

# EL PASO

COMMISSIONERS:  
DARRYL GLENN (PRESIDENT)  
MARK WALLER (PRESIDENT PRO TEMPORE)



# COUNTY

STAN VANDERWERF  
LONGINOS GONZALEZ  
PEGGY LITTLETON

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT  
CRAIG DOSSEY, EXECUTIVE DIRECTOR

**TO:** El Paso County Board of Adjustment  
Kevin Curry, Chair

**FROM:** Len Kendall, Planner I  
Beck Grimm, EI Engineer I  
Craig Dossey, Executive Director

**RE:** Project File #: BOA-18-008  
Project Name: 13980 Black Forest Road BOA  
Parcel No.: 52060-01-008

<b>OWNER:</b> Goebel Construction, Inc. 6840 Brentwood Drive Colorado Springs, CO 80908	<b>REPRESENTATIVE:</b> Mark D. Francis 1880 Office Club Pointe, Suite 1000 Colorado Springs, CO 80920
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**Commissioner District: 1**

<b>Board of Adjustment Hearing Date:</b>	<b>1/9/2019</b>
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## EXECUTIVE SUMMARY

A request by Goebel Construction, Inc., for a dimensional variance of lot area to allow two (2) parcels of 2.5 acres in the RR-5 (Residential Rural) zoning district where five (5) acres is required. The parcel was previously platted legally prior to subdivision and zoning as two 2.5-acre parcels. A vacation of interior lot line application (VA-91-007) was approved on September 18, 1991, thus combining the two parcels into one 5-acre parcel. That vacation action was recorded with the El Paso County Clerk and Recorder's Office and created the parcel as it currently exists, which conforms to the five acre minimum lot size requirement in the RR-5 zoning district. Once the parcel was made conforming as to the lot area minimum in the zoning district it lost all of the nonconforming benefits it may have had prior to the vacation of the interior lot line. The applicant is requesting to revert back to the original configuration by creating two (2) parcels, with each having 2.5 acres.

2880 INTERNATIONAL CIRCLE, SUITE 110  
PHONE: (719) 520-6300



COLORADO SPRINGS, CO 80910-3127  
FAX: (719) 520-6695

**A. REQUEST**

A request by Goebel Construction, Inc., for a dimensional variance of lot area to allow two parcels of 2.5 acres in the RR-5 (Residential Rural) zoning district where five (5) acres is required.

**B. APPROVAL CRITERIA**

Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Land Development Code (2015), states the following:

*“The Board of Adjustment is authorized to grant variances from the strict application of any physical requirement of this Code which would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Practical difficulties and hardship, in this context, may exist where the legal use of the property is severely restricted due to:”*

- 1) *“The exceptional narrowness, shallowness, or shape of the specific piece of property.”*

Exceptional narrowness, shallowness, or shape is not applicable

- 2) *“The exceptional topographic conditions or other extraordinary or exceptional situation or condition of the piece of property.”*

Exceptional topographic conditions or other extraordinary or exceptional situations or conditions are not applicable.

However, Section 5.5.2.B.2.a, Variance to Physical Requirements, of the Code continues by stating the following:

*“The Board of Adjustment may also grant variances from the strict application of any physical requirement of this Code based upon equitable consideration, finding that the burdens of strict compliance with the zoning requirement(s) significantly exceed the benefits of such compliance for the specific piece of property and;”*

- *“The variance provides only reasonably brief, temporary relief; or”*

The dimensional variance would provide permanent relief of the lot size requirement in the RR-5 (Residential Rural) zoning district.

- *“The variance request includes an alternative plan, standards or conditions that substantially and satisfactorily mitigate the anticipated*

*impacts or serve as a reasonably equivalent substitute for current zoning requirements; or”*

The variance does not include an alternative plan, standards, or conditions that substantially and satisfactorily mitigate the anticipated impacts or serve as a reasonably equivalent substitute for current zoning requirements.

- *“Some other unique or equitable consideration compels that strict compliance not be required.”*

The subject five acre parcel was previously divided as two, 2.5-acre parcels split horizontally as Lots 6 and 7, Block 1 of the Apache Woods Subdivision. An application was made in 1991 to vacate the interior lot line to create a single five acre parcel that is in conformance with the five (5) acre minimum lot size requirement of the RR-5 zoning district. The vacation of the interior lot line (V-91-007) was approved on September 18, 1991. The vacation of the interior lot line created one parcel that is legally conforming to the RR-5 (Residential Rural) zoning district.

### **C. BACKGROUND**

The parcel was created as two parcels via platting of the land in August of 1959, prior to when subdivision regulations came into effect in Colorado on July 17, 1972. These parcels were also created prior to zoning in this area of the County, which occurred on September 21, 1965. This parcel was initially zoned as A-4 (Agricultural Farming) which has gone through nomenclature changes to be renamed as the RR-5 (Residential Rural) zoning district. The RR-5 zoning district has required a minimum lot size of five (5) acres since 1965. In 1991, an application (V-91-007) was made to vacate the interior lot line between Lots 6 and 7. The applicant's letter of intent in 1991 stated that the vacation was needed in order to, “[S]ubstantially bring the property into compliance with County zoning and the Black Forest Land Use Plan.”

This parcel is located within sub-area 1 (The Timbered Area) in the Black Forest Preservation Plan (1987), which states that this area should be for low density rural residential uses and calls for an overall density of one (1) dwelling for every five (5) acres.

There have been two (2) other vacations of interior lot lines in this area by the same applicant. The parcels that were merged were Lots 3 and 4 of the Apache Woods subdivision (V-91-008) and Lots 1 and 2 of the Apache Woods Subdivision (V-91-009). All of these vacations resulted in five (5) acre parcels. One of the parcels in this area of the Apache Woods Subdivision was left unmerged (Lot 5) and contains 2.67 acres. Sections of the original subdivision plat for Apache Woods have been re-platted twice causing the lot

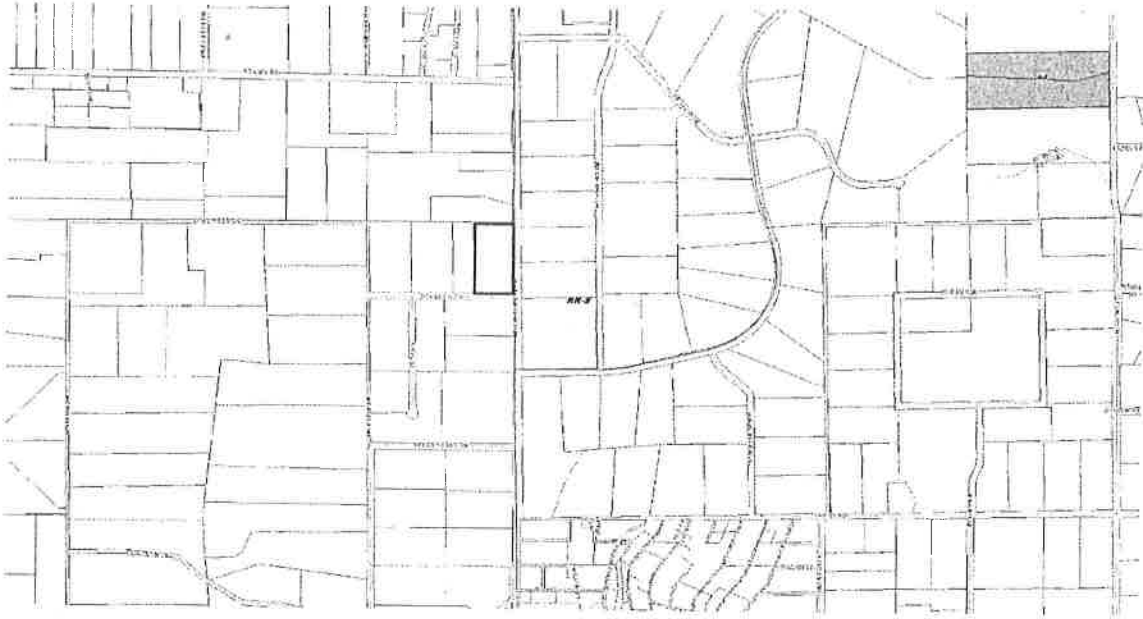
sizes to become more conforming with the RR-5 zoning district standard. This area of the plat (Block 2) went from five (5) lots to three (3) lots, all of which are now larger than the originally platted parcels.

#### D. ALTERNATIVES EXPLORED

There are two (2) alternative options for the applicant to come into compliance that would not require a dimensional variance request:

- A variance of use application could be applied for to allow a second dwelling on the parcel.
- A rezoning of the property to a zoning district having a smaller minimum lot size could be applied which could allow for a minimum lot area of 2.5 acres (e.g., the RR-2.5 zoning district, which includes a minimum lot size of 2.5 acres). Staff will note, however, that such a rezoning to a more dense residential zoning district would cause the zoning of the property to be inconsistent with the surrounding zoning in the area as well as with the five acre density recommendation of the Black Forest Preservation Plan (1987). The Code requirements for a Map Amendment (rezoning) include criteria for approval that shall be met which include:
  - The application is in general conformance with the El Paso County Master Plan including applicable Small Area Plans or there has been a substantial change in the character of the neighborhood since the land was last rezoned;
  - The rezoning is in compliance with all applicable statutory provisions, including but not limited to C.R.S. § 30-28-111 § 30-28-113, and § 30-28-116;
  - The proposed land use or zone district is compatible with the existing and permitted land uses and zone districts in all directions; and
  - The site is suitable for the intended use, including the ability to meet the standards as described in Chapter 5 of the Land Development Code, for the intended zone district.

The Land Development Code and the recommendation of the Black Forest Preservation Plan would not support a rezoning in this area because not all of the criteria can be met, particularly the requirement for compatibility with the surrounding zoning districts in all directions, as depicted in the zoning exhibit below.



**E. APPLICABLE RESOLUTIONS**

Approval: Resolution 3 – Unique or Equitable Consideration  
 Disapproval: Resolution 4

**F. LOCATION**

North: RR-5 (Residential Rural)	Single Family Residential/Vacant
South: RR-5 (Residential Rural)	Single Family Residential/Vacant
East: RR-5 (Residential Rural)	Single Family Residential
West: RR-5 (Residential Rural)	Single Family Residential/Vacant

**G. SERVICE**

**1. WATER**

Water service is provided by an individual well.

**2. WASTEWATER**

Wastewater service is provided by an onsite wastewater treatment system (OWTS).

**3. EMERGENCY SERVICES**

The parcel is located within the Black Forest Fire Protection District. The District was sent a referral and did not respond.

**H. ENGINEERING**

**1. FLOODPLAIN**

No portion of the site is located within the 100 year floodplain per FEMA Flood Insurance Rate Map Panel No. 08041C0315G with an effective date of December 7, 2018.

**2. DRAINAGE AND EROSION**

The property is located within the Kettle Creek drainage basin (FOMO4600), which is included in the El Paso County Drainage Basin Fee Program. Drainage basin fees will be assessed on the subsequent minor subdivision, if the dimensional variance allowing for the subdivision is approved, based upon new impervious acreage since no such fee has been previously paid (Engineering Criteria Manual Appendix L Section 3.13a).

**3. TRANSPORTATION**

The property is accessed from Black Forest Road via a private driveway located within the unimproved Jicarilla Drive right-of-way. A traffic impact study was not required and the road impact fee does not apply to this request because the request is not expected to generate 100 more daily vehicle trips than the property would be expected to generate without the board of adjustment request being approved. No direct lot access to Black Forest Road will be permitted for the subsequent minor subdivision. The additional lot created with the subsequent minor subdivision will be subject to the El Paso County Road Impact Fee program (Resolution No. 18-471).

**I. RECOMMENDED CONDITIONS**

Should the Board of Adjustment determine that the application is consistent with the criteria for approval of a dimensional variance for a lot area of 2.5 acres for two parcels in the RR-5 (Residential Rural) zoning district where 5 acres is required, and that the applicant has met the review and approval criteria for granting variances from the applicable standards, staff recommends the following conditions and notation:

**Conditions**

1. A minor subdivision shall be applied for and approved by the Board of County Commissioners prior to the authorization of a building permit for a dwelling on the existing property or on the resulting replatted lot upon which the existing dwelling will not to be located.
2. Approval of a residential site plan by the Planning and Community Development Department and issuance of building permits from the Pikes Peak Regional Building Department are required prior to construction of any structure requiring building permitting on the property or resulting replatted properties.

**J. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified eight (8) adjoining property owners on December 19, 2018, for the Board of Adjustment meeting. Responses will be provided at the hearing.

- K. ATTACHMENTS**  
Letter of Intent  
Vicinity Map  
Site Plan  
Vacation Resolutions (V-91-007)  
Original Plat  
Letter of Intent (V-91-007)

# El Paso County Parcel Information

File Name: BOA-18-008

PARCEL	NAME
5206001008	GOEBEL CONSTRUCTION INC

Zone Map No.: --

ADDRESS	CITY	STATE
6840 BRENTWOOD DR	COLORADO SPRINGS	CO

ZIP	ZIPPLUS
80908	3420

Date: December 18, 2018



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



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**MARK D. FRANCIS  
ATTORNEY AND COUNSELOR AT LAW**

**1880 OFFICE CLUB POINTE, SUITE 1000  
COLORADO SPRINGS, CO 80920  
TELEPHONE (719) 265-6900  
FACSIMILE (719) 272-8051  
EMAIL [mdfesq@earthlink.net](mailto:mdfesq@earthlink.net)**

October 31, 2018

El Paso County Board of Commissioners  
Board of Adjustment  
c/o El Paso County Planning Department  
2880 International Circle  
Colorado Springs, CO 80910

*Re: EA 18248 - Letter of Intent for Board of Adjustment Application concerning 13980 Black Forest Road*

Dear County Commissioners and Board of Adjustment Members,

I represent the applicant named below and am submitting this request on the applicant's behalf. This letter is divided into the sections required for a letter of intent pursuant to Chapter IV, Section 36, of the El Paso County Land Development Code. The Applicant respectfully requests that you review the Type D application submitted herewith and approve the action requested herein.

The Owner/Applicant: Goebel Construction, Inc., c/o Marvin Goebel  
6840 Brentwood Drive, Colorado Springs, CO 80908  
719-650-8586

The Consultant/Attorney: Mark D. Francis, Esq.  
1880 Office Club Pointe, Suite 1000  
Colorado Springs, CO 80919  
719-265-6900

Project Manager: Len Kendall, Planner 1, El Paso County Planning

The Site Location: 13980 Black Forest Road and 6770 Jicarilla Drive

The Size: 5 acres at present

The Zoning: RR-5

The Request and Justification:

This is a request to reinstate an interior lot line that was vacated in 1991 so as to reestablish the original platting of the now 5 acre property into the two separate 2.5 acre parcels that were originally approved for the neighborhood.

The Applicant owns Lot 7, Block 1, Apache Woods Subdivision. The Applicant is requesting that the interior lot line that was vacated by the planning commission on September 18, 1991, to create a five acre Lot 7 now be reinstated in its original location (as shown on the attached drawings from Rocky Mountain Land Services dated October 26, 2018) so that the property will be returned to its original configuration and so that the properties will be once again legally described as Lot 6, Block 1, Apache Woods Subdivision, and Lot 7, Block 1, Apache Woods Subdivision.

This property is located on the corner of Black Forest Road and Jicarilla Drive. As noted above, the interior lot line between Lots 6 and 7 was vacated and the two lots were combined into Lot 7, Block 1, Apache Woods Subdivision, through an Administrative Vacation of Interior Lot Lines that was approved by the El Paso County Planning Department on September 18, 1991. The Recording information for the approval was recorded in the El Paso County real property records on September 19, 1991, at Book 5883, Page 813.

On June 6, 2018, the Applicant secured a permit from the El Paso County Planning Department for driveway access from Lot 7 onto Black Forest Road (Permit Number ESR18-123). Lot 7 has been assigned the address of 13980 Black Forest Road. Lot 6 fronts Jicarilla Drive and will continue to have an address of 6770 Jicarilla Drive. Therefore, both properties will continue to have direct access to public roads.

There will be no detriment to the adjoining properties from approving this request as the surrounding properties are all also 2.5 acre parcels. The reestablishment of the original lot configuration will not increase development density or traffic nor be inconsistent with the character of the surrounding properties. There will be no appreciable increase in traffic as traffic from the reestablished properties will be no more than was originally envisioned when the plat was initially approved. Therefore, the reestablishment of the original platting will not have any detrimental effect on the adjoining properties.

County Commissioners  
October 31, 2018  
Page 3

**Existing and Proposed Facilities, Structures, Roads:**

This is a vacant lot with no existing facilities or structures. If this request is approved, two new residential units will be constructed on the properties and the density will be identical to the adjoining properties, 1 unit on each 2.5 acre parcel. The roads accessing the properties are public roads that already exist. The reestablished Lot 7 will have access from Black Forest Road and the reestablished Lot 6 will have access from the existing Jicarilla Drive.

**Water and Sewer:**

Well water is available to both lots and both lots will have septic systems installed in accordance with all applicable regulations.

**Waiver Requests:** The applicant is not making any requests for waivers.

The applicant respectfully requests that the Board of Adjustment approve the request as stated in this application so as to reestablish the original platted lots legally described as Lot 6, Block 1, Apache Woods Subdivision, and Lot 7, Block 1, Apache Woods Subdivision.

Please let me or the Applicant know how else we can help. Thank you

With best regards,



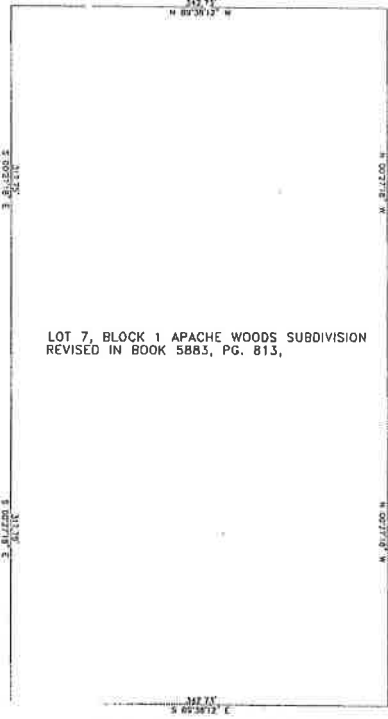
Mark D. Francis

Enclosures: Type D Application, Site Map Drawing of Existing and Proposed Lots, Legal Description, Vicinity Map, List of Adjoining Owners, Map of Adjoining Owners

# REQUEST TO REINSTATE AN INTERIOR LOT LINE

13980 BLACK FOREST ROAD  
 LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION  
 EL PASO COUNTY, COLORADO

AS CURRENTLY PLATTED:



LOT 7, BLOCK 1 APACHE WOODS SUBDIVISION  
 REVISED IN BOOK 5885, PG. 813,

BLACK FOREST ROAD

JICARILLA DRIVE

ADDRESS:

13980 BLACK FOREST ROAD  
 COLORADO SPRINGS, COLORADO 80908  
 6770 JICARILLA DRIVE  
 COLORADO SPRINGS, COLORADO 80908

OWNER/APPLICANT:

MARVIN GOEBEL/GOEBEL CONSTRUCTION, INC.  
 6840 BRENTWOOD DRIVE  
 COLORADO SPRINGS, COLORADO 80908  
 719-650-8586

LOT AREA:

5.00 ACRES, 217,784 SF +/-

LEGAL DESCRIPTION:

LOT 7, BLOCK 1, APACHE WOODS SUBDIVISION AS REVISED BY BOOK 5883 AT PAGE 813, RECORDS OF EL PASO COUNTY, COLORADO.

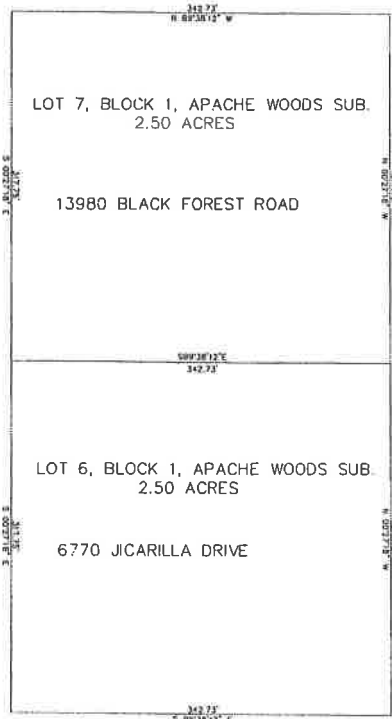
ZONING:

RR 5

ASSESSORS SCHEDULE NUMBER

52060-01-008

TO BE REINSTATED AS:



LOT 7, BLOCK 1, APACHE WOODS SUB.  
 2.50 ACRES

13980 BLACK FOREST ROAD

LOT 6, BLOCK 1, APACHE WOODS SUB.  
 2.50 ACRES

6770 JICARILLA DRIVE

BLACK FOREST ROAD

JICARILLA DRIVE

SCALE: 1" = 50'  
 JOB NO. 39043  
 OCTOBER 26, 2018

APACHE WOODS SUBDIVISION  
 BLOCK 1  
 LOT 7  
 13980 BLACK FOREST ROAD  
 EL PASO COUNTY, COLORADO

ARDIS W. SCHMITT  
EL PASO COUNTY CLERK & RECORDERProject Identification  
PD File #V-91-007

10

**RECORDATION INFORMATION FOR  
ADMINISTRATIVE VACATION OF INTERIOR LOT LINE(S)  
AND/OR EASEMENT(S) WITHIN  
UNINCORPORATED EL PASO COUNTY  
LOTS 6 AND 7, BLOCK 1, APACHE WOODS SUBDIVISION**

This request represents a vacation of interior lot line.

The property owners requesting the vacation are **George Zinneman, owner, and John Anderson, contract purchaser.**

The legal description of property within the request is **Lots 6 and 7, Block 1, Apache Woods Subdivision.**

**THE PLANNING DEPARTMENT FINDS THAT:**

1. Certain interior lot lines and/or easements can be vacated utilizing an administrative procedure as outlined in Sections 47 and 48 of the El Paso County Land Development Code.
2. The proposed vacation does not substantially modify the originally platted subdivision.
3. The proposed vacation can utilize the administrative procedure and is not subject to the exclusions as noted in Section 48 E.1.c.
4. The following utility providers have responded noting no objection or concern with the request:
  - U.S. West
  - Mountain View Electric
  - Peoples Natural Gas
5. That the originally recorded Plat, in part states, "George Zinneman and Kemper W. Baker do hereby covenant and agree that they will at their own expense, grade, and gravel all platted streets, except the county Road known as Templeton Gap Road", and will provide proper drainage for same, all to the satisfaction of the Board of County Commissioners of El Paso County," and also states, "all streets as platted are hereby dedicated to public use."
6. That approval of this vacation of interior lot line does not obligate the County to construct either Jicarilla Drive or Zuni Lane nor accept Jicarilla Drive or Zuni Lane for maintenance until such time as it is constructed to County standards and accepted by the Board of County Commissioners for maintenance.

THE PROPERTY IS HEREAFTER KNOWN AS: **Lot 7, Block 1, Apache Woods Subdivision.**

A VACATION MAP OF SAID VACATION IS ATTACHED HERETO.

The vacation is hereby approved this 18th day of September 1991.

EL PASO COUNTY PLANNING DEPARTMENT

  
Kenneth G. Rowberg, Acting Director

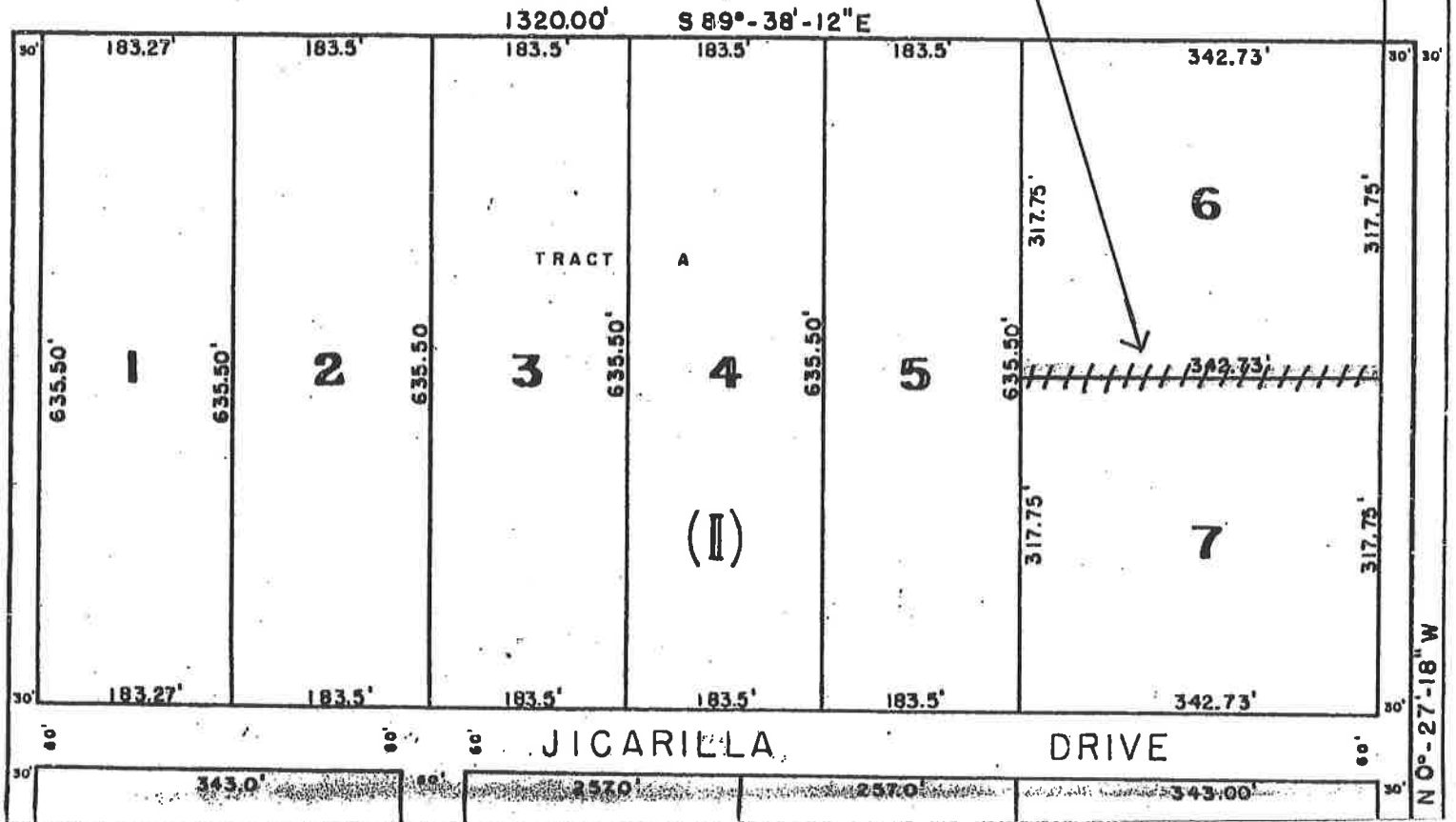
Exhibit A: Vacation Map

\* Templeton Gap Road is now known as Black Forest Road.

# APACHE WOODS EL PASO COUNTY, COLORADO.

A Subdivision of Tracts A, B and the West 1/2 of C as shown in the Records of El Paso County, Colorado in Flat Book "Z" at Page 56 showing a Re-Survey of said Black Forest Country Club Subdivision.

LOT LINE TO BE VACATED





John T. Anderson  
13110 Crump Road  
Colorado Springs, CO. 80908

June 11, 1991

El Paso County Land Use Department  
27 East Vermijo  
Colorado Springs, CO. 80903

Re: Lots 6 and 7, Apache Woods Subd., El Paso County, Colorado.

***LETTER OF INTENT***

This petition is for administrative vacation of the interior lot line between the above-referenced lots, resulting in one lot where two now exist. This action will substantially bring the property into compliance with County zoning and the Black Forest Land Use Plan.

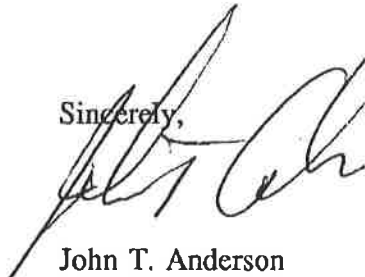
Apache Woods was subdivided August 6, 1959, prior to zoning, and thus is a legal non-conforming use in the present RR3 zone. The property lies on the west side of Black Forest Road, just north of the Edith Wolford Elementary School (1/4 mile north of Elementary Drive). The lots in question presently consist of two 2.5 acre lots. The proposed changes will result in one 5.00 acre lot. Access will not be changed from the present platted configuration. No other facilities, structures or roads are anticipated.

The property is under contract to John T. Anderson, 13110 Crump Road, Colorado Springs, CO. 80908 (719-495-3500). The present owner of the land is George Zinneman, whose consent to this action is enclosed herewith.

The sole waiver requested is submittal of a plat due to the expense involved and the fact that the subdivision will be substantially unchanged by this action. I request that this vacation, which will reduce the residential density of the area, be made by resolution.

Thank you very much for your consideration of this request.

Sincerely,



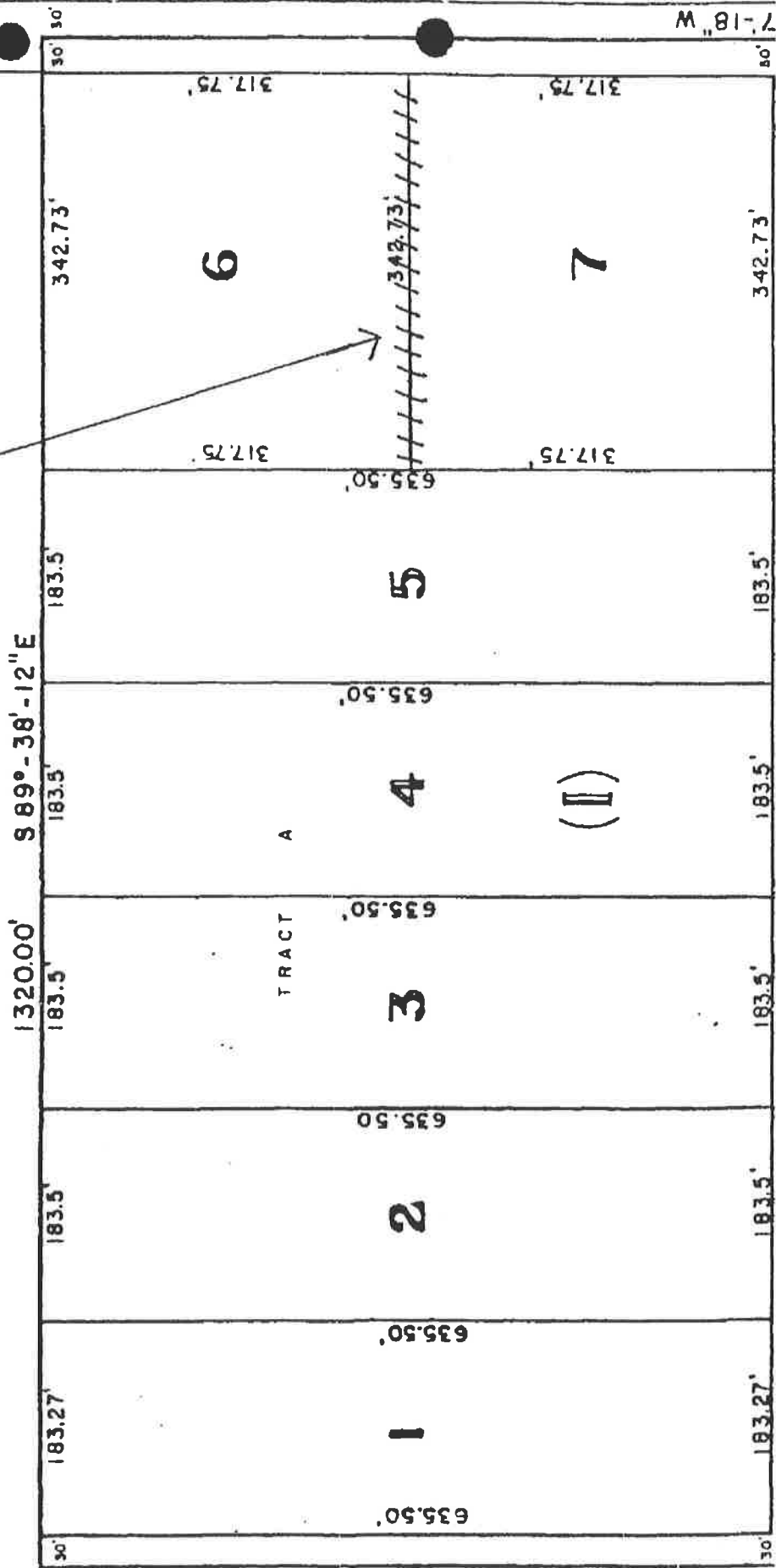
John T. Anderson



# A PAGHIE WOODS EL PASO COUNTY, COLORADO.

A Subdivision of Tracts A, U and the West 1/2 of C as shown in the Records of El Paso County, Colorado in Plat Book "Z" at Page 56 showing a Re-Survey of said Black Forest Country Club Subdivision.

LOT LINE TO BE VACATED



# ADMINISTRATIVE VACATION OF INTERIOR LOT LINES

**ADJOINING LANDOWNERS:**

1 Mrs. Timothy Reimers  
Robin Road  
Spgs., CO. 80908

1 Mrs. Mario Taracena  
Black Forest Road  
Spgs., CO. 80908

1 Mrs. James Rodgers  
Highline Drive  
Spgs., CO. 80908

1 Mrs. Streff  
Memorial Dr., #96  
Dallas, Texas 77079

5. Kellee R. Cusick  
14060 Black Forest Road  
Co. Spgs., CO. 80908

6. Ms. Dorothea Stickler  
C/O Rky Mtn Ind. Bank  
601 N. Nevada  
Co. Spgs., CO. 80903

7. Mr. and Mrs. Gordon Skinner  
13870 Highline Dr.  
Co. Spgs., CO. 80908

8. Mr. and Mrs. Timoteo Baylen  
37525 Charlotte Dr.  
Wadsworth, Ill. 60083

9. Mr. and Mrs. Charles Bush  
5760 Del Paz  
Co. Spgs., CO. 80918

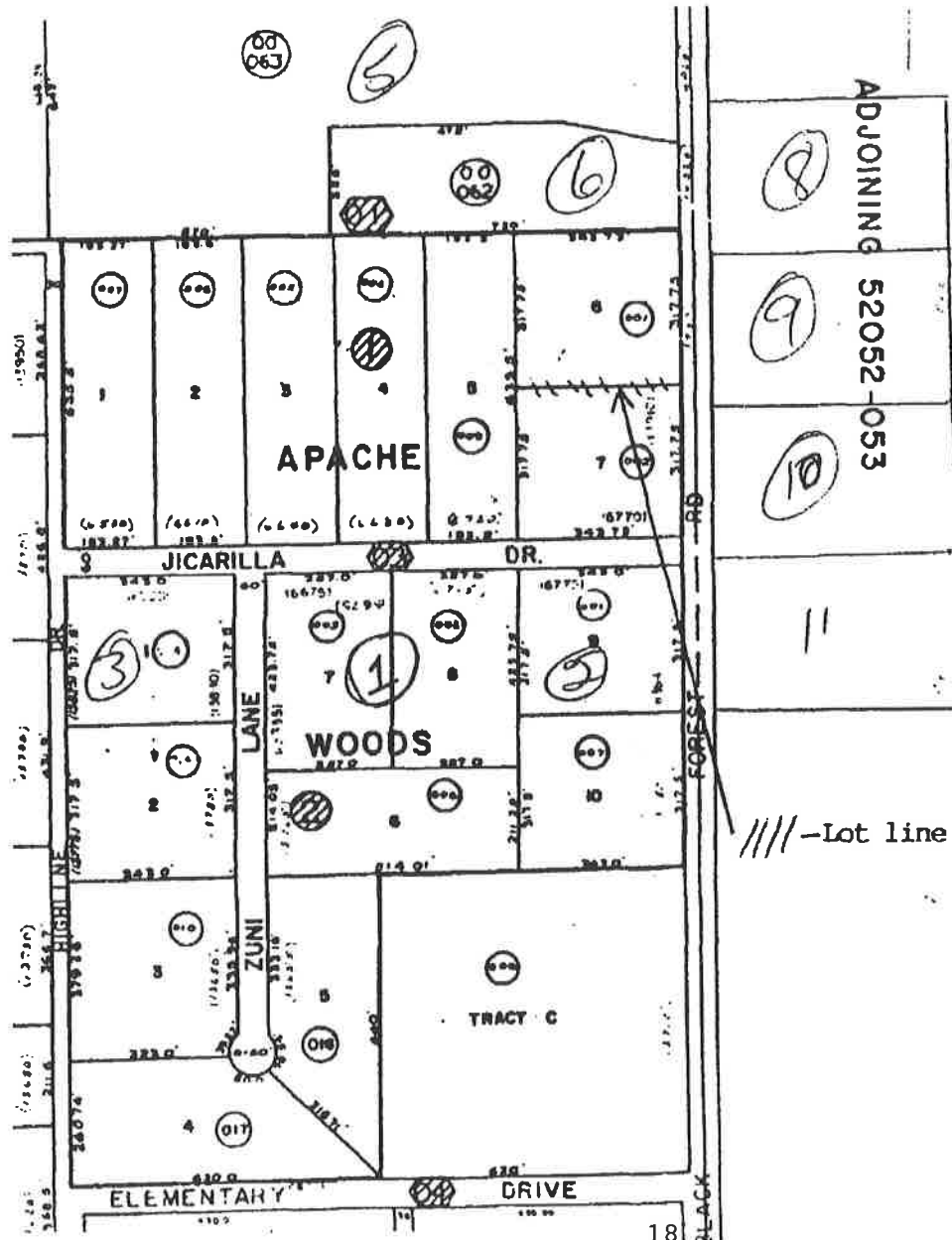
10. Mr. and Mrs. David O'Connell  
13920 Wyandott  
Co. Spgs., CO. 80908

11. Mr. and Mrs. James Banning  
6888 Wildridge Road  
Co. Spgs., CO. 80908

**DESCRIPTION:**

7, Apache Woods Subd., El Paso County, CO.

OWNER: John T. Anderson 13110 Crump Road Colorado Springs, CO. 80908.



////-Lot line being vacated