

EL PASO COUNTY



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DEVELOPMENT SERVICES DEPARTMENT

TO: El Paso County Planning Commission
Steve Sery, Chair

FROM: Carol Weber, Project Management Group Manager, Ext. #7943
Elaine Kleckner, Current Planning Manager
Carl Schueler, Long Range Planning Division Manager
Tara McGowan PE, Engineer III
Mike Garrott, Customer Service Division Manager
Mike Hrebenar, Operations Director

RE: P-07-004 – Ager Rezone
Tax Schedule # 42000-00-046

OWNER:

REPRESENTATIVE:

<p>Jerry and Karen Ager 8040 Blue Gill Drive Peyton, Colorado 80831</p>	<p>Pinnacle Land Surveying Co. Inc. John W. Towner 925 West Cucharras Street Colorado Springs, Colorado 80905</p>
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Commissioner District: 2

Planning Commission Hearing Date:	5/6/08
Board of County Commissioners Hearing Date:	TBD

EXECUTIVE SUMMARY

Request by Jerry and Karen Ager, for approval to rezone 39.574 acres from A-35 (Agricultural) zone district to the RR-5 (Residential Rural) zone district for development of the Ager Subdivision Filing 1; a three lot single family residential development. The property is located on the east side of Curtis Road and approximately 3/4 mile north of the intersection of Judge Orr Road and the Curtis Road and is within the Falcon / Peyton comprehensive planning area. Staff requests the conditions and notations identified in section C of this report.



A. PLANNING COMMISSION SUMMARY

Request Heard:

Recommendation:

Waiver Recommendation:

Vote:

Vote Rationale:

Summary of Hearing:

Legal Notice:

B. REQUEST/WAIVERS/AUTHORIZATION

A request by Jerry and Karen Ager, for approval to rezone 39.574 acres from A-35 (Agricultural) zone district to the RR-5 (Residential Rural) zone district for development of the Ager Subdivision Filing 1; a three lot single family residential development.

C. STAFF RECOMMENDATION

Staff recommends approval of the rezone request with the conditions and notations identified in section C of this report.

CONDITIONS OF APPROVAL

1. Applicable park and school fees shall be paid with any final plats.
2. Developer shall comply with federal and state laws, regulations, ordinances, review and permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service.
3. The Rezone Map shall be resubmitted prior to scheduling for consideration by the Board of County Commissioners with a revised note regarding Gladstan Acres covenants, reflecting that the covenants have been rescinded.

NOTATIONS

1. If a zone or rezone petition has been disapproved by the Board of County Commissioners, resubmittal of the previously denied petition will not be accepted for a period of one (1) year if it pertains to the same parcel of land and is a petition for a change to the same zone that was previously denied. However, if evidence is presented showing that there has been a substantial change in physical conditions or circumstances, the Planning Commission may reconsider said petition. The time limitation of one (1) year shall be computed from the date of final determination by the Board of County Commissioners or, in the event of court litigation, from the date of the entry of final judgment of any court of record.
2. Rezoning requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action will be deemed withdrawn and will have to be resubmitted in their entirety.

3. Approval of this rezoning does not guarantee the ability to develop this property under the maximum densities permitted in the RR-5 (Residential Rural) zone district. The number, area and/or configuration of lots both at this time and in the future depends on the ability to meet Land Development Code requirements and may be impacted by factors including but not necessarily limited to water supply, septic suitability and access.
4. The applicant and future property owners are put on notice that higher density residential and non-residential land developments may be approved and implemented in the vicinity of this property based on elements of the El Paso County Master Plan, such as small area plans.

D. APPLICABLE RESOLUTIONS

Approval	Page 21
Disapproval	Page 22

E. LOCATION

Abutting zoning/land use:

North:	A-35 (Agricultural)/unplatted, residential use
South:	A-35 (Agricultural)/unplatted, agricultural and residential uses
East:	A-35 (Agricultural)/unplatted, agricultural use
West:	A-35 (Agricultural)/unplatted, agricultural, residential and commercial (outdoor storage) uses

Please see attached Vicinity Map.

F. BACKGROUND

The property is currently zoned A-35. There were inquiries regarding the development potential of the site in 2004 and 2006, but no land use applications were submitted. The property is vacant.

A three-lot minor subdivision is being processed concurrently with this rezoning request (MS-07-002).

G. STATUS OF MAJOR ISSUES

Although the Long Range Planning Division is recommending that a finding of Master Plan sufficiency can be made for this low density rural residential subdivision with respect to the current Falcon/ Peyton Comprehensive Plan (1993) and other relevant El Paso County Master Plan elements, staff does note that the area in this general vicinity is currently under transition and has the potential for development as an urban node. Some commercial and phased mixed use developments have been approved to the north and west in the vicinity of

the future intersection of Curtis/Stapleton and Highway 24. To the south on Curtis, the approved Santa Fe Springs and Meadowlake Airport plans depict significant commercial and other urban development. The most recent draft proposal for the amended Falcon/Peyton Small Area Master Plan contemplates two commercial nodes, one at the intersection of Curtis with Judge Orr and another at new Curtis and Highway 24. The current draft also depicts the larger vicinity for proposed future urban densities, with no assumption that rural residential development should be encouraged or overly accommodated. Because of this, staff is recommending a notation which would have the effect of putting the property on notice that higher density development may occur in the area, in the future.

H. APPROVAL CRITERIA

1. LAND DEVELOPMENT CODE COMPLIANCE

The application for rezoning complies with the submittal requirements found in Chapter IV, Section 4.A of the old El Paso County Land Development Code (old Code procedural requirements apply in the absence of new procedures).

Based on case law and old Code provisions, the review standard for rezoning is consistency with the El Paso County Master Plan. Please see Policy Plan and Small Area Plan comments, below, on the issue of Master Plan consistency.

2. ZONING COMPLIANCE

The proposed RR-5 (Residential Rural) zone district standards are as follows:

- Minimum lot size – 5 acres (may be as small as 4.75 if burdened by a section line road)
- Setbacks – 25 feet from front, side and rear
- Maximum building height – 30 feet
- Maximum lot coverage – 25%

3. POLICY PLAN COMPLIANCE

On issues of site-specific land use and density, The *El Paso County Policy Plan* (1998) largely defers to the corresponding Small Area Plan element which is the Falcon/ Peyton Comprehensive Plan (1993), in this case. See comments, below

The El Paso County Policy Plan does not include site-specific land use policies, but establishes broad policies and goals which are intended to serve as a framework for decision-making regarding the development of the County. The following are policies and goals from the Countywide Policy Plan as they specifically relate to this request:

Goal 6.1 a Encourage patterns of growth and development which complement the regions' unique natural environments and which reinforce community character.

Goal 6.1.b *Support growth and development in the unincorporated County in a manner which reasonably limits long term public costs, provides for the development of supporting infrastructure, preserves environmental quality, provides economic opportunities, and otherwise enhance the quality of life.*

Policy 6.1.2

Discourage the location of small discontinuous land development projects where these might not develop the critical land area and density necessary to be effectively provided with services or remain viable in the face of competing land uses.

Although staff recommends a finding of El Paso County Master Plan consistency at this time, a notation is proposed to put the property on notice that this area may well transition into higher density uses in accordance with plans for properties in the vicinity which are either already approved or may be approved as consistent with the new Falcon/Peyton Small Area Master Plan.

Policy 6.1.3

Encourage new development which is contiguous and compatible with previously developed areas in terms of factors such as density, land use and access.

See comment for 6.1.2 above.

Policy 6.1.4

Encourage the logical timing and phasing of development to allow for the efficient and economical provision of facilities and services.

See comment for 6.1.2 above.

Policy 6.1.8

Encourage incorporating buffers or transitions between areas of varying use or density where possible.

See comment for 6.1.2 above.

Policy 6.2.11

Encourage compatible physical character, density and scale in existing neighborhoods.

Chapter 9 of the Policy Plan includes policies that stress the importance of limiting access to major corridors and providing access to and between subdivisions. Access within this subdivision will be limited to one indicated point on Curtis Road, and the flag stem to the back lot will allow for an access road through the property in the event the property were to be further subdivided in the future.

4. SMALL AREA PLAN COMPLIANCE

1. This property is in the Falcon Peyton Comprehensive Plan. Specifically, this property is in Land Use Scenario #7 Prairie Plains. This Scenario States:
 - “Considering the open agricultural nature of this unit, residential development should be discouraged.
 - If zoned, this area should also be zoned in the A-35 category.”

The above information is directly from the recommendation of the Falcon Peyton Comprehensive Plan. The verbiage from the plan states that lots smaller than A-35 are not recommended. The concept plan map does show that the area could be developed to “future RR3” (which is now referred to as RR5). There appears to be some inconsistency with the recommendations of the Plan, the map and this proposed rezone and subdivision. However, there have been approvals in this vicinity based on the change of character in the area. This proposal would appear to be consistent with other recent approvals in the vicinity, and there can be some case made for a “material change in the character of the area” based on these approvals and plans for the connection of Stapleton to Curtis in association with the therefore the Long Range Planning Division recommends that a finding of El Paso County Master Plan consistency can be made on the issue of density.

The Falcon Peyton Plan, as well as the Countywide Policy Plan discusses the importance of adequate access and transportation links. The Plan discusses that in the area some large agricultural parcels rely on private roads or recorded easements for access. Sometimes, particularly in the case of subdivision, problems arise with lack of maintenance, poor emergency vehicle access, or denial of access to back lots. This is also discussed in the Policy Plan, Chapter 9.

It is also noted that the Falcon/Peyton Small Area Master Plan is in the process of being updated. The draft of the new plan, although not adopted, depicts an area and node of potential urban development.

5. OTHER MASTER PLAN ELEMENTS

The *Major Transportation Corridors Plan* is primarily addressed by the Engineering Division. Curtis Road is depicted as a major arterial with the need to strictly limit access. However, the approved new alignment of Curtis does not include this segment such that it will function as a relatively local access road in the future. The Master Plan for Extraction of Commercial Mineral Deposits depicts upland deposits on the site. Staff presumes these are not particularly viable commercially and should not create any issues with respect to consistency with this plan. There should be no impacts with respect to the El Paso County Department of Parks and Leisure Services Master Plan (2004).

I. PHYSICAL SITE CHARACTERISTICS:

1. HAZARDS

There are no known soils or geological hazards. See Drainage and Erosion section, below.

2. WILDLIFE

The El Paso County Wildlife Habitat Descriptors (1996) depicts only low potential wildlife constraints for this property.

3. FLOODPLAIN

There are no Federal Emergency Management Agency (FEMA) mapped floodplains located within or near the subject property.

4. DRAINAGE AND EROSION

The subject property is located in the Gieck Ranch Drainage Basin. This basin is currently under study but has not been approved. Drainage and Bridge fees have not been adopted.

The site drains generally from northwest to southeast at grades of approximately 2%. Natural vegetation onsite consists of native grasses and weeds. A drainage report was submitted with the application. The applicant's engineer identified two natural drainageways on site that are contained within drainage easements on the final plat. The engineer concludes that this development "will not adversely impact or deteriorate improvements or natural drainageways downstream of the property". The statement is supported by calculations and analysis in the final drainage report.

No construction is proposed with this subdivision. However, individual lot owners will be required to obtain a Builder's Erosion and Stormwater Quality Control Permit from El Paso County prior to any earth disturbance for home construction.

5. TRANSPORTATION

The subject property is located along an access road south and east of State Highway 24 and north of Judge Orr Road. This section of roadway is private, as it is neither owned nor maintained by El Paso County. Therefore, a waiver from the public frontage requirements of the Land Development Code is being requested with the minor subdivision application.

The access road is a 24 foot wide unimproved roadway with minimal roadside ditches that extends approximately 2,300 feet from State Highway 24 before it terminates at a driveway to a single family residence. The access road is contained within a right of way easement as recorded in the records of El Paso County at book 2055, page 502. The road currently abuts approximately 12 parcels, 8 of which currently utilize the access road. Staff visited the site with both Peyton and Falcon Fire Protection District representatives to assess the structural integrity of the access. Both entities agreed that the access was acceptable to service fire district needs. Maintenance and future paving

of the roadway was addressed as a condition of approval for the Perfect Fit Wellness Center Rezone approved by the Board of County Commissioners on March 3, 2008. The County Attorney found that the parcel has legal access.

The access road is identified in the Stapleton Corridor Study, Preferred Access Control Concept as a public road. The applicant is dedicating 30 feet of right of way with an additional 10 foot public improvements easement with the minor subdivision to facilitate this plan.

J. SERVICES

1. WATER: N/A

Quality: N/A

Quantity: N/A

Dependability: N/A

2. SANITATION

This property would be served by individual onsite wastewater systems.

3. EMERGENCY SERVICES

Fire protection and emergency services will be provided by the Peyton Fire Protection District. The applicant will be required to provide a commitment to serve from the District as part of subdivision submittal requirements.

4. UTILITIES

Mountain View Electric Association will serve the site.

5. METROPOLITAN DISTRICT STATUS

This property is not located within the boundaries of any Title 32 Metropolitan Districts.

K. PUBLIC COMMENT AND NOTICE

The Development Services Department notified nine (9) adjoining property owners on April 22, 2007. No responses have been received.

L. ATTACHMENTS

Vicinity Map

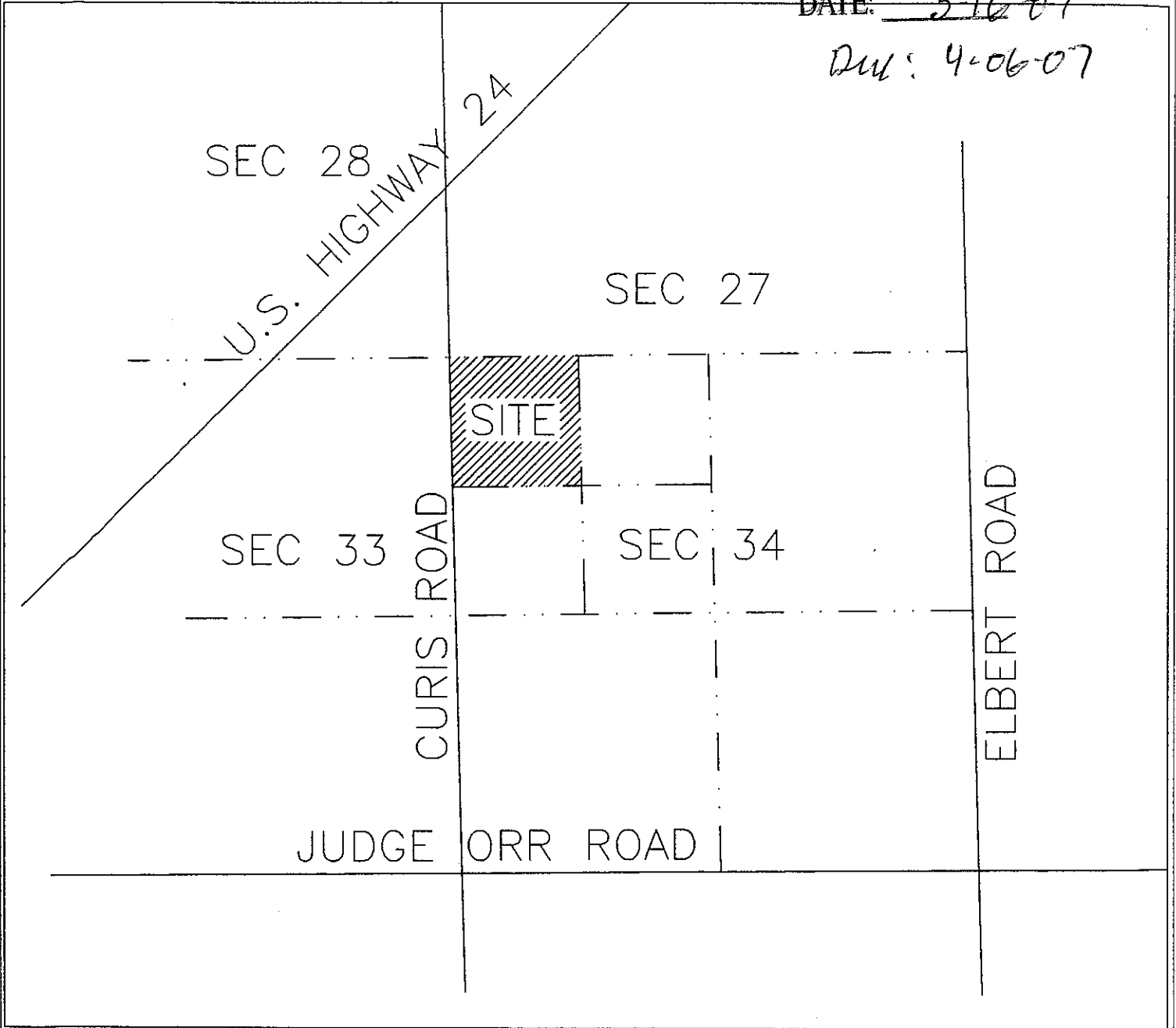
Letter of Intent

Rezone Map

AGER SUBDIVISION
FILING NO. 1
VICINITY MAP

VERSION: 1st Submitted
DATE: 3-16-07

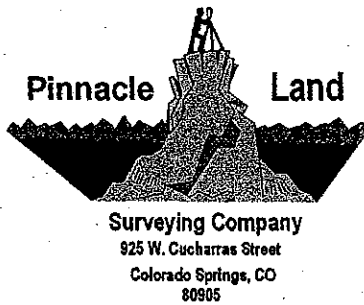
DW: 4-06-07



For and on Behalf of
Pinnacle Land Surveying Co., Inc.
John W. Towner
P.L.S. #25968



PINNACLE LAND SURVEYING, INC. 925 W. Cucharrae, Colorado Springs, CO 80905		
VICINITY MAP AGER SUBDIVISION FILING NO. 1		
SCALE: N.T.S.	DRAWN BY: MWW	FILE: 04012000EXH.DWG
DATE: 02/28/07	CHECKED BY: JWT	JOB NO. 04012000



RECEIVED

JAN 28 2008

EPC DEVELOPMENT SERVICES

**LETTER OF INTENT
AGER SUBDIVISION FILING NO. 1
December 13, 2007**

OWNERS:

**JERRY & KAREN AGER
8040 Blue Gill Drive
Peyton, Co 80831-8226**

SURVEYING CONSULTANT:

**Pinnacle Land Surveying Co., Inc.
925 W. Cucharras St.
Colorado Springs, CO 80905
719-634-0751 (John Towner)**

**VERSION # 4
DATE 1/29/08**

SITE LOCATION, SIZE AND ZONING:

The site is located in the Northwest One-Quarter (NW1/4) of the Northwest One-quarter (NW1/4) of Section 34, Township 12 South (T12S), Range 64 West (R64W) of the 6TH P.M., on Curtis Road Southerly of U.S. Highway 24 and Northerly of Judge Orr Road, east of Colorado Springs.

The parcel to be platted is the Northwest One-Quarter (NW1/4) of the Northwest One-quarter (NW1/4) of Section 34. The site is currently zoned A-35 (agricultural) and is requested to rezone the property to the RR-5 (rural residential) to conform to El Paso County regulations. The site being platted contains 39.574 acres more or less.

PRESENT AND PROPOSED ZONING:

(Present) A-35 (Agricultural)
(Proposed) RR-5 (Residential Rural)

REQUEST:

A request for Rezone and approval for a three (3) lot Minor Subdivision Plat of Ager Subdivision Filing No. 1, and a waiver of the 60' frontage requirements to a publicly maintained road for a subdivision per Section 49.1-I and 49.2-C-3.a.

JUSTIFICATION:

The surrounding properties are currently zoned A-35 and vary in size from 8 acres to 140 acres more or less. The proposed development will contain 3 lots, two of which will be approximately 5 acres in size and one will be approximately 29 acres in size. The current property will be rezoned to the RR-5 zone, keeping in conformance with the El Paso County regulation.

The adjacent properties to the North are 8 and 10 acre parcels zoned A-35 and are being utilized as residential properties. Approximately 3/4 of a mile South (at the Southwest corner of the intersection of Judge Orr

Road and Curtis Road) are the Meadow Lake Estates Subdivisions consisting of 60 lots more or less, 5 acres in size and zoned RR-3. Approximately 1.5 miles East of this property in Section 26 is Heritage Ranch Estates consisting of 59 lots more or less, 5 acres in size and zoned RR-3 and Northeast along U.S. Highway 24 in Section 23 is Prairie Vista Meadows Subdivisions consisting of numerous lots, 5 acres in size and zoned RR-3.

The Falcon/Peyton Plan Open Agricultural Area and Long Range Planning are already in conflict with the above mentioned properties. Some of the surrounding properties that range from 8 acres to 20 acres are also zoned A-35 and being utilized as residential properties less than 35 acres.

This property, along with the adjoining properties are, and historically have been, accessed by this portion of Curtis Road, which is a private maintained road and described in the Gladstan Acres Protective Covenants as Rights-of-Way for ingress/egress and utilities recorded in Book 2055, Page 502.

The proposed development maintains the integrity of the El Paso County Master Plan and allows for the development of rural residential properties and open space.

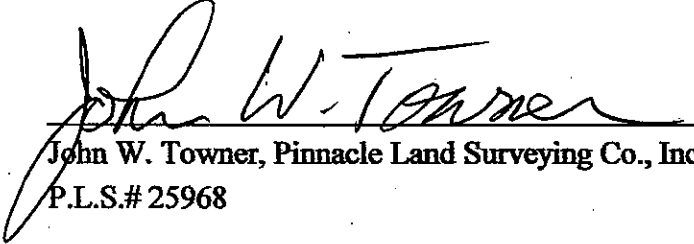
EXISTING AND PROPOSED FACILITIES, STRUCTURES, ROADS, ETC.

The property being platted is currently vacant land. Water wells, septic tanks, propane tanks, electrical service, cable and phone services are within the near vicinity.

Electrical utilities are available adjacent to the site or within the near vicinity and will be provided by Mountain View Electrical Association. Wells, Septic Systems and Propane tanks will be provided by the individual property owners and installed according to the County and State regulations as required, upon construction of residence.

Fire protection is provided by Peyton Fire Protection District. Any normal, associated development improvements as required by County regulations will be installed by the developer.

There are no proposed structures at this time. Any and all future construction of residential structures, out buildings and stables will require compliance with the El Paso County regulations and require approval of the Development Services and Building Departments.


John W. Towner, Pinnacle Land Surveying Co., Inc.
P.L.S.# 25968

