

**Kevin Mastin, Interim Executive Director**  
**El Paso County Planning & Community Development**  
 O: 719-520-6300  
 KevinMastin@elpasoco.com  
 2880 International Circle, Suite 110  
 Colorado Springs, CO 80910

**Board of County Commissioners**  
 Holly Williams, District 1  
 Carrie Geitner, District 2  
 Stan VanderWerf, District 3  
 Longinos Gonzalez, Jr., District 4  
 Cami Bremer, District 5

**TO: El Paso County Planning Commission**  
**Brian Risley, Chair**

**FROM: Ryan Howser, AICP Planner III**  
**Daniel Torres, PE Engineer III**  
**Kevin Mastin, Interim Executive Director**

**RE: Project File #: AL-20-014**  
**Project Name: Ellicott Sand and Gravel**  
**Parcel No.: 24000-00-275; 24000-00-276**

<b>OWNER:</b>	<b>REPRESENTATIVE:</b>
Schubert Ranches, LLC 1555 S Baggett Road Calhan, CO, 80808	Regulatory Permits Management, Inc. 25049 E Alder Drive Aurora, CO, 80816

**Commissioner District: 4**

Planning Commission Hearing Date: 7/21/2022  
 Board of County Commissioners Hearing Date: 8/2/2022

**EXECUTIVE SUMMARY**

A request by Schubert Ranches, LLC for approval of a special use for a mineral and natural resource extraction operation. The 2,163-acre property is zoned A-35 (Agricultural) and is located on the east side of Baggett Road, approximately one (1) mile south of US Highway 94. The area subject to the special use application is approximately 733.7 acres in size and within Sections 20, 29, and 32, Township 14 South, Range 62 West of the 6th P.M.

## A. REQUEST/WAIVERS/DEVIATIONS/AUTHORIZATION

**Request:** A request by Schubert Ranches, LLC for approval of a special use for a mineral and natural resource extraction operation on 733.7 acres.

**Waiver(s)/Deviation(s):** The following deviation from the standards of the El Paso County Engineering Criteria Manual (2020) have been administratively approved by the ECM Administrator.

1. Section 2.2.4.A.4 states, "No full movement access is permitted where the local roadways can be expected to provide access". The applicant has submitted a deviation requesting a limited tenure access from Sanborn Road due to the topographical constraints of Black Squirrel Creek adjacent to the Baggett Road frontage. Additionally, the initial area of mineral extraction for the development will occur immediately north of Sanborn Road and west of Black Squirrel Creek. This request has been approved due to the topographic constraints.

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

## B. PLANNING COMMISSION SUMMARY

**Request Heard:**

**Recommendation:**

**Waiver Recommendation:**

**Vote:**

**Vote Rationale:**

**Summary of Hearing:**

**Legal Notice:**



### C. APPROVAL CRITERIA

Pursuant to Section 5.3.2.C of the El Paso County Land Development Code (2019), the Planning Commission and Board of County Commissioners may consider the following criteria in approving a special use:

- The special use is generally consistent with the applicable Master Plan;
- The special use will generally be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area;
- The impact of the special use does not overburden or exceed the capacity of public facilities and services, or, in the alternative, the special use application demonstrates that it will provide adequate public facilities in a timely and efficient manner;
- The special use will not create unmitigated traffic congestion or traffic hazards on the surrounding area, and has adequate, legal access;
- The special use will comply with all applicable local, state, and federal laws and regulations regarding air, water, light, or noise pollution;
- The special use will not otherwise be detrimental to the public health, safety and welfare of the present or future residents of El Paso County; and/or
- The special use conforms or will conform to all other applicable County rules, regulations or ordinances.

### D. LOCATION

North:	A-35 (Agricultural)	Vacant/Residential
South:	A-35 (Agricultural)	Residential
East:	A-35 (Agricultural)	Vacant/Residential
West:	A-35 (Agricultural)	Vacant/Residential
	RR-5 (Residential Rural)	Residential

### E. BACKGROUND

The subject property was initially zoned A-35 (Agricultural) on March 24, 1999, when zoning was first initiated for this portion of El Paso County (Resolution No. 99-101). The property consists of over 2,000 acres of land utilized for agricultural purposes. There are several existing agricultural and residential structures on the property, all of which were constructed prior to the initiation of zoning on the property and are all therefore considered legal structures. All existing structures and uses on the property are proposed to remain.



The applicant is requesting to initiate a special use on the property for a commercial mineral and natural resource extraction operation. Section 1.15 of the Land Development Code defines “Mineral and Natural Resource Extraction” as follows:

“An operation involved in the act of removing naturally occurring minerals from the earth for an economic use. Mineral extraction includes material washing, sorting, crushing or more intensive modification and alteration through mechanical or chemical means to a mineral resource extracted within the same ownership provided such activities are approved as part of the special use.”

The applicant submitted an application for special use for a mineral and natural resource extraction operation on June 11, 2020. The term “mining operation” may be used interchangeably with the term “mineral and natural resource extraction operation” for the purpose of this application. The applicant refers to the proposed use as a “mining operation” in their letter of intent.

The applicant estimates that the proposed mining operation’s lifespan will range between 53 and 80 years and be conducted in six (6) phases, with the estimated lifespan of each phase ranging between 2 and 30 years. Of the 733.7 acres subject to the special use permit, approximately 513.5 acres are proposed for mining activities. The remainder of the property is proposed for buffering or is otherwise proposed to remain undisturbed to preserve existing natural features.

## **F. ANALYSIS**

### **1. Land Development Code Analysis**

A mineral and natural resource extraction operation requires special use approval in the A-35 zoning district pursuant to Chapter 5 of the Code. Additionally, all mineral and natural resource extraction operations shall comply with Section 5.2.34 of the Code which provides specific requirements for these types of operations. The applicant has provided an analysis of the requirements of Section 5.2.34 of the Code in their letter of intent.

The applicant has provided an analysis of the special use criteria of Section 5.3.2.C of the Code in their letter of intent. The proposed special use area is adjacent to properties zoned RR-5 (Residential Rural) which are currently being used for rural residential purposes. The proposed mining operation may not be compatible with nearby residential uses. In order to meet the criteria for approval



of a special use, the applicant is required to demonstrate that the proposed use will be in harmony with the character of the neighborhood and will be generally compatible with all existing land uses in all directions. The applicant is proposing to locate all proposed mining activities a minimum of 200 feet from all property boundaries.

If the special use is approved, the applicant will be required to also submit and receive approval of a site development plan prior to initiating any land disturbing activities on the property. The site development plan will need to be substantially consistent with the site plan provided with the special use application and provide a more detailed depiction of the proposed use. County review and administrative approval of a site development plan will help ensure that adequate buffers, setbacks, and screening are implemented to further mitigate any potential impacts to the surrounding area. The site development plan review will also include compliance with all applicable aspects of the Land Development Code and the Engineering Criteria Manual, including but not limited to grading and erosion control, landscaping, parking, and lighting standards.

## 2. Zoning Compliance

The subject parcel is zoned A-35 (Agricultural). The A-35 zoning district is intended to accommodate rural communities and lifestyles, including the conservation of farming, ranching and agricultural resources. The density and dimensional standards for the A-35 zoning district are as follows:

- Minimum lot size: 35 acres
- Minimum width at the front setback line: 500 feet
- Minimum setback requirement: front 25 feet, rear 25 feet, side 25 feet
- Maximum lot coverage: None
- Maximum height: 30 feet

The applicant is not proposing to construct additional structures at this time. If the special use permit is approved, the applicant will need to obtain site development plan approval prior to initiating any land disturbing activities on the property in order to ensure that construction of any structures or land disturbing activities meets the requirements of the A-35 zoning district.

## 3. Policy Plan Analysis



The El Paso County Policy Plan (1998) has a dual purpose; it serves as a guiding document concerning broader land use planning issues and provides a framework to tie together the more detailed sub-area elements of the County Master Plan. Relevant policies are as follows:

***Policy 2.1.11*** – Encourage approaches to natural system preservation and protection which also accommodate reasonable development opportunities.

***Policy 2.3.1*** – Preserve significant natural landscapes and features.

***Policy 2.3.5*** – Encourage the use of innovative siting and design techniques to identify, enhance, and, where appropriate, incorporate and protect significant natural features and waterways.

***Policy 5.1.1*** – Encourage economic development that enhances a sense of community, provides vigor to the economy and considers the environment while contributing to the overall health of the County.

***Policy 6.1.16*** – Allow for new and innovative concepts in land use design and planning if it can be demonstrated that off-site impacts will not be increased and the health, safety and welfare of property owners and residents will be protected.

***Goal 7.4*** – Permit mineral extraction and processing activities in the County in a manner which allows for preservation of significant commercial deposits, minimization of adverse visual and other environmental impacts, economical resource use and consideration of other planning issues.

The property is encumbered by the Black Squirrel Creek. The applicant has provided a site plan illustrating the location of the proposed mining operation on the property and has indicated that they intend to avoid potential impacts to the creek. According to the applicant's letter of intent, the applicant intends to use 513.5 acres of the 733.7-acre project area for the mining operation, with the remainder of land proposed to remain undisturbed for buffering purposes and to preserve natural features.



#### 4. Small Area Plan Analysis

The property is located within the Ellicott Valley Comprehensive Plan (1989). Relevant goals and policies are as follows:

**Goal 6.A** – Allow for agricultural, extraction, and other comparable uses when these can be accommodated without adversely impacting surrounding development and overall environmental quality.

**Policy 6.4** – Mineral aggregate extraction operations in the planning area should not be located where they may adversely impact groundwater supplies. Potential operations should be reviewed for their visual and environmental compatibility with adjacent uses.

**Policy 9.1** – Evaluate all land use proposals in the planning area in terms of both their individual and potential collective impact on the alluvial aquifers which provide the area with its water supply.

**Policy 9.2** – Encourage the preservation of major stream corridors in a predominantly natural condition in order to minimize flood hazards, facilitate aquifer recharge, provide for wildlife corridors and allow for open space linkages.

According to the applicant's letter of intent, impacts to the aquifers are proposed to be minimal and they intend to minimize potential negative environmental impacts. The applicant states the following in their letter of intent:

“...we are committed to staying at least ten (10) feet above the prevailing ground water elevation. In addition, any petroleum spills in reportable quantities associated with use of the mining equipment will be cleaned up and disposed off-site at an approved facility. No toxic or acidic materials in regulated quantities will be exposed or brought onto the site.”

Additionally, the applicant mentions in their letter of intent that the mining operation activities are proposed to primarily take place below grade in order to minimize potential visual impacts to adjacent properties.



## 5. Water Master Plan Analysis

The El Paso County Water Master Plan (2018) has three main purposes; better understand present conditions of water supply and demand; identify efficiencies that can be achieved; and encourage best practices for water demand management through the comprehensive planning and development review processes. Relevant policies are as follows:

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

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

***Goal 1.2 – Integrate water and land use planning.***

The property is located within Planning Region 4c of the Plan and is not located within an estimated area of development. Region 4c includes a portion of the Upper Black Squirrel Creek Basin. The Region is identified as potentially having issues regarding long term sustainable draw from the Denver Basin aquifer. The Plan identifies the current demands for Region 4c to be 2,970 AFY (Figure 5.1) with the projected need in 2040 at 3,967 AFY (Figure 5.2) and at build-out in 2060 at 4,826 AFY (Figure 5.3). Region 4c currently has 2,970 AFY in supplies, which means by 2060 there is anticipated to be a deficiency of 1,799 AFY (Table 5-2).

Water sufficiency is not required for a special use application. The applicant is proposing to initiate a mining operation and has indicated in their letter of intent that the proposed water usage associated with the mining operation is estimated to use approximately 12 AFY of water.

## 6. Other Master Plan Elements

The El Paso County Wildlife Habitat Descriptors (1996) identifies the parcels as having a moderately wildlife impact potential. Colorado Department of Public Health and Environment, Colorado Parks and Wildlife, El Paso County Conservation District, and El Paso County Community Services, Environmental Division were each sent a referral and have no outstanding comments.



The Master Plan for Mineral Extraction (1996) identifies upland deposits in the area of the subject parcels. A mineral rights certification was prepared by the applicant indicating that, upon researching the records of El Paso County, severed mineral rights exist. The mineral rights owner has been notified of the application and hearing date. Relevant policies are as follows:

**Goal 2** – *Mining and mineral processing activities should be sited and operated such that adverse environmental impacts are reasonably minimized.*

**Policy 2.4** – *Mineral extraction and/or processing operations should be internally designed so that off-site visual and other environmental impacts related to all aspects of the operation are reasonably minimized throughout the life of the activity.*

**Policy 4.1** – *Mining activities should generally be allowed as Uses Permitted by Special Review in all County zone districts provided that the applicant can demonstrate that the proposed use is fully consistent with all applicable requirements and standards set forth in Sections 35.8 and 35.13 of the El Paso County Land Development Code.*

**Policy 4.2** – *The applicant/operator should demonstrate that the proposed extraction activity is presently, and will reasonably be expected to be compatible with the stated primary purpose of the applicable zone district.*

**Policy 4.7** – *Applications for mining or mineral processing should address and provide for reasonable mitigation of potential on and off-site impacts throughout the life of the operation. Potential impacts which should be addressed include, but are not limited to the following:*

- *traffic congestion safety and nuisance concerns*
- *potential damage to roads and bridges*
- *impacts to water supplies*
- *drainage and erosion control*
- *dust, noise and glare*
- *availability of emergency services*
- *site security and safety*
- *impacts to historic, archaeological, paleontological, and sensitive and/or unique natural features and ecosystems.*
- *noxious weeds*



The El Paso County Parks Master Plan (2013) does not identify any parks or trails in the vicinity of the subject property. Land dedication and fees in lieu of park land dedication are not required for a special use application.

Please see the Transportation Section below for information regarding conformance with the El Paso County 2016 Major Transportation Corridors Plan Update (MTCP).

## **G. PHYSICAL SITE CHARACTERISTICS**

### **1. Hazards**

The FEMA Flood Insurance Rate Map panel numbers 08041C0830G and 08041C0840G, which have an effective date of December 7, 2018 show the 100-year floodplain (Zone AE) of Black Squirrel Creek flowing through the property. The 100-year floodplain shall be shown on the subsequent site development plan and associated construction documents.

### **2. Floodplain**

The FEMA Flood Insurance Rate Map panel numbers 08041C0830G and 08041C0840G show that a 100-year floodplain (Zone AE) flows through the site. A zero-rise certification letter has been submitted indicating that the proposed development will result in zero rise in the FEMA designated 100-year flood heights and no increase in the 100-year discharge at the published and unpublished cross-sections of the current FEMA floodplain. The developer will be responsible to obtain the necessary floodplain permits from Pikes Peak Regional Building Department prior to any construction within the floodplain.

### **3. Drainage and Erosion**

The property is located within four drainage basins, Ellicott (CHBS1600), Ellicott Consolidated (CHBS1200), Crows Roost (CHBS1000) and Lower Big Springs Creek (CHBS1400). These drainage basins are unstudied basin with no associated drainage and bridge fees. Lower Big Springs Creek and Black Squirrel Creek traverse the site from north to south. A grading and erosion control plan as well as a drainage report providing hydrologic and hydraulic analysis to identify and mitigate drainage impacts of the development will be required at the site development stage.

### **4. Transportation**



The property is located west of Baggett Road as well as north and south of Sanborn Road. Per the submitted traffic study, access for the first stage of development is proposed via Sanborn Road based on the approved deviation described in Section A above. It is anticipated that the applicant will request different access points with each stage of the development. Evaluation and approval by El Paso County will be required for each proposed access point.

The associated traffic study recommends off-site improvements consisting of corner radii improvements at the intersections of Baggett Road & Sanborn Road and Baggett Road & State Highway 94 to accommodate the haul vehicles that will travel along the proposed haul route. A Colorado Department of Transportation (CDOT) access permit will be required for the intersection of Baggett Road and State Highway 94.

The traffic study has also identified that the trip generation from the site will range from 44 average daily trips (ADT) at the onset of the development to a potential 110 ADT in the future as the site increases production. The increase in ADT along the proposed haul route may trigger the paving threshold identified in the El Paso County Engineering Criteria Manual (ECM) Section 2.2.7.B.2 which states “Existing roadways shall be paved where: Any development causes an existing gravel road to exceed a projected ADT of 200 (Note: the extent of paving will be determined by the ECM administrator based on the Transportation Impact Study [Section 2.2.3])”. The traffic study has provided an estimate in Table 5 of when certain sections of the haul route will exceed the paving threshold identified in the ECM. Details regarding the future paving along the haul route shall be provided within the haul route agreement between El Paso County and the developer.

The MTCP identifies 2040 roadway improvements to Sanborn Road along the property frontage. The MTCP indicates that Sanborn Road is to be improved from a Gravel Road to an Unimproved County Road. The MTCP identifies Unimproved County Roads as “collector or arterial roadways that have a paved surface but lack basic features such as turn lanes, shoulders, or adequate pavement surfaces or drainage”. Should Sanborn Road be paved by the developer due to the future increase in ADT then it may be eligible for reimbursement under the guidelines indicated in the El Paso County Colorado Road Impact Fee Implementation Document 2019.



The property is subject to the El Paso County Road Impact Fee program (Resolution 19-471), as amended.

## **H. SERVICES**

### **1. Water**

Water is provided by existing on-site well service.

### **2. Sanitation**

Wastewater is provided by existing on-site wastewater treatment system (OWTS).

### **3. Emergency Services**

The property is within the Ellicott Fire Protection District. The district was sent a referral and has no outstanding comments.

### **4. Utilities**

Mountain View Electric Association (MVEA) provides electric service and Black Hills Energy (BHE) provides natural gas service to the property. MVEA has no outstanding comments and BHE did not provide a response.

### **5. Metropolitan Districts**

The subject property is located within the boundaries of the Ellicott Metropolitan District. The district was sent a referral and did not provide a response.

### **5. Schools**

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

## **I. APPLICABLE RESOLUTIONS**

Approval           Page 39

Disapproval       Page 40

## **J. STATUS OF MAJOR ISSUES**

One major issue is the impact the mineral and natural resource extraction operation is expected to have along the haul route. Section 5.10.3 of the Engineering Criteria Manual states a haul route agreement may be required for activities that are anticipated to cause extraordinary damage or accelerated deterioration to County roads. At this time the County does not have a standardized method for quantifying



the impacts that the heavier vehicles used by a mineral and natural resource extraction operation will have on gravel or paved roadways. The El Paso County Department of Public Works (DPW) has provided a proposal to the developer that outlines conditions and a haul route fee that would be included in the haul route agreement between the developer and El Paso County. The developer and staff have had multiple meetings regarding the haul route fee and have not come to an agreement. In the interim, Recommended Condition of Approval No. 3 has been included to enable the special use request to proceed to the Planning Commission and Board of County Commissioners hearings.

## **K. RECOMMENDED CONDITIONS AND NOTATIONS**

Should the Planning Commission and Board of County Commissioners find that the request meets the criteria for approval outlined in Section 5.3.2 of the El Paso County Land Development Code (2019), staff recommends the following conditions and notations:

### **CONDITIONS**

1. The special use shall be limited to the mineral and natural resource extraction operation as described in the applicants' letter of intent and as shown on the site plan. Any subsequent addition or modification to the mineral and natural resource extraction operation beyond that described in the applicants' letter of intent and as shown on the site plan shall be subject to administrative review, and if it is the opinion of the Planning and Community Development Department Director that it constitutes a substantial increase, then such addition or modification shall be subject to a new special use application.
2. Approval of a site development plan by the Planning and Community Development Department is required prior to the initiation of the use a mineral and natural resource extraction operation on the property.
3. Prior to the approval of the site development plan, the applicant shall enter into a haul route agreement with El Paso County for the special use. The haul route agreement shall identify the impacts on the County roads for this special use that will cause extraordinary damage or accelerated deterioration to County roads in accordance with the EPC ECM. The haul route agreement shall include requirements to address the following:
  - a. Structural impacts to County Roads from the proposed use;



- b. An annual payment amount (with possible initial impact payment) based on impacts to County roads from the proposed use and based upon actual annual site traffic counts;
- c. Annual payment adjustments for applicable construction costs;
- d. Provisions for the method and timing of payments;
- e. An allowance for the required annual payment to be administratively adjusted by the County Engineer upon the adoption of a countywide haul route fee program by the El Paso County Board of County Commissioners.

## **NOTATIONS**

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

## **L. PUBLIC COMMENT AND NOTICE**

The Planning and Community Development Department notified thirty-four (34) adjoining property owners on July 5, 2022, for the Planning Commission meeting. Responses will be provided at the hearing.

## **M. ATTACHMENTS**

Vicinity Map  
Letter of Intent  
Site Plan  
County/ESG Correspondence

