system improvements or relocation

☐ See the attached letter for detailed comments regarding this proposal.

Date: _______________________

Agency Name: Mountain View Electric Association

Your name (Please Print Clearly): Cathy Hansen-Lee

Signature: [signature]

We invite you to attend the meeting/hearing, if you wish, to express your specific comments/concerns regarding this project. Hearing dates may be obtained by calling the Elbert County Planning Department at 303-621-3136. If you are unable to submit written comments by the above date or need additional materials of information, please contact this office as soon as possible.

Please note that the Planning Department considers failure to respond as approval of the proposal by all identified agencies. This consideration is based upon the language in the Colorado Revised Statues 30-28-136(2).

Sincerely,

Project Planner
REFERRAL REQUEST

DATE: 1/30/2018  COMMENTS DUE BY: 2/13/2018

RE: PROJECT NAME: Atkinson RZ & MRD
PROJECT NUMBER: RZ-17-0047 & MD-17-0048
PROJECT TYPE: Rezone and Minor Residential Development

Dear Referral Organization:

Information on the proposal in Elbert County referenced above is enclosed for your review and comments. Please check one of the following:

✔ We have no objections to this proposal.

☐ Please note the following concerns this organization has with this proposal:

________________________________________________________________________

☐ See the attached letter for detailed comments regarding this proposal.

Date: 2/13/18

Agency Name: CenturyLink

Your name (Please Print Clearly): Dustin Pulciani, ROW Agent

Signature: __________________________________________

We invite you to attend the meeting/hearing, if you wish, to express your specific comments/concerns regarding this project. Hearing dates may be obtained by calling the Elbert County Planning Department at 303-621-3136. If you are unable to submit written comments by the above date or need additional materials of information, please contact this office as soon as possible.

Please note that the Planning Department considers failure to respond as approval of the proposal by all identified agencies. This consideration is based upon the language in the Colorado Revised Statues 30-28-136(2).

Sincerely,

Project Planner
REFERRAL REQUEST

DATE: 3/21/2018  COMMENTS DUE BY: 4/4/2018

RE:   PROJECT NAME:  Atkinson RZ & MRD
      PROJECT NUMBER:  RZ-17-0047 & MD-17-0048
      PROJECT TYPE:  Rezone and Minor Residential Development

Dear Referral Organization:

Information on the proposal in Elbert County referenced above is enclosed for your review and comments. Please check one of the following:

☐ We have no objections to this proposal.

☐ Please note the following concerns this organization has with this proposal:

☐ See the attached letter for detailed comments regarding this proposal.

Date: 3/21/2018

Agency Name:  Elbert School Dist 200

Your name (Please Print Clearly):  Beverlie McGuire

Signature: 

We invite you to attend the meeting/hearing, if you wish, to express your specific comments/concerns regarding this project. Hearing dates may be obtained by calling the Elbert County Planning Department at 303-621-3136. If you are unable to submit written comments by the above date or need additional materials of information, please contact this office as soon as possible.

Please note that the Planning Department considers failure to respond as approval of the proposal by all identified agencies. This consideration is based upon the language in the Colorado Revised Statues 30-28-136(2).

Sincerely,

Project Planner
Re: Atkinson Rezone and Minor Residential Development

Jaxon,

Included is the redmark sheet in PDF format, with comments below.

**Plat Sheet**
1. The set corner symbol at the southeast corner of Lot 4 is not shown at the actual corner. Please adjust accordingly.
2. All found or set monuments should include cap and monument size and type. Please add required information where applicable.

**Rezone Exhibit**
1. Please reflect any revisions to the plat on the Rezone Exhibit.

If you have any questions concerning these comments, please call.

Sincerely,

Douglas K. Lancaster, Survey Project Manager
SECTION 6:
Administrative Variance to Minimum Lot Size
STAFF REPORT DATE: April 30, 2018
ADMINISTRATIVE HEARING DATE: May 17, 2018 – 9:00am

TO: Vince Harris, AICP, Interim Community & Development Services Director
   (Hearing Officer for this case)
FROM: Jaxon Fagan, Associate Planner
RE: Atkinson Administrative Lot Size Variance. (Case No. AV-18-0020)

APPLICANT: Julie and Dale Atkinson

REQUEST: The Atkinsons request approval of an administrative variance from the 10 acre minimum lot size standard of the Agriculture Residential (AR) Zone District. The variance is associated with the Atkinson’s proposal to rezone their 40 acre property from Agriculture (A) to Agriculture Residential (AR), and to subdivide it into 4 lots. Due to the County’s requirement that the Atkinsons dedicate right of way to Elbert County along the adjacent County Roads, the size of 3 proposed lots bordering County Roads 17/21 and 106 are smaller than the 10 acre minimum lot size standard. Lot 2 is proposed at 9.33 acres (7% reduction), Lot 3 at 9.58 acres (4% reduction), and Lot 4 at 8.92 acres (11% reduction).
BACKGROUND: The application was received on March 21, 2018, reviewed for completeness, and sent to applicable referral agencies. No agencies object to the proposal. An administrative hearing was set for May 17, 2018. Per Elbert County regulations, the applicant mailed notice of the hearing to property owners within 500 feet of the subject property. At the time of preparation of this report, staff has received no comments from neighbors or other residents.

EVALUATION

*Elbert County Zoning Regulations Part I. Section 3, E.1:* The Community and Development Services director may grant an Administrative Variance, upon prior approval by the Board of County Commissioners, for those items listed in Part I, Section 3.B.1., where the total encroachment/adjustment does not exceed 15%.

*Elbert County Zoning Regulations Part I. Section 3.B.1.A* allows variances from the 'minimum area of a lot'.

*Staff Comment:* The proposal is a variance from a minimum area of a lot and is allowed to be considered for a variance. Because the adjustment does not exceed 15%, the variance is allowed to be considered administratively by the CDS Director.

*Elbert County Zoning Regulations Part I. Section 3.E.1.b* requires the following items as part of an administrative variance application.
1. Completed application form
2. Proof of ownership
3. Application fee
4. Site plan

*Staff Comment:* All submittal requirements have been fulfilled.
FINDINGS: The applicant has met all of the requirements of the Elbert County Zoning Regulations. The variance is proposed due to the county requirement of dedication of right of way for the two adjacent county roads, is not a self-imposed hardship, will not endanger the health, safety or welfare of Elbert County residents, meets the spirit of the minimum lot size in the Agriculture Residential (AR) Zone District, and is the minimum variance necessary to address the hardship.

RECOMMENDATION: Neither a Planning Commission Hearing or a Board of County Commissioners hearing is a requirement for an Administrative Variance request. Community and Development Services have the following recommendations:

Approve Atkinson Administrative Variance - Case# AV-18-0020, subject to the following:

1. Adopt the Findings as enumerated herein.

Respectfully submitted to and on behalf of Elbert County,

Jaxon Fagan
Associate Planner
Baseline Corporation,
On behalf of Elbert County

Decision of Hearing Officer

Vincent Harris, Hearing Officer
Interim CDS Director

Request is [ ] APPROVED / [ ] DENIED

May 17, 2018
Date