

**CITY PLANNING COMMISSION AGENDA  
MAY 20, 2021**

**STAFF: HANNAH VAN NIMWEGEN**

**FILE NO(S):**

**A. – AR PUD 20-00538 – QUASI-JUDICIAL**

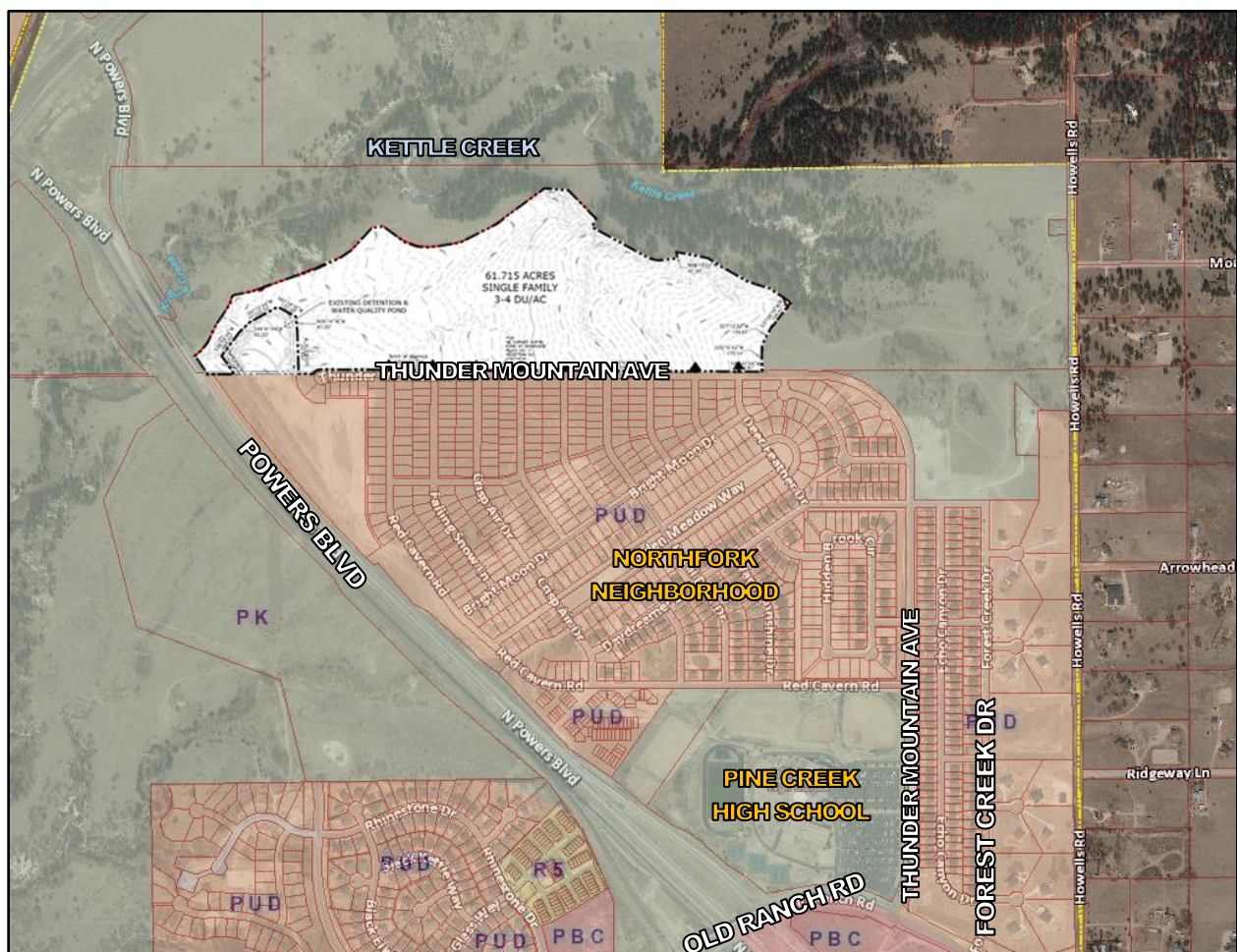
**B. – AR FP 20-00539 – QUASI-JUDICIAL**

**PROJECT: APPEAL OF KETTLE CREEK NORTH**

**OWNER: JOVENCHI, LLC**

**DEVELOPER: VINTAGE COMMUNITIES**

**CONSULTANT: N.E.S., INC**



### **PROJECT SUMMARY:**

1. Project Description: Staff administratively approved the Kettle Creek North development plan and final plat on April 6, 2021, and an appeal was filed on April 12, 2021. The development plan (**see “Approved Development Plan” attachment**) approved 247 single-family detached lots with associated improvements on 61.71 acres divided into four phases. The final plat (**see “Approved Final Plat” attachment**) approved 74 of those single-family lots (phase one) on 21.33 acres of the total 61.71-acre project site. The project site is located south and east of the Powers Boulevard and Highway 83 intersection and shares a boundary with the Kettle Creek waterway to the north and the existing North Fork neighborhood to the south.

The zoning and concept plan for the project was approved by the Planning Commission and the City Council in mid-2020. The development plan and final plat implement the zoning and concept plan.

2. Appellant’s Statement: (**see “Appeal Statement” attachment**)
3. Planning and Development Team’s Recommendation: City Planning staff recommends denial of the appeal.

### **BACKGROUND:**

1. Site Address: Not addressed
2. Existing Zoning/Land Use: PUD (Planned Unit Development: 35’ maximum building height, detached single-family residential, 4 du/ac maximum)/Vacant, undeveloped (**see “Surrounding Area & Context Map” attachment**)
3. Surrounding Zoning/Land Use: North: A (Agriculture)/Kettle Creek then vacant, undeveloped land  
East: A (Agriculture)/A spur of Kettle Creek, Howells Road, then low density residential within El Paso County  
South: PUD (Planned Unit Development: Detached Single-family Residential, 3.6 du/ac, 36-foot maximum building height)/Single-family residential neighborhood which is under construction  
West: A (Agriculture)/Kettle Creek then Powers Boulevard
4. PlanCOS Vision: The PlanCOS Vision Map designates the area as a “Newer Developing Neighborhood” which is adjacent to an Intercity and a Smart Corridor (Highway 83 and Powers Boulevard).
5. Annexation: The subject property was annexed in 1982 as part of the 6,700 acre Briargate Addition No. 5 annexation.
6. Master Plan/Designated Master Plan Land Use: The subject site is part of the Briargate Master Plan and designates the site as “R-LM” (Residential, Low-Medium) which allows a density range of 3.5 to 7.99 dwelling units per acre.
7. Subdivision: This property is currently unplatted.
8. Zoning Enforcement Action: None.
9. Physical Characteristics: The portion of the site proposed for development is relatively flat, however, there are significant natural features associated with Kettle Creek just to the north of the subject site.

### **STAKEHOLDER PROCESS AND INVOLVEMENT:**

The public notification process for the development plan and final plat submittal consisted of placing a poster on the project on site and sending postcards to 198 property owners within 1,000 feet of the subject site. Public comments were received during the initial review of the applications and throughout the review process (**see “Public Comments” attachment**). Primarily, comments were received from individuals representing the North Fork Home Owners Association. Those comments are largely regarding traffic

congestion on Thunder Mountain Avenue at Pine Creek High School, traffic congestion at the intersection of Thunder Mountain Avenue and Old Ranch Road, question the data and conclusions made in the approved traffic report, and emergency evacuation routes and potential traffic congestion during an evacuation. The City Traffic Engineering division held a meeting with the North Fork Home Owners Association Safety Committee on April 20, 2021, to discuss the existing traffic congestion on Thunder Mountain Avenue and the results of the traffic report which is described further in the "Traffic" section of this report. The site was posted and postcards mailed to the same 198 property owners within 1,000 feet of the subject site prior to the May 20, 2021, City Planning Commission hearing.

Staff input is outlined in the following sections of this report. The applications were sent to the standard internal and external agencies for review including Colorado Springs Utilities, City Traffic Engineering, City Engineering, City Landscape, City Fire Department and Police/E-911, City Stormwater Enterprise, the United States Air Force Academy, Academy School District 20, and Parks, Recreation, and Cultural Services. Minor revisionary comments were received and addressed. At this time, all comments from review agencies have been addressed.

- City Traffic Engineering found the submitted development plan and final plat to be in conformance with the approved traffic report which was reviewed and approved in conjunction with the 2020 zone change and concept plan. City Traffic Engineering only had minor revisionary comments at first review which were addressed with the following submittal.
- Academy School District 20 requested fees in lieu of land dedication per the previous Parkland Dedication Ordinance (PLDO) which was applicable at the time of application.
- The City Fire Department, following the review of the development plan and final plat, did not have any revisionary comments and found it to be in conformance with the 2020 zone change and concept plan.

#### **ANALYSIS OF REVIEW CRITERIA/MAJOR ISSUES/COMPREHENSIVE PLAN & MASTER PLAN CONFORMANCE:**

##### **1. Background:**

The subject property was annexed into the City of Colorado Springs in 1982 as part of the 6,700 acre Briargate Addition No. 5 annexation and was added to the Briargate Master Plan simultaneously. This master plan was updated in 2003, and new land use designations were established. This property was assigned the R-LM (Residential, Low-Medium) with a density range of 3.5 to 7.99 du/ac. Similarly, the North Fork neighborhood was established and assigned the same R-LM designation. On the original Briargate Master Plan, an elementary school and a junior high school were illustrated in the North Fork neighborhood area, and in 2003, the junior high school was re-designated as a high school. While the subject site has been master planned since annexation in 1982, it was assigned the A (Agriculture) zone as a holding zone until the parcel was proposed for development.

In 2014, a zone change, development plan, and minor master plan amendment were submitted for the North Fork subdivision. The zone change proposed to rezone from the A (Agriculture) (a standard holding zone district) to PUD (Planned Unit Development: Detached Single-family Residential, 3.6 du/ac, 36 foot maximum building height), and the development plan proposed 141 single-family residential lots. The simultaneous minor master plan amendment proposed relocation of the elementary school site to its current location on the northeast side of Thunder Mountain Avenue and reclassified Thunder Mountain Avenue from a Minor Arterial to a Collector Roadway north of Pine Creek High School (**see "Briargate Master Plan" attachment**). A traffic report was submitted in conjunction with these applications and stated:

LSC recommends tapering and reducing the cross-section and classification within the site north of the current terminus. The existing Thunder Mountain Boulevard cross-section adjacent to Pine Creek High School is consistent with a Minor Arterial with four through lanes. Given the high volume of high school traffic, this short section

of five lanes is beneficial in accommodating the peak high school traffic. However, north of the high school, it is appropriate to reduce the cross-section and right-of-way to a City Collector standard with two through lanes. The Collector will be able to accommodate traffic from the anticipated development. Continuing the five-lane, Minor Arterial cross section into the residential area would not be appropriate for the neighborhood as speeds would increase, pedestrian crossing distances would be significantly longer, and this type of street would create a divider between residential areas on either side and to the school/park.

The City Traffic Engineering division approved this report allowing the reduction in road classification. In 2015, the remainder of the North Fork subdivision was submitted for review and was approved with an additional 602 single-family detached residential lots.

In 2019, the Kettle Creek North subdivision submitted applications to rezone from its holding zone to PUD (Planned Unit Development: 35-foot maximum height, single-family detached units, maximum density of 4.0 dwelling units per acre). Following initial public notice, staff fielded many comments from residents of the North Fork neighborhood and property owners within El Paso County to the north and east of the subject property. Staff held two neighborhood meetings: the first was held on September 4, 2019 and the second on November 6, 2019. Both neighborhood meetings were attended by two primary groups: those who live in the North Fork neighborhood, and those who live in El Paso County to the north and east. Those who live in El Paso County were concerned about the urban to rural transition, ensuring a harmonious residential product is constructed, and that there was no access to Howells Road (directly to the east of the subject site). Those who live in the North Fork neighborhood had concerns with the additional traffic on Thunder Mountain Avenue. Both groups shared concerns with the additional traffic feeding onto Old Ranch Road and the preservation of natural features on the subject site.

The City Planning Commission heard the Kettle Creek North zone change and concept plan on April 30, 2020. Four individuals spoke in opposition to the proposal, and Commissioners asked questions of staff. Generally discussed was existing traffic issues, emergency access and evacuation, access to Howells Road, and the traffic report's findings for the addition of the proposed homes. For details on discussion, please refer to the **"April 2020 City Planning Commission Minutes" attachment**. The City Planning Commission voted 7 to approve, 1 absent, 1 "no" vote to recommend approval of the zone change and concept plan to the City Council. The City Council then heard the request on May 26, 2020. The same primary topics were discussed—existing traffic congestion, emergency access and evacuation, other potential access points, and the traffic report's findings. For details on the discussion, please refer to the **"June 9, 2020 City Council Minutes" attachment**. Ultimately, after hearing from the City Traffic Engineering Manager and the Fire Marshall, the City Council voted 5 to approve the zone change (4 voted to deny) and then voted 8 to approve the concept plan (1 voted to deny).

Because the previous application package only included a concept plan, a future development plan would be required in order to solidify site layout and other specifics. Development plans and final plat applications are reviewed and decided on administratively and do not require a public hearing for a decision. The request before the City Planning Commission, currently, is an appeal of City Planning staff's administrative decision to approve the required development plan and final plat.

## 2. Design & Development:

### a. General:

The subject development plan illustrates 247 single-family detached residential lots on 61.71 acres equating to four dwelling units per acre. The development plan outlines a minimum lot size of 5,500 square feet, primary structure setbacks, maximum lot coverage, and accessory structure setbacks. The development plan is split into four phases beginning on the west side of the subject site. The appealed final plat illustrates 74 lots which make up phase one of the development (**see "Project Statement" attachment**).

Several points of access into the subdivision are proposed and align with the street configuration of the North Fork subdivision. These access points feed onto Thunder Mountain Avenue which then leads to Old Ranch Road. The entire 61.71-acre site will drain stormwater to the far west side of the site into an existing public full-spectrum detention pond which will then release at that water at historic rates into the existing stormwater infrastructure along Powers Boulevard. The design of the existing pond accounted for this developed area in its calculations. A Final Drainage Report was submitted with the development plan and final plat applications, and was approved by the Stormwater Enterprise.

A geologic hazard report was submitted with the zone change and concept plan, and was forwarded to Colorado Geologic Survey (CGS) for review at that time. CGS recommended a geotechnical setback from those significant slopes. The geotechnical setback line encroaches into one lot in phase four of the development plan, and will trigger a site-specific geologic hazard report to be reviewed in conjunction with a building permit for that lot. In addition to the geotechnical setback, there is a Preble's Meadow Jumping Mouse (PMJM) critical habitat line just to the north of the proposed single-family lots. Both the PMJM critical habitat line and geotechnical setback helped frame the developable area along the northern boundary of the subject site. No other encroachments of the PMJM critical habitat line or geotechnical setbacks into the future single-family lots exist.

Further, the Parks, Recreation and Cultural Services Department, utilizing Trails, Open Space, and Parks (TOPS) funds, is purchasing the land located north of the development area. The TOPS tax was established by a vote of the people in 1997 in order to encourage, foster and promote public-private partnerships in the preservation of open space lands, trails and parks. In 2003, voters renewed TOPS until 2025. The approximately 150-acre acquisition of Kettle Creek assures that natural features formed by the creek will be preserved in perpetuity, and could serve as a future trail corridor.

b. Traffic:

There are two points of access into the North Fork and Kettle Creek North areas—the intersections of Thunder Mountain Avenue and Old Ranch Road, and the intersection of Forest Creek Drive and Old Ranch Road. Largely, the areas of concern are the intersections of Thunder Mountain Avenue and Old Ranch Road, and Thunder Mountain Avenue and the driveways into Pine Creek High School. Thunder Mountain Avenue is the primary point of access for the existing and proposed residential homes, Pine Creek High School, and the elementary school as illustrated in the Briargate Master Plan.

City Traffic Engineering reviewed a traffic report concurrently with the concept plan and zone change which accounted for the existing North Fork subdivision, the proposed Kettle Creek North subdivision, Pine Creek High School's generated traffic, and the future elementary school. City Traffic Engineering agreed with the report's findings summarized below:

- All individual turning movements and approaches at the signalized intersection of Old Ranch Road/Thunder Mountain Avenue are projected to operate at LOS D or better during both peak hours through the 2040 horizon year, with Kettle Creek North buildout.
- The roundabout intersection of Old Ranch Road/Cordera Crest Avenue is projected to operate at LOS D overall, however, during the short-term morning peak hour the westbound approach will struggle with LOS F with or without buildout of Kettle Creek North. The Union Boulevard to Milam Road connection may occur prior to buildout of Kettle Creek North and will ease pressure on this roundabout which is projected to operate at LOS C or better as soon as that improvement is completed.

It is noted in the traffic report that most of the congestion occurs in the morning peak hour when commuters intersect with incoming high school traffic. The traffic report provides numbers on an “alternate scenario” if the high school and elementary school timing could be staggered off of the morning peak hour. The following is the analysis results of this alternate scenario:

- The morning peak hour level of service with a later Pine Creek High School start time and future elementary school are significantly better. The level of service projected for the Cordera Crest roundabout is shown at LOS A with the alternate scenario (compared to LOS D with the existing conditions scenario). The Old Ranch Road/Thunder Mountain signalized intersection is shown at LOS B with the alternate scenario (compared to LOS D with the existing conditions scenario).
- The long-term sum of “competing” eastbound left turn and westbound through volumes at the Old Ranch Road/Thunder Mountain signalized intersection would be significantly lower under the alternate scenario. This would positively impact level of service and delay. One of the key aspects is not only the eastbound left turns would be significantly reduced, but the U-turns at the roundabout and corresponding additional “competing” through traffic would be significantly lower. Many of these movements at both the signalized intersection and the roundabout are the result of high school traffic entering at the high school’s right-in/right-out access on Old Ranch Road. Under the alternate scenario, these “competing” movements would not occur during the 7:00 to 8:00 a.m. morning peak hour. Moreover, the southbound right turn movement would be significantly lower with the alternate scenario.

Residents have noted the most recent traffic study does not provide an operational analysis of the intersection of Thunder Mountain Avenue and the main Pine Creek High School access. They noted that due to high volume of school traffic entering the school campus during the morning, they experience a significant level of delay in attempting to exit the neighborhood. In response to this concern, City Traffic Engineering has conducted a traffic operational analysis of the intersection. Today, the intersection is configured to allow school traffic to enter the school campus without stopping while southbound traffic on Thunder Mountain Avenue must stop and find a gap to continue southbound. The analysis shows that in the morning, southbound vehicles on Thunder Mountain Avenue are delayed and will experience delays that exceed a level of service (LOS) F condition.

This condition is expected given the high concentration of school traffic entering the school in the morning and is similar to the type of congestion seen around high schools across the city. Also, this condition only exists in the morning and the intersection operates effectively for the rest of the day. City Traffic Engineering has listed the below as possible mitigation measures for this condition:

- Leave the condition as is since residents do have alternative access to Old Ranch Road via Forest Creek Drive
- Move the start time of Pine Creek High School to later in the morning so that it doesn’t overlap with the morning commute. District 20 has currently indicated that they are not interested in moving the start time.
- Use uniform traffic control (CSPD officer) to control traffic flow at the school access.
- Install a traffic signal at the school access.

City Traffic Engineering has approached Academy School District 20 about adjusting the start time of Pine Creek High School to alleviate some of the pressures on the Thunder Mountain Avenue and Old Ranch Road intersection. At this time, discussions about Pine Creek High School's start time have not been successful, but the school district has committed to altering the elementary school's start time off the morning peak hour. City Planning staff required this be noted on the elementary school's development plan stating that if there ever were a change to the school's start time, a revised traffic analysis would be required. However, it is very important to note that the City does not have purview over the operations of public schools. Public schools are governed by the Board of Regents and technically are not required to follow City development codes and regulations. While City Traffic Engineering can request changes or suggest improvements, there is no requirements for a public school to follow those requests or suggestions.

c. Additional Access Points:

When the subject area was annexed and added to the Briargate Master Plan in 1982, the master plan illustrated Thunder Mountain Avenue continuing west and connecting to Powers Boulevard between the North Fork and Kettle Creek subdivisions. However in 1997, the Colorado Department of Transportation (CDOT) conducted an Environmental Assessment (EA) of Powers Boulevard. This EA changed the classification of Powers Boulevard to a signal-controlled expressway that identified specific locations for intersections. The intersection of Thunder Mountain Avenue with Powers Boulevard was removed from the list of permitted intersections, and the Briargate Master Plan was updated to illustrate Thunder Mountain Avenue ending in its current location.

Additional access points into the Kettle Creek North development, other than Thunder Mountain Avenue, were explored during the review of the zone change and concept plan. City staff explored the potential for an access point to Forest Creek Drive, to Howells Road, and to Powers Boulevard as either a public ingress/egress route or an emergency access only route.

- Forest Creek Drive: The potential extension of Forest Creek Drive north would have to cross the elementary school site to reach the Kettle Creek North subdivision. Academy School District 20 was not willing to give permission for Forest Creek Drive's potential extension through their property for either a public access route or emergency only access. This option for an additional access point would not have greatly affected the traffic congestion at Old Ranch Road anyway since Forest Creek Drive feeds into Old Ranch Road east of Thunder Mountain Avenue.
- Howells Road: Staff then explored the option to connect to Howells Road. However, there is condition on the Briargate Master Plan and in the 1982 annexation of the property prohibiting any vehicular connection to Howells Road. This condition was added to the documents due to the opposition to the annexation from residents of El Paso County. Current residents to the east and north of the subject property voiced their disapproval of such an access point during the zone change and concept plan review process.
- Powers Boulevard: Lastly, staff inquired whether CDOT would be open to reinstating the allowance for Thunder Mountain Avenue with Powers Boulevard either as a full access point or as an emergency-only access way. City Traffic Engineering, City Planning, and the Fire Department held a meeting with representatives of the CDOT on June 4, 2020. CDOT denied the request for a potential full access point or emergency access due to regulations which are applicable to the roadway's classification set by the 1997 Environmental Assessment (**see "CDOT Decision on Powers Boulevard Access" attachment**).



d. Emergency Evacuation:

Emergency evacuation was discussed in detail at the City Planning Commission and City Council hearings for the zone change and concept plan. At those hearings, the Colorado Springs Fire Department stated that while the funneled ingress/egress route to Old Ranch Road was undesirable, it was a workable condition. It was described that while the two subdivisions funnel to Old Ranch Road, Old Ranch Road provides multiple routes for evacuation (see “North Fork-Kettle Creek Potential Evacuation Routes” attachment).

As noted in the appeal statement, the Colorado Springs Fire Department requested in a review letter applicable to the zone change and concept plan that a secondary access point into the subdivision be established. Staff explored the three options discussed in the previous section of this report with the Fire Department representative. Following discussions on the options and outcomes of the search, the Fire Department retracted the review comment stating the above—that it was an undesirable condition but in the event of an evacuation, it would be workable. When routed the development plan and final plat applications for review, Colorado Spring Fire Department did not return any comments for revision.

3. Review Criteria

The City Planning Commission is considering the review criteria applicable to appeals of administrative decisions. These criteria can be found in code section 7.5.906, and establish that the hearing body consider whether the decision was against the express language of this zoning ordinance, against the express intent of this zoning ordinance, or the decision was unreasonable, erroneous, or clearly contrary to law. It is staff's judgement that approval of a development plan and final plat, which are in compliance with the approved zone district, is not against the language or intent of the zoning ordinance, is not unreasonable, erroneous, or contrary to law.

Staff is also of the opinion that the subject applications are in conformance with the review criteria applicable to development plans and final plats, and approved those applications accordingly. It is staff's opinion that the issues described in the appeal statement were already considered and decided upon by the appropriate decision-making authorities at the time of the zone change and concept plan review and decision.

4. Conformance with the City Comprehensive Plan:

The City's Comprehensive Plan, PlanCOS, identifies the area subject to the applications as a “newer developing neighborhood” on the Vision Map and fits within the Emerging Neighborhoods typology of the Vibrant Neighborhoods chapter. In the Vibrant Neighborhoods chapter of PlanCOS a policy (VN-3.A) supports developments, which enhance and preserve a neighborhood's character. The Kettle Creek North development will preserve the significant natural features found on the parcel by selling the land to TOPS. Many of the goals and policies within the Majestic Landscapes chapter also supports the preservation of landscapes and natural features. In the Strong Connections chapter, another policy (SC-1.H) states, “Improve neighborhood livability by providing connections between neighborhoods...” Kettle Creek North will integrate the street layout of the North Fork subdivision to create a seamless transition between the two developments.

5. Conformance with the Area's Master Plan:

The subject parcel is located within the Briargate Master Plan area. This master plan was initially established in 1980, and the subject parcel was added in 1982. The Briargate Master Plan was updated in 2003 and new land use designations were established. For the subject parcel, R-LM with a density range of 3.5 to 7.99 du/ac was outline. The appealed development plan illustrates 247 single-family detached lots across 61.71 acres for a gross density of 4.00 dwelling units per acre.

**STAFF RECOMMENDATION:**



**AR PUD 20-00538 – PUD Development Plan**

Deny the appeal, thus upholding staff's approval of the development plan for the Kettle Creek North subdivision illustrating 247 single-family detached lots, based on the finding that the request does not meet the criteria for granting an appeal as outlined in City Code Section 7.5.906.A.1.

**AR FP 20-00539 – Final Plat**

Deny the appeal, thus upholding staff's approval of a final plat for the Kettle Creek North Filing No. 1 subdivision illustrating 74 single-family detached lots, based on the finding that the request does not meet the criteria for granting an appeal as outlined in City Code Section 7.5.906.A.1.