

## Ryan Howser

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**From:** Justin Kilgore  
**Sent:** Thursday, April 6, 2023 2:21 PM  
**To:** Ryan Howser  
**Cc:** Kari Parsons  
**Subject:** FW: Flying Horse North Sketch Plan and hearing November 15, 2022

Ryan,

Upload please.

JK

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**From:** Phil Shecter <phil@shecterlaw.com>  
**Sent:** Thursday, April 6, 2023 1:47 PM  
**To:** Justin Kilgore <JustinKilgore@elpasoco.com>  
**Cc:** Meggan Herington <MegganHerington@elpasoco.com>; Kenny Hodges <KennyHodges@elpasoco.com>; Cami Bremer <CamiBremer@elpasoco.com>; Carrie Geitner <CarrieGeitner@elpasoco.com>; Holly Williams <HollyWilliams@elpasoco.com>; Stan VanderWerf <StanVanderWerf@elpasoco.com>; Longinos Gonzalez, Jr <LonginosGonzalezJr@elpasoco.com>; Alan Butterfield <alan.d.butterfield@gmail.com>; Scott & Nadine Alexander <Scott48047@yahoo.com>; Chad & Heather Behnken <chad@chadbehnken.com>; Mike Benton <mike@bentoncap.com>; Judy Berthold <dreamchaserslabs@msn.com>; Ryan Boogaard <boogaardpropertiesinc@gmail.com>; Jo Bos <jo.bos@gerrybosdesign.com>; Benham Brian <brian@benhamdesignconcepts.com>; Marty Brodzik <marty@mmbrodzik.com>; Scott Brown <rscottyb41@gmail.com>; Darren Burns <darren@zandrmgmt.com>; Carrie Howarth <cshowarth02@yahoo.com>; Julie Chaffee <jachaffee@msn.com>; xavier Chavez <xdchavez@gmail.com>; Levanson Coffey <lccoffey3@gmail.com>; Kristi Correa <kristikcorrea@icloud.com>; Ed & Ginny Daly <ed.daly007@yahoo.com>; Mike & Donna Dickey <dickeys@mac.com>; Brad Downs <get2bdowns@gmail.com>; Kevin Ehlers <kevin.ehlers@cathedralpineshoa.org>; Rich Elliott <racegts@yahoo.com>; Matt Fowler <matt@airportautomotive.com>; Reynaldo Francisco <reynaldo.francisco.it@gmail.com>; Garrett Froggatte <gfroggatte@flyinghorseclub.com>; Denise Gard <dgard24@outlook.com>; Irene & James Gardner <jigardner5206@gmail.com>; Joe Gerber <joseph\_Gerber@hotmail.com>; Kim Gerber <Joseph\_Gerber@hotmail.com>; Dan & Leslie Getzinger <getzingercpa@gmail.com>; Spring Gould <springgould22@gmail.com>; Matt Grubestic <grubestic34@hotmail.com>; Skye Hafferkamp <skyekezia11@gmail.com>; Joe Hall <Jhall\_mdhco@yahoo.com>; Harlan Mager <gtifly@hotmail.com>; Guy Harris <guy.harris@edwardjones.com>; Linda Harris <lindamarieharris01@gmail.com>; Bill Heeter <bill.heeter@cathedralpineshoa.org>; Scott Himes <scott.himes@att.net>; Mike House <Mikehouse9@icloud.com>; Bobby Howarth <whowarth16@yahoo.com>; Ryan Jackowiak <ryan@eecleaning.net>; Steve Jacobs <s2j1@me.com>; Krishna Dash & Rupesl Jain <rupejain@yahoo.com>; James & Irene Cardner <jigardner5206@gmail.com>; Luke Jones <jonesld@gmail.com>; Bill Kappel <bill\_kappel@yahoo.com>; Craig Kauber <craig.kauber@gmail.com>; John & Jody Kaveney <thunderhawkhill@gmail.com>; Cathy Kennedy <cathy.kennedy@cathedralpineshoa.org>; Matt Kolz <mattkolz@gmail.com>; Chelsea Kunkel <chelseakunkel@gmail.com>; Jennifer Leach <jaleach3@aol.com>; Robert Luthy <luthy1@yahoo.com>; Dan Masciullo <househuntercolorado@gmail.com>; Michael Horvat <Michael@healthquotes.com>; Bea Mistich <mistich22@yahoo.com>; Rebecca Noelani <rebeccanoelani@gmail.com>; John Olson <john@olsoneffertz.com>; Tyrone & Kathryn Olson <ty7olson@msn.com>; Ted Otero <ted3@oterofam.com>; Bill Parzybok <Billparzy@gmail.com>; Debbie Perry <mattndebbieperry@gmail.com>; Tina Piantidosi-Hall <tinapiantidosi@yahoo.com>; Nancy Piasecki <nancypias@yahoo.com>; Doug Pratt <doug.pratt@cathedralpineshoa.org>; Lori Rhodes <lorirhodes\_5@msn.com>; Scott Riebel <scottriebel@gmail.com>; J David Schneider <jdschn@mac.com>; Frank Simonds <frank.simonds@cathedralpineshoa.org>; Scott Smetana

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**Subject:** Re: Flying Horse North Sketch Plan and hearing November 15, 2022

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Dear Justin,

Thank you for the quick response. I checked the Colorado Rules of Civil Procedure Rule 106 (a) (4) and this rule seems to apply to an owner of the property in question. I do not believe this is applicable to this situation as neither I nor other residents here in Flying Horse North and the surrounding area own these 900 undeveloped acres. This is not about some alleged violation it is about the fact the applicant for the Sketch Plan has no relationship with the ownership of these acres and the actual owner did not present a sketch plan to either your planning department nor the County Commissioners. For this reason alone it seems that the decision can have no application to the developer of Flying Horse North and the seeking of a modification of the existing subdivision. Please address this issue. Thank you. All the best. Phil

On Apr 6, 2023, at 1:22 PM, Justin Kilgore <[JustinKilgore@elpasoco.com](mailto:JustinKilgore@elpasoco.com)> wrote:

Hi Phil,

That is my fault. I had discussed your email with Meggan when she returned, and I was supposed to reply. Unfortunately, it has just slipped through the cracks on my end and gotten lost in my inbox. I apologize.

Thank you for your in-depth review of the ownership documents of FHN and analysis of the process. The avenue for relief is to file a "106" (Rule 106(a)(4)), however, the time for that has passed. There are no other applications filed with the County at this time for the area encompassed by the referenced Sketch Plan. When they are filed you will also get the opportunity too present your objections to both the Planning Commission and the Board of County Commissioners.

Regards,



## Justin Kilgore

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**Sent:** Thursday, April 6, 2023 1:05 PM

**To:** Meggan Herington <[MegganHerington@elpasoco.com](mailto:MegganHerington@elpasoco.com)>; Justin Kilgore <[JustinKilgore@elpasoco.com](mailto:JustinKilgore@elpasoco.com)>

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**Subject:** Flying Horse North Sketch Plan and hearing November 15, 2022

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Dear Meggan and Justin,

I emailed both of you on March 28, 2023 and Meggan I received an automatic reply that you would be out of the Planning Department until March 29th. Unfortunately neither of you have responded to my email.

As you both are aware on November 15, 2022 the BOCC approved the Sketch Plan with a 3-1 vote, as Commissioner Williams had recused herself for an apparent conversation she had with someone that in her opinion required she not participate within this hearing. Both Commissioner Geitner and Bremer participated and never disclosed they had received over 32% of their total campaign contributions from the actual developer of Flying Horse North and affiliates. This based upon Ethics law created an Appearance of Impropriety which required they either explain publicly at that hearing these substantial campaign contributions from this developer whose project was the subject of the Sketch Plan and they would still be able to hear the matter objectively, impartially and fairly or alternatively recuse themselves. They did neither. Thus this hearing should not have gone forward as no quorum was possible given this appearance of impropriety.

It appears that four of the five Commissioners refuse to have this issue set as an agenda item and publicly discussed in order to come up with a rule and a process to handle situations such as this one where a quorum was not possible in order to have five individuals hear the matter for fairness, impartiality, and objectivity; thus these Commissioners are failing in their responsibilities to the entire community including developers.

Not only should the decision rendered on November 15, 2022 be vacated as a result of an improper quorum, it also should be vacated resulting from the Sketch Plan including the Letter of Intent submitted on behalf of a non owner of the remaining 900 acres and as well an entity with absolutely no connection to this development and subdivision.

As I informed you the Sketch Plan was filed on behalf of Flying Horse Development LLC which entity has nothing to do with this subdivision, regardless of this LLC erroneously being identified as just Flying Horse Development and or Flying Horse Development LLC. The remaining undeveloped 900 approximate acres is owned by PRI #2, LLC.

The report submitted by the Planning Department to the BOCC did indicate the real owner being PRI #2, LLC and that the matter was being submitted on behalf of that owner c/o Elite Properties of America and Flying Horse Country Club. Unfortunately the Letter of Intent, a part of the Sketch Plan and all the reports being identified all as constituting the Sketch Plan, none were submitted by the owner and thus were and are completely irrelevant.

At the Sketch Plan hearing itself I was of the impression that non of the Commissioners had read anything including the Sketch Plan, except for the report submitted by your Planning Department. I wonder if they had actually read the several reports which made up the Sketch Plan would they have caught the fact not only of the inconsistencies within the various reports of the Sketch Plan and even the fact this Plan was submitted on behalf of entities having no connection to the Flying Horse North development.

I am asking you to please take action to set aside the decision made on the Sketch Plan resulting from the hearing of November 15, 2022 and as well to request the BOCC to set as an agenda item the appearance of impropriety for a public hearing and notifying myself and the individuals with whom I have copied with this email as to the date and time that hearing will occur. Further please respond to my emails.

In my email of March 28, 2023 I indicated I was sending a copy of that email to the County Attorney Mr. Kenny Hodges. Somehow I inadvertently failed to do so. I am attaching a copy of that email here and am sending both Kenny Hodges as well as the Commissioners a copy in the hope they actually will in fact set aside their decision regarding the Sketch Plan and set the issue of an appearance of impropriety for a public hearing.

Sincerely, Phil

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