COUNTY OF ELBERT

COMMUNITY & DEVELOPMENT SERVICES OFFICE
P.O. BOX 7
215 COMANCHE STREET
KIOWA, COLORADO, 80117
P: 303-621-3136 F: 303-621-3165

STAFF MEMO DATE: September 21, 2018
BOCC HEARING DATE: October 10, 2018
TO: Elbert County BOCC
FROM: Vince Hooper, PMP, Senior Planner
APPROVED: Christina Stanton, AICP Director of Community & Development Services
Vince Harris, AICP, Baseline Corporation

RE: **Atkinson AR REZONE RZ-17-0047 & MINOR RESIDENTIAL DEVELOPMENT MD-17-0048**
Application to rezone a 40 acre property at 25676 County Road 17/21 from A-Agriculture to AR-Agriculture Residential AND subdivide into 4 lots.

APPLICANT: Dale & Julie Atkinson

REPRESENTATIVE: Tom Maroney

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ADDITIONAL INFORMATION

At the August 7, 2018 Planning Commission Public Hearing, the Planning Commission voted 5-0 to recommend approval of the Atkinson Rezone RZ-17-0047 & Minor Residential Development Plan MD-17-0048 upon the condition that the applicant submit a Traffic Memo for staff consideration prior BOCC consideration of the applications. In response to the Planning Commission's recommended condition of approval, the applicant retained the services of a traffic engineer to prepare the necessary analysis. Please see attached EST Traffic Letter dated August 31, 2018. This Traffic Letter was referred to Rory Hale, Director of Elbert County Public Works and Sean O'Hearn, Elbert County Engineer for review and comment. Director Hale concluded that "they are in compliance with the Elbert County Roadway Construction Standards and Specifications."

Subsequent to the preparation of the Planning Commission Staff Report and the conduct of the Planning Commission's Public Hearing on August 7, 2018 for the Atkinson Rezone RZ-17-0047 & Minor Residential Development Plan MD-17-0048, an adjacent property owner, Ruth Ann Olson, submitted a letter to the Community & Development Services asserting that information has been suppressed relating to the proposed applications. More specifically, the Olson letter asserts that "historic and water features on the site have been systematically removed by the owner during the dead of the winter." Olson claims that the remnants of the railroad bed which crosses the Atkinson property is historic, was destroyed by the Atkinson when they performed

over-lot grading, which in turn spread “clinkers” or “slag” across the site risking contamination from leached heavy metals into the soils and ground water. Olson also claims that a seasonal wetland has been drained and filled in, which causes the flooding of CR 17/21 during heavy rains.

The Olson letter is attached and contains pictures related to her assertions.

In response to the Olson assertions, CDS staff presented the letter to the applicant and requested that they respond to the Olson assertions. The Atkinson’s have submitted a response letter, which is also attached. The Atkinson’s admit that they have performed grading to flatten the area on which the railroad bed was located. However, they claim that any “slag” metal from the railroad bed has previously been cleaned up and mitigated. Additionally, the Atkinson’s have stated that they will reseed the disturbed area and will remove any additional slag that might be brought to the surface during the reseeding process.

With respect to the area that Olson identifies as a water feature and seasonal wetlands area, the Atkinson’s claim that the area has only held water 3 or 4 times in 10 years and was a health risk to livestock because of mosquitos. Additionally, Atkinson disputes the assertion by Olson that the elimination of this water feature causes any flooding across the CR 17/21 and CR 106 intersection.

In response to the Olson assertions and Atkinson claims, the CDS staff provides the following:

Clinker/Slag Metal Contamination

The proposed Rezoning and Minor Residential Development were referred out to the Elbert County Health and Human Services (HHS) which includes Public Health and Environment. HHS responded with comments concerning compliance to septic system requirements and raised no concerns with the existence of clinker/slag or metal contamination.

Historic Railroad Bed

The 2018 Elbert County Comprehensive Plan Update provides the following Goal and Policy on Historic Resources:

> <u>Goal</u>
> *Elbert County respects its rich history and encourages preservation of the resources that have contributed to the character of the County.*
>
> <u>Policy HR1</u>
> *The County should encourage the preservation of historical sites and buildings as well as important archeological and paleontological sites.*

The proposed Rezoning and Minor Residential Development were referred out to the Elbert County Historic Society. The Historic Society did not provide comments in response to the referral request and raised no concerns regarding the historic nature of the railroad bed.

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Because the proposed Rezoning and Minor Residential Development have no federal or state nexus (connected action) the Atkinson's have no regulatory obligation to preserve the railroad bed, even if it was found to be a historic site.

Water Feature and Wetlands

CDS staff researched the Atkinson property on the US Fish and Wildlife Service National Wetlands Inventory data base and found no identification of potential wetlands on the Atkinson property. See attached map.

Referral requests were sent out to the Elbert County Public Works Department. Their response did not identify any concern with storm water run-off or flooding onto CR 17/21 or CR 106. In follow up conversations with Rory Hale, he stated that storm water flooding has not been a problem.

Respectfully submitted to and on behalf of Elbert County,

Vincent Hooper, PMP
Senior Planner
Baseline Corporation

CC: Vince Harris, AICP, Baseline Corporation
Christina Stanton, AICP, CDS Director

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Attachments:

EST Traffic Letter
Hale Email Response to EST Traffic Letter
Olson Letter
Atkinson Letter
Atkinson Property National Wetlands Inventory

Fresh Approach | New Ideas | Trusted Experts

1873 S Bellaire Street, Suite 1101
Denver, CO 80222
P (303) 798-9445 F (303) 798-9462

August 31, 2018

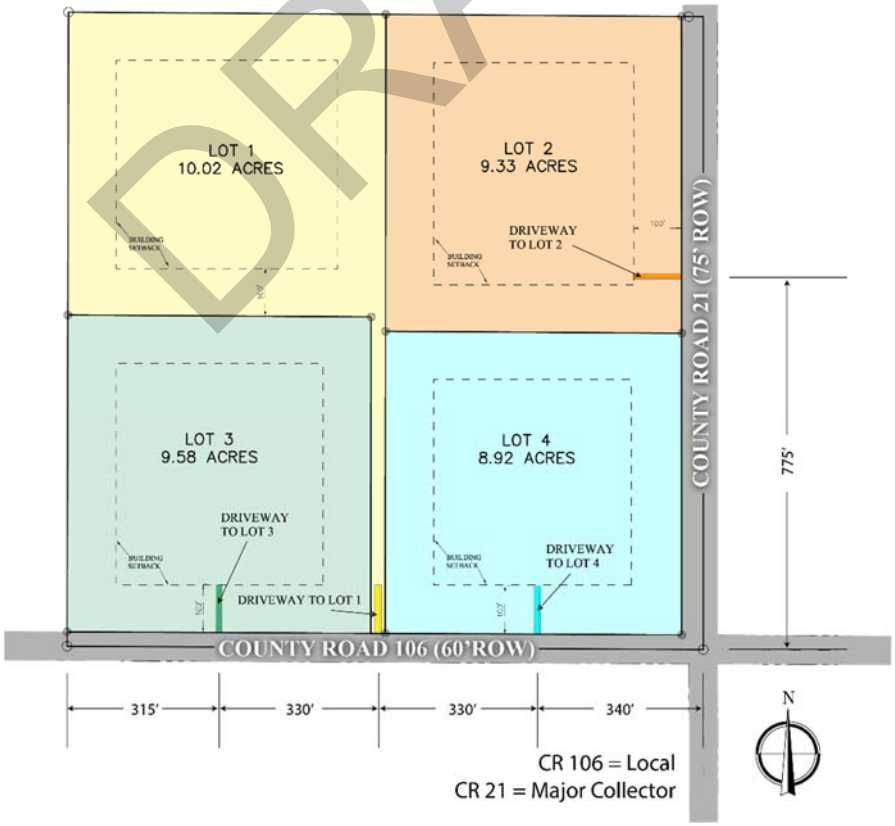
Mr. Tom Maroney
Chief Title Officer
Colorado Escrow & Title
10851 S. Crossroads Dr., Suite B
Parker, CO 80134

Re: Traffic Letter
Atkinson AR Rezone & Minor Residential Development
(CDS Case No. RZ-17-0047 & MD-17-0048)
Elbert County, CO
EST Job Number 6008544

Dear Mr. Maroney:

This letter discusses the available entering sight distance and proposed residential driveway spacing for the Atkinson Rezone. The site is located at the northwest corner of the intersection of County Road (CR) 21 and CR 106 in Elbert County, Colorado. The project plans to subdivide a currently vacant, 40-acre parcel into four single-family detached housing lots. The site is planned to be rezoned from A-Agriculture to AR-Agriculture Residential. **Figure 1** depicts the proposed site and access plan.

Figure 1. Proposed Site and Access Plan



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SIGHT DISTANCE EVALUATION

EST, Inc. completed a site visit on Tuesday, August 28, 2018 to verify the currently posted speed limits on CR 21 and CR 106 adjacent to the site, field locate the proposed driveways, and measure the entering sight distance.

The currently posted speed limits on CR 21 and CR 106 adjacent to the site are 55 miles per hour (mph) and 35 mph, respectively.

Criteria contained in Section 728.04 of the *Elbert County Roadway Construction Standards & Specifications, 2007 Edition* indicates that the entering sight distance required for passenger cars and pickup trucks onto a two-lane roadway with a posted speed limit of 55 mph is 550 feet and for 35 mph is 350 feet. Sight distance to the south along CR 21 and to east along CR 106 is unobstructed for greater than ¾ mile. Crest vertical curves on CR 21 to the north and CR 106 to the west of the site limit entering sight distance somewhat. **Table 1** summarizes the entering sight distance measured at each proposed residential driveway location. **Attachment A** contains photos taken during the site visit at each proposed driveway location. **The measured entering sight distance at each of the proposed residential driveway locations greatly exceeds the minimum required.**

Table 2. Driveway Entering Sight Distance Summary

Driveway Location	Measured Sight Distance	Required Sight Distance	Criteria Met?
Lot 1 – CR 106 670’ west of CR 21	> 3,960’ to east 1,080’ to west	350’	Yes
Lot 2 – CR 21 775’ north of CR 106	1,100’ to north > 3,960’ to south	550’	Yes
Lot 3 – CR 106 1000’ west of CR 21	> 3,960’ to east 750’ to west	350’	Yes
Lot 4 – CR 106 340’ west of CR 21	> 3,960’ to east 1,410’ to west	350’	Yes

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ACCESS REQUIREMENTS AND CRITERIA

EST, Inc. compared the proposed residential driveway spacing to the access requirements and criteria contained in Section 1100 of the *Elbert County Roadway Construction Standards & Specifications, 2007 Edition*.

The *West Elbert County Transportation Master Plan, September 2008* by Jacobs Carter Burgess indicates that CR 21 currently is classified as a Minor Arterial, but the future roadway system map shows CR 21 as a Major Collector. Given the projected 2035 future traffic volume of 1,700 vehicles per day (vpd) along the segment of CR 21 near CR 106, a Major Collector classification was assumed for this evaluation. CR 106 to the west of CR 21 is classified as a Local.

Section 1123.03 of the *Elbert County Roadway Construction Standards & Specifications, 2007 Edition* states, "On collectors with an ultimate projected traffic volume of less than 2,500 vpd, intersection spacing may be 250 feet (centerline to centerline). The driveway to Lot 2 is proposed to be located on CR 21 approximately 775 feet (centerline to centerline) to the north of CR 106 and nearly 1,500 feet from the next closest driveway to the north. **Thus, the proposed location of the driveway to Lot 2 along CR 21 meets the access spacing requirements.**

Section 1123.04 of the *Elbert County Roadway Construction Standards & Specifications, 2007 Edition* states, "On a local street, the closest intersection to a collector street shall be at least 200 feet (centerline to centerline). **The driveway to Lot 4 along CR 106 is planned to be located approximately 340 feet (centerline to centerline) to the west of CR 21 and meets the access spacing requirements.**

In addition, the County's curb opening and driveway criteria govern private access to local streets. Section 1154.00 states, "The minimum spacing between curb openings shall be 35 feet measured at the curb line. This spacing will apply to the distance between drives serving adjoining properties." The proposed driveways to CR 106 are planned to be located greater than 300 feet apart. **The proposed driveways to Lots 1 and 3 along CR 106 meet the access spacing requirements.**

Furthermore, all four of the residential driveway locations for the Atkinson Rezone, as currently proposed, satisfy the criteria in Section 1151.00 since each single-family residential property is limited to one access point. The requirements of Section 1153.00 are satisfied since each driveway approach is planned to intersect the centerline of the street at 90 degrees.

We trust this traffic letter will assist you in gaining approval of the Atkinson Rezone. Based upon our review, the available sight distance and proposed driveway spacing comply with the applicable Elbert County standards and specifications.

Sincerely,
EST, Inc.

COLORADO LICENSED
DEVIN C. JOSLIN
49242
08/31/18
PROFESSIONAL ENGINEER

Devin C. Joslin

Devin C. Joslin, PE, PTOE
Senior Traffic Engineer

DCJ:ss

Enclosures: Attachment A: Site Visit Photos

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Attachment A: SITE VISIT PHOTOS

Photo 1 Lot 1 Driveway Looking East along CR 106

Photo 2 Lot 1 Driveway Looking West along CR 106

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Photo 3 Lot 2 Driveway Looking North along CR 21

Photo 4 Lot 2 Driveway Looking South along CR 21

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Photo 5 Lot 3 Driveway Looking East along CR 106

Photo 6 Lot 3 Driveway Looking West along CR 106

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Photo 7 Lot 4 Driveway Looking East along CR 106

Photo 8 Lot 4 Driveway Looking West along CR 106

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Vince Hooper

From: Rory Hale <Rory.Hale@elbertcounty-co.gov>
Sent: Tuesday, September 11, 2018 12:54 PM
To: Vince Hooper
Cc: Christina Stanton; Vince Harris; 'Sean O'Hearn'
Subject: RE: Atkinson Traffic Letter

Vince,

Public Works and Engineering have reviewed the Atkinson traffic letter, and what they are proposing is in compliance with the Elbert County Roadway Construction Standards and Specifications. Although the West Elbert County Transportation Master Plan is to be referenced as a "guide", the traffic letter meets the intent of this plan as well. We have no further comments regarding this application.

Regards,

Rory T. Hale
DPW Director
Elbert County Government
215 Comanche Street
PO Box 7
Kiowa, CO 80117
Office 303-621-3156
Fax 303-621-2343
rory.hale@elbertcounty-co.gov

DRAFT

From: Vince Hooper [mailto:vince.hooper@baselinecorp.com]
Sent: Tuesday, September 11, 2018 12:31 PM
To: Rory Hale; Sean O'Hearn
Cc: Christina Stanton; Vince Harris
Subject: Atkinson Traffic Letter

Rory,

From our conference call last week you were going to send me a review letter on the Atkinson Traffic Letter. I would appreciate it if you could do that at your convenience. Attached is the final, signed copy of the letter.

Thank you,

Vincent Hooper, PMP

****We have moved** Please note our new corporate HQ address**
112 N. Rubey Drive, Suite 210, Golden, CO 80403

4729 County road 106
Elbert, Colorado
80106

olsondomicile@msn.com

Community and Development Services Office
P.O. Box 7
215 Comanche Street
Kiowa, Colorado 80117

To Whom It May Concern,

I am writing about the Atkinson AR Rezone RZ-17-0048 and Minor Residential Development MD-17-0048. This proposal changes an approximately 40 acre parcel of land currently zoned "agricultural" to "agricultural/residential" and requests a variance which would allow a subdivision of 4 residential lots of between 9 and 10 acres each. This project was reviewed in a Planning Commission Meeting on Tuesday, August 7 at 7:00 pm. The project was approved by the Planning Commission with statements that there were no historic features or water elements on the land. Furthermore, for reasons that were unclear in light of the number and frequency of accidents at the intersection of C.R. 106 and C.R. 17/21, it was decided that a formal traffic analysis was not needed and that a letter of opinion from a traffic engineer was sufficient.

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There are several points of information about the project that have been suppressed and need to come to light, if The County Commissioners are indeed committed to the health and safety of residents. There were, in fact, historic and water features on the site that have been systematically removed by the owner during the dead of winter. For three months, roughly January - March 2018, they had someone drive a tractor with a blade back and forth over a twentieth century railroad bed that had been built to service the dairy farms out here and carry milk and lumber back to Denver. Besides the obvious loss of historic context, this did three things that should be addressed before permission is given to go ahead with this project.

1. The "clinkers"or slag that comprised this raised railroad bed have been spread around and buried on the site where they could leach heavy metal and other contamination into surrounding soils and ground water.

2. A seasonal wetland that was home to nesting migratory birds, such as Mallard Ducks and Great Blue Herons, and other riparian species, such as Bullfrogs and Peepers, has been drained, filled in, and no longer exists.
3. Because the wetlands has been eliminated, all the rain from our hill now washes directly across the site and onto the road (17/21) which now floods when there is a heavy rain.

The elimination of this wetland is possibly in violation of Section 404 of the Clean Water Act protecting The Waters of the United States.

I have attached before and after pictures of the wetlands and an aerial shot from Google Earth taken on June 6, 2017, which show the placement and scale of the railroad bed and the wetlands.

Before

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After

Google Earth 6/9/2017

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Thank you, in advance, for your consideration of these concerns.

Sincerely Yours,

Ruth Ann Olson

Ruth Ann Olson
303-863-9065

DJC ENTERPRISE INC.

DJC Enterprise Inc.
4702 County Road 106
Elizabeth, CO
80107

September 9, 2018

Community and Development Services Offices
PO Box 7
215 Comanche Street
Kiowa, Colorado 80117

To Whom It May Concern,
We are writing this letter in response to Ruth Ann Ohlson letter regarding the minor subdivision that we are requesting. Mrs Ohlson address several concerns that were completely false.

1. Any metal that surfaced during the blading of the old railroad hill has been mitigated. There was very little as it had already been cleaned up. If there are any additional piece of metal or "slag" they will be picked up when we drill or reseed the area that had been bladed down. We intend to reclaim that area with native grasses but because of the drought conditions this spring, we decided to do it in the fall when we can make sure the seed will germinate. The twentieth century railroad that Mrs Ohlson claims was a historic monument was nothing more than a hill that was about 10 foot wide and was about 1000 foot long. Most of the railway hill has been taken down along the path from Elizabeth to Elbert as can be seen on a google map. It was unsightly and a hazard to both humans and animals. We did have a blade operator drive back and forth across the area to flatten it. It was not more than 1/2 acre and to our knowledge, it did not require a permit.
2. This hill created a cesspool for run off water during heavy rain. We have lived in our residence for 10 yrs and we have only seen water in the area three or four times. It was not built to hold or direct water in any way as are some of the bentonite lined retention ponds in the area. There were no water foul or riparian species residing there. It only served as a mosquito trap that we as responsible livestock owners have absolutely no need use for.
3. That hill does not direct water in any way so there has been absolutely no flooding across the county road. We drive that road every day going to and from work and we have never seen any water cross any part of that intersection. Unfortunately, any run off water comes from the Ohlson residence and runs onto our land. It does not exit our property.

DRAFT

Sincerely yours,

Julie Atkinson -President

DJC Enterprise Inc.

303-638-8390

Dale Atkinson - Vice President

DJC Enterprise Inc.

303-638-1063

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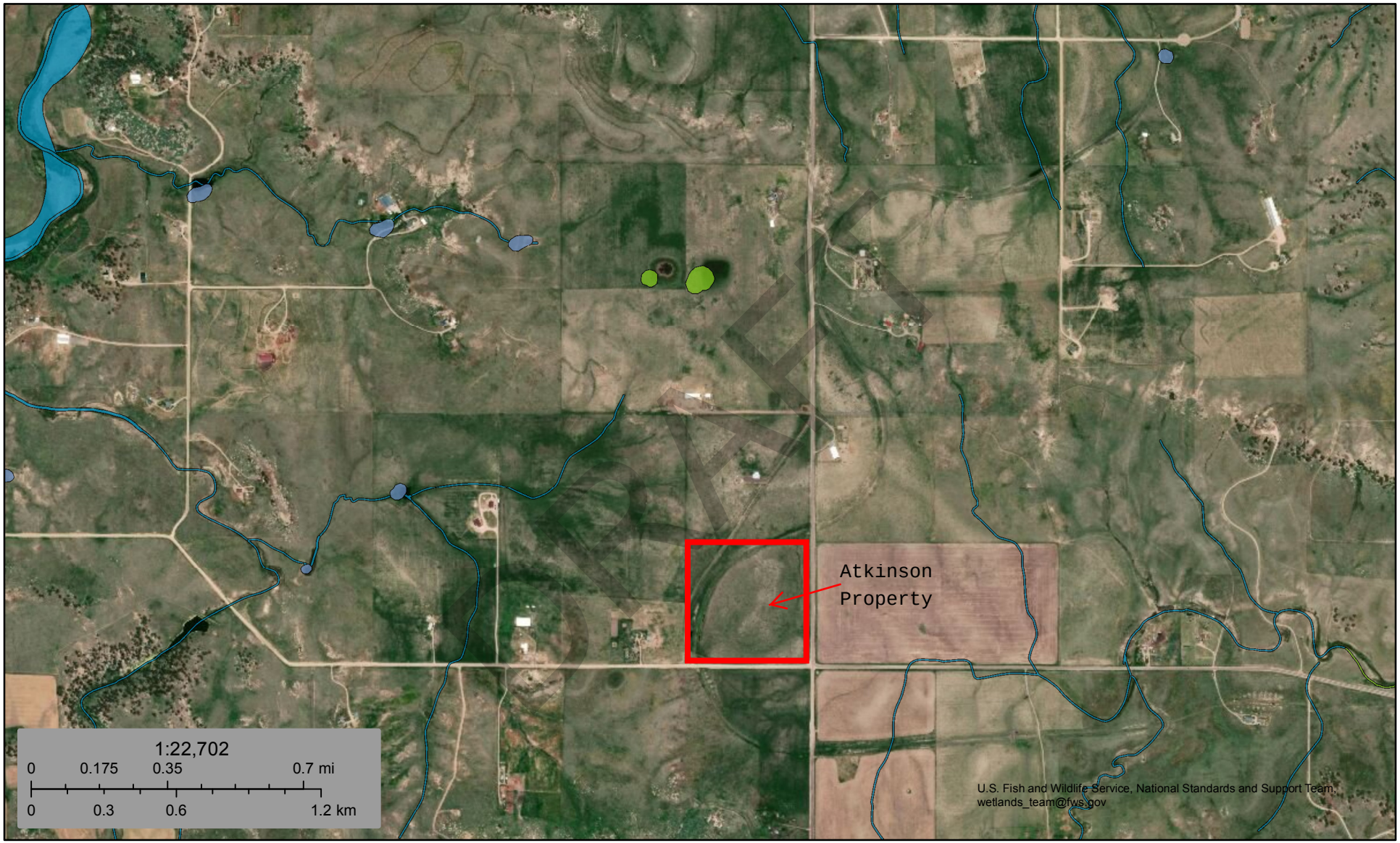
U.S. Fish and Wildlife Service
National Wetlands Inventory

Atkinson Property National Wetlands Inven



September 21, 2018

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

National Wetlands Inventory (NWI)
This page was produced by the NWI mapper