

EL PASO COUNTY PLANNING COMMISSION

MAY 6, 2008

MINUTES

PRESENT
DURING PART OR
ALL OF THE MEETING

Bob Roulier
Ray Schanel (Excused at 12:20 P.M.)
Verlin Dickman
Eddie Bracken
Lowell Bell (Excused at 2:10 P.M.)
John Vohland
David Powell
Steve Hicks
David Kunstle
Steve Sery

COUNTY STAFF
PRESENT DURING
PART OR ALL OF
THE MEETING

Mike Hrebenar, Development Services Department
Carl Schueler, Development Services Department
Elaine Kleckner, Development Services Department
Mike Garrott, Development Services Department
Mark Gebhart, Development Services Department
Carol Weber, Development Services Department
Raimere Fitzpatrick, Development Services Department
Kari Parsons, Development Services Department
Robert Wolf, Development Services Department
Tara McGowan, Development Services Department
Anthony Fruchtl, Development Services Department
Lori Seago, County Attorney's Office

NOTE: The Planning Division Comment Agenda is automatically incorporated as part of the record.
The digital recording is the official record of the meeting.

Mr. Sery called the regular meeting of the Planning Commission to order in the Hearing Room at the Pikes Peak Regional Development Center at 9:00 A.M. and announced item #4, Gieck Ranch Drainage Basin Planning Study (MP-08-001) had been continued to the June 3, 2008, meeting.

He appointed the following voting members:

Mr. Roulier	Mr. Schanel	Mr. Bracken
Mr. Vohland	Mr. Bell	Mr. Powell
Mr. Dickman	Mr. Kunstle	Mr. Sery

1. **Report Items** – Ms. Kleckner reported on the following:

A. Items approved by the Board of County Commissioners on which the Planning Commission had taken action;

B. Staff's workload;

Mr. Sery questioned expectations, based on the fact there had been only one Planning Commission meeting for the last several months and the agendas have been light for the meetings which have been held. Ms. Kleckner described projects in the system.

C. She introduced Anthony Fruchtl, newly hired Planner II;

D. She described stakeholder meetings which have been held on the Procedures Manual. It is anticipated a draft will be available on the internet May 12th and a Work Session with the Board of County Commissioners has been requested for May 22nd (tentative at this time);

E. Revisions to the Land Development Code;

Items D and E will be covered more fully by Mr. Gebhart at the end of the agenda;

G. May 20th Planning Commission meeting has been canceled.

2. **Annual Meeting – Election of Officers**

Chair
Vice Chair

Mr. Vohland moved that the current officers (Steve Sery as Chair, and Bob Roulier as Vice Chair) be elected for the 2008 – 2009 term. Mr. Bracken seconded the motion. Mr. Bell moved the nominations be closed and the Planning Commission voted unanimously to retain the current officers for the coming year.

3. Consent Items

A. Minutes of the Regular Meeting held April 1, 2008

Mr. Sery asked if there were any corrections or additions to the April 1, 2008, Minutes.

B. P-07-004

**REZONING: A-35 TO RR-5
JERRY AND KAREN AGER**

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 the development of the Ager Subdivision Filing 1; a three-lot single-family residential development. The property is located east of Curtis Road and approximately three-fourths mile north of the intersection of Judge Orr Road and Curtis Road and is within the Falcon/ Peyton comprehensive planning area. (Schedule No. 42000-00-046)

DEVELOPMENT SERVICES DEPARTMENT recommendation: Approval, subject to:

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.

**MINOR SUBDIVISION
AGER SUBDIVISION, FILING #1**

Request by Jerry and Karen Ager for final plat approval of Ager Subdivision Filing #1. The proposed 39.574-acre subdivision is in the RR-5 (Residential Rural) zone district. A rezone application (P-07-004) is running concurrently with this application. The subdivision includes three single-family lots with two at 4.75 acres and one at approximately 29 acres. The property is located east of Curtis Road and approximately three-fourths mile north of the intersection of Judge Orr Road and Curtis Road and is within the Falcon/ Peyton comprehensive planning area. (Schedule No. 42000-00-046) (MS-07-002) (Carol Weber)

Waiver: The applicant is requesting waiver of Section 49.2.C.3.a of the El Paso County Land Development Code, where all subdivisions and lots created must front upon a public street accepted for maintenance by El Paso County or other public entity.

DEVELOPMENT SERVICES DEPARTMENT recommendation: Approval, subject to:

CONDITIONS OF APPROVAL

1. 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 regarding the Endangered Species Act, particularly as it relates to the Preble's Meadow Jumping Mouse as a listed threatened species.
2. A completed U.S. Army Corps of Engineers permit shall be provided to the El Paso County Development Services Department prior to project commencement if ground-disturbing activities would occur in wetland areas. Alternatively, a letter from a qualified wetland scientist indicating why such a permit is not required for this project may be acceptable.
3. Fees in lieu of school land dedication in the amount of \$370.00 shall be paid to El Paso County for the benefit of Peyton School District # 23.
4. Fees in lieu of regional parkland dedication in the amount of \$1,059.00 shall be paid to El Paso County (Park Region 2).
5. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current Title Commitment at the time of submittal of the Mylar for recording.
6. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, for years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Development Services Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
7. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.
8. The Mylar shall be submitted to enumerations prior to recordation of the final plat.
9. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
10. Should any further subdivision of Lot 1 be requested, the subdivider shall provide a public road via the 60 foot frontage provided. This road would be private until such time that future Curtis Road is accepted by El Paso County as a public road.
11. The fence along the access road (future Curtis Road) shall be relocated outside of the dedicated right of way and the 10 foot public improvements easement upon recordation of the final plat.

12. The owner / developer / builder of each lot within this subdivision shall have the responsibility of meeting the 2003 International Fire Code (IFC) standards. At the time of approval of this project, this property is located within the Falcon Fire Protection District, which has adopted the 2003 IFC requiring residential fire sprinklers for covered structures over 6,000 square feet in size, and other fire mitigation requirements depending upon the level of fire risk associated with the property and structures. The owner of any lot should contact the fire district to determine the exact development requirements relative to the 2003 IFC.

NOTATIONS

1. Final plats not forwarded to the Board of County Commissioners within 12 months of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.
2. The existing Curtis Road intersection at State Highway 24 is identified in the Stapleton Corridor Study and in the State Highway 24 Access Control Plan as a future right in right out. Curtis Road at this location is planned to extend south to future Stapleton Road. Development along Curtis Road will dictate this connection and the establishment of the right in right out.
3. The access road to the property from State Highway 24 is neither owned nor maintained by El Paso County. Maintenance of this roadway is vested with the individual property owners until such time that it is accepted by the Board of County Commissioners as a matter of maintenance by El Paso County.
4. Access to from Lots 2 and 3 to the proposed Curtis Road may be eliminated in the future provided that alternate access is secured.
5. 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.

D. VR-06-005

VACATION/ REPLAT LATIGO BUSINESS CENTER FILING #2

Request by Vernie Houtchens, Gary Nanninga, L.G. Case and Randall DeYoung to vacate and replat Lot 2, Latigo Business & Research Center Filing #1, consisting of 54.913 acres, proposed for six industrial lots, a 7.458-acre future development tract and a 36.76-acre future development tract. The property is zoned I-2 (Limited Industrial) and CR (Regional Commercial) districts and is located north of Woodmen Road and east of Bent Grass Meadows Drive, within the Falcon/ Peyton Planning Area. Schedule Nos. 53010-00-001 and 53010-02-007

DEVELOPMENT SERVICES DEPARTMENT recommendation: Approval, subject to:

CONDITIONS OF APPROVAL

1. A completed U.S. Army Corps of Engineers permit shall be provided to the El Paso County Development Services Department prior to project commencement if ground-disturbing activities would occur in wetland areas. Alternatively, a letter from a qualified wetland scientist indicating why such a permit is not required for this project may be acceptable.
2. All Deed of Trust holders shall ratify the plat. The applicant shall provide a current title commitment at the time of submittal of the mylar for recording.
3. Colorado statute requires that at the time of the approval of platting, the subdivider provides the certification of the County Treasurer's Office that all ad valorem taxes applicable to such subdivided land, for years prior to that year in which approval is granted, have been paid. Therefore, this plat is approved by the Board of County Commissioners on the condition that the subdivider or developer must provide to the Development Services Department, at the time of recording the plat, a certification from the County Treasurer's Office that all prior years' taxes have been paid in full.
4. The subdivider or developer must pay, for each parcel of property, the fee for tax certification in effect at the time of recording the plat.

5. The Subdivision Improvements Agreement, including the Estimate of Guaranteed Funds as approved by the El Paso County Development Services Department shall be filed at the time of the recording of the plat.
6. Collateral sufficient to ensure that the public improvements as listed in the approved Estimate of Guaranteed Funds shall be provided when the plat is recorded.
7. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
8. Drainage fees of \$60,593.75 and bridge fees of \$23,266.25 will be due at the time of final plat recordation.
9. A legal description for the floodplain shall be provided on the final plat prior to hearing by the Board of County Commissioners.
10. Proper roadway dedication statements shall be provided on the final plat prior to hearing by the Board of County Commissioners.
11. The site is subject to fee assessment for both the Woodmen Road Metropolitan District and the Falcon Small Area Traffic Study. Language regarding the Falcon Small Area responsibility shall be included within the Subdivision Improvement Agreement. A fee in the amount of \$41,146.00 shall be due to El Paso County in order satisfy the applicant's Falcon Small Area obligation.
12. The design of the channel through the Latigo Business Center Filing No. 2 Tracts A and B shall be finalized with the platting of those Tracts.
13. Permanent Best Management Practices shall be required for each lot in the subdivision. Design of these facilities shall be submitted with each site development plan within the subdivision for review and approval by the El Paso County Development Services Department.
14. There shall be no direct lot access to Bent Grass Meadows Drive for any lot within this subdivision.
15. Building permits for Tracts A and B shall not be approved until the tracts are platted via the El Paso County subdivision process.
16. Work within the FEMA Floodplain will require the necessary permitting through the El Paso County Floodplain Administrator.
17. Private detention basin maintenance and easement agreements shall be amended to include drainage swale and detention facilities proposed with this subdivision. The amended agreement shall be approved by the El Paso County Attorney's office and recorded with the final plat.

NOTATION

1. Vacation and replats not forwarded to the Board of County Commissioners within 12 months of Planning Commission action shall be deemed withdrawn and shall have to be resubmitted in their entirety.

Mr. Sery explained the procedure for Consent items.

SPEAKING AGAINST: None

Mr. Roulier made a motion for approval of Consent items #3 A. though D., seconded by Mr. Vohland and unanimously (9-0) approved, subject to the proposed conditions and notations and that these items be forwarded to the Board of County Commissioners for consideration, if applicable. These Resolutions can be found in Book ____, Pages 9603 through 9605 (items B - D), Resolutions of the El Paso County Planning Commission.

REGULAR ITEMS:
4. MP-08-001

**AMENDMENT TO COUNTY MASTER PLAN
GIECK RANCH DRAINAGE BASIN PLANNING STUDY**

Request by the El Paso County Department of Transportation and Drexel, Barrell and Company for adoption of the Gieck Ranch Drainage Basin Planning Study as an amendment to and component of the El Paso County Master Plan. The basin originates northeast of Falcon, and drains southeast nearly to Ellicott.

Item #4 was continue to the June 3, 2008, meeting.

5. VA-08-001

**VARIANCE OF USE RENEWAL
VASHOLTZ COMMERCIAL MOBILE RADIO SERVICE TOWER**

Request by Pfleger Consulting, LLC, representing Sprint/Nextel Communications for the renewal of a Variance of Use for the operation of a Commercial Mobile Radio Facility (Wireless Communications Tower) in the R-T (Residential Topographic) Zoning District. The tower is located on a 16-acre parcel located in the northeast quarter of the southeast quarter of Section 26-Township 13- Range 68, approximately one mile east of Cascade, west of the Pike National Forest on Highway 24. (Schedule Number 83264-00-018)

DEVELOPMENT SERVICES DEPARTMENT commented.

Responding to Mr. Vohland, Mr. Fitzpatrick explained the proposed conditions have been modified to eliminate the possibility of an administrative approval of an increase in the height, but retain the ability to administratively approve co-location of another antenna. The tower height is limited to no taller than 60 feet.

Mr. Vohland inquired about the possibility of a 10-year timeframe. Mr. Fitzpatrick explained staff's recommendation of five years is standard and allows the ability to review the appropriateness of the approval, as well as any new technology which could be utilized. The final decision, of course, is with the Planning Commission for recommendation and with the Board of County Commissioners for approval.

Mr. Sery explained the procedures for Regular Items.

SPEAKING FOR: Peter Van Werkler, representing the applicant, displayed/ explained drawings of the area illustrating coverage with and without this tower, etc. He described usage of the tower and said this will upgrade the service they provide.

Mr. Sery complimented Mr. Van Werkler on the completeness of his presentation.

SPEAKING AGAINST: None

Mr. Vohland made a motion for approval of Resolution No. VA-08-001 (utilizing the Standard Resolution on page 51) regarding the Variance of Use for Vasholtz Commercial Mobile Radio Service, more particularly described in Book _____, Page 08-029, Resolutions of the El Paso County Planning Commission, and that this matter be forwarded to the Board of County Commissioners for their consideration. Mr. Bell seconded the motion and, upon voting, it was approved by a unanimous vote of 9 to 0, subject to the following:

CONDITIONS OF APPROVAL

1. Approval is limited to the one (1) existing commercial tower of sixty (60) feet in height, designed as a monopole communication tower, and existing antennas and equipment buildings as depicted in the applicant's letter of intent and site drawings.
2. The variance of use shall be granted for renewal ten (10) years from the date of Board of County Commissioners' action. Specific items for the Board of County Commissioners to review at the end of this period shall be changing technology which would result in reduced tower height, and changes in specific tower related regulations.
3. This variance of use approval shall be deemed abandoned, and of no further force and effect, if the primary intended use and/or activity has not been substantially implemented upon the approved site within one (1) year of the Board of County Commissioners' variance of use approval, or if implemented, has been discontinued for a period of one (1) year. For

the purpose of this condition, this variance of use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the approved site.

4. The tower paint shall be maintained a suitable color to fit into the natural surroundings, as determined by the Development Services Department, as previously approved in the prior variance renewal (VA-02-028).
5. Any subsequent collocation, additional equipment shelter or additional antenna on the tower site other than that shown on the site plan shall be subject to administrative review and approval by the Development Services Department.
6. The tower shall remain in compliance with Section 5.2.19 of the El Paso County Land Development Code, including Sections 5.2.19.7.b, Minimum Setbacks for Freestanding CMRS Facilities and 5.2.19.7.c, Maximum Height for Freestanding CMRS Facilities.
7. Prior to Board of County Commissioners approval a guarantee of financial surety in the amount of \$10,000.00 shall be provided to El Paso County for the removal of the tower in case of abandonment.

NOTATIONS

1. The Board of County Commissioners may consider revocation and/or suspension if zoning regulations and/or variance of use conditions/standards are being violated, preceded by notice and public hearing.*
2. If the variance of use is discontinued or abandoned for two (2) years or longer, the variance of use shall be deemed abandoned and of no further force and effect.*
3. Variance of use requests not forwarded to the Board of County Commissioners for consideration within 180 days of Planning Commission action shall be deemed withdrawn and shall have to resubmitted in their entirety.*

* The above notations are abbreviated; they have the same force and effect as the items found within their entirety in the El Paso County Land Development Code.

Prior to voting, Mr. Bell said he thought additional consideration should be given to towers since they are an important part of the communication system. To require them to renew their approval every five years is, in his opinion, ridiculous.

Regarding technology, Mr. Van Werkler said, in the future, these facilities will provide an increasing amount of information. This tower is not very visible.

Mr. Fitzpatrick said the reason for the five-year time limit is so the decision makers can frequently review the circumstances and determine if the Variance of Use is still needed or if there is an alternative which could be utilized.

Mr. Bracken said he does not agree with staff's logic. If technology changes, the vendor will be the first one to request a change.

Mr. Vohland said, based on the lack of complaints about this location, lack of other towers and usage of this facility, he amended his motion to include a 10-year timeframe. Mr. Bell agreed.

Mr. Bell said towers should be re-evaluated. Approval of them should not be based on a hardship but from a service standpoint.

6. SKP-07-007

SKETCH PLAN STERLING RANCH

Request by Morley-Bentley Investments LLC for approval of the Sterling Ranch Sketch Plan, consisting of 1,443.7 acres, proposed for 5,500 residential units, 56 acres of commercial, 57 acres of school sites, 210 acres of parks and open space and a two-acre utility site. The property is located generally east of Vollmer Road and north and south of the proposed extension of Briargate Parkway. (Schedule Nos. 52000-00-081, 135, 136, 264; 52330-00-001, 016; 53000-00-567)

DEVELOPMENT SERVICE DEPARTMENT's team utilized a PowerPoint presentation for this request. There was discussion of proposed condition #1. One hundred thirty-four adjoining property owners were notified, with six responding in favor of granting this request, nine in opposition,

and three responding but expressing no opinion. Copies of letters received were distributed. Concerns expressed by those in opposition included impact on wildlife and water, lack of compliance with the *Black Forest Preservation Plan*, questioned the need for 5,500 units in this area, impact on Sheriff and Health Departments in view of the County's budget shortfall, understood the area was to be 35-acre parcels, desire for two-plus acre sites, preference for a wind farm, desire for a 500-foot buffer.

Mr. Dickman said, in his opinion, water should be addressed even though this is the Sketch Plan stage, especially in view of the past problems with Cherokee Metropolitan District.

Responding to Mr. Bracken there was discussion of the Major Transportation Corridors Plan (MTCP) in this area and the impact this Plan will have on roads. It was stated approval of this Plan will modify the 2030 MTCP. Mr. Schueler explained adoption of the MTCP as an element of the Master Plan and said the Board of County Commissioners would utilize it as an advisory document.

SPEAKING FOR: John Maynard, with N.E.S., representing applicant, named others present and used a PowerPoint presentation to explain the request. He said 5,500 units represents a maximum – there may be less.

He said they agree with the proposed conditions, including the revisions, with the exception of conditions #1 and #2. He explained their disagreement.

Following the lunch break, Mr. Schanel asked to be excused for the balance of the meeting (12:20 P.M.) and Mr. Sery appointed Mr. Hicks as a voting member.

Mr. Dickman said, even at the concept level, water and where it will come from is a critical issue. There have been problems with Cherokee in the past. He expressed concern that there was no response in the staff report from the Upper Black Squirrel Groundwater Management District or others regarding this matter. He asked for details regarding the water supply.

SPEAKING FOR: Steve Mulliken, land use attorney, said they will have to show adequacy regarding water with a future submittal.

Mr. Dickman said, if the project cannot proceed with water to be provided by Cherokee, this should be known at this time.

Mr. Mulliken said a significant amount of water rights have been acquired with the purchase of the property. They will convey these rights to Cherokee. They believe their water rights are basically sufficient or they would pursue development inside the City limits.

Mr. Maynard said their proposed water supply will not come from the Upper Black Squirrel Groundwater Basin. If water were taken from that Basin, it would have to be replaced.

Mr. Bell asked about the impact on the project if condition #1 is imposed. Mr. Maynard said the Board of County Commissioners would have to make the decision. Discussion of conditions #1 and #2 followed. Mr. Maynard said they may wish to utilize zoning other than PUD for some portions of the property.

There was discussion of the fire service. The applicant has not yet reached the point of specifics but they will continue to discuss the subject in order to determine the fire district's needs. It is the applicant's desire to provide adequate coverage for the property.

Mr. Kunstle asked for clarification of density and inquired why buffering is not provided along all perimeters. Mr. Maynard explained the location of Sand Creek and the potential for development of other parcels. He said they will provide a buffer wherever it is needed.

Responding to Mr. Kunstle, Mr. Maynard described the proposed adult community.

Answering Mr. Bracken, Mr. Mulliken said a golf course is prohibited by the terms of the sale of the property.

In response to Mr. Hicks, Mr. Maynard described the life of the sand/ gravel mining in the area.

SPEAKING FOR: Virgil Sanchez said the mining will be completed in March 2009 when the resources are depleted.

Mr. Sery asked why the applicant did not want to rezone the property to an overall PUD and then modify it with site-specific zones. Mr. Maynard explained they would have to answer questions regarding development that may be 10 years away, and they are not prepared to do this. In their opinion, attempting to decide on specific land uses would be premature.

SPEAKING AGAINST: Julia Murphy, geologist representing Protect Our Wells, said the Upper Black Squirrel Groundwater Management District has a policy against exporting water from the Basin.

She questioned whether the applicant has a sufficient water supply for this number of lots. She cited provisions in the Land Development Code which state the water supply should be "probable." She questioned Cherokee's letter of commitment and the water supply report submitted by the applicant.

Mr. Dickman expressed concern that the State Engineer's Office has determined Cherokee does not have a supply that enables them to provide water to out-of-district properties. Mr. Sery pointed out Cherokee will not be supplying the water, but will provide service. Mr. Dickman said documentation of a probable supply should be provided. Ms. Seago also cited provisions in the Code which outline the requirement the water supply "is or can be adequate."

Ms. Murphy proceeded with her objections/ concerns, citing the 22 conditions outlined by Cherokee in their letter of commitment for providing water to the project. She said she disagrees with some of the figures provided by the applicant regarding the different aquifers, number of homes that could be served, and described augmentation plans which would be required.

She concluded by stating an adequate water supply has not been demonstrated. If there are alternative sources, they should have been provided so a determination could be made regarding an adequate supply.

SPEAKING AGAINST: Amy Phillips, Chair of the Black Forest Land Use Committee, said she disagreed with some of the statements made by Mr. Maynard regarding master plan consistency. She displayed excerpts from the Executive Summary of the *Black Forest Preservation Plan* and said they object to the proposed density north of the Briargate/ Stapleton alignment. She suggested they utilize 2.5-acre lots.

She objected to the overall density of the project and asked that it be reduced at least north of the Briargate/ Stapleton alignment in compliance with condition #1. She said the higher density should be internal to the project.

She said the buffers are not adequate and do not meet the requirements of the Black Forest Plan.

Ms. Phillips addressed water and the need for a probable supply, saying approval of the Sketch Plan is premature until an adequate water supply can be demonstrated.

She asked for clarification of the commercial area.

She cited a December 8, 2006, letter from the Fish & Wildlife Service asking the possibility of a Preble's Mouse habitat along Sand Creek be assessed. She suggested the need for a survey and said this could impact the width of the greenbelt.

They are asking that best management practices be utilized for grading and runoff so the stream and wetlands are protected.

She summarized her presentation and suggested the property be divided, describing how each should be developed. She said the applicant cannot prove an adequate water supply for 5,500 homes.

Responding to Mr. Dickman, there was discussion regarding a water supply for the area north of the Briargate/ Stapleton alignment.

Mr. Sery observed there is seldom such an extensive discussion regarding water at the Sketch Plan stage. In response to his request, Ms. Kleckner clarified provisions/ requirements of the Land Development Code. She said detailed information is typically provided with the subdivision request.

Copies of an October 9, 2007, letter from Cherokee Metropolitan District (Exhibit 1) were distributed.

Ms. Phillips said those with existing wells are concerned because this applicant is anticipating using groundwater.

She also expressed concern that Cherokee might misuse water intended for this project, once they own the rights. She asked that the applicant be required to show the source of their probable supply.

She asked for a condition that would prevent groundbreaking until the water source(s) are provided except on 2.5-acre lots.

SPEAKING AGAINST: Judy von Ahlefeldt, speaking as a private citizen and as a member of the Black Forest Land Use Committee Transportation Committee, pointed out surrounding areas are developed with five-acre parcels. She described the ownership of several.

She suggested an urban cluster with more buffering open space, keeping the northern part as rural residential. She suggested a redesign of the project would be appropriate.

She questioned the purpose of the Sketch Plan based on Mr. Maynard's statement that uses may change in the future.

She questioned what will be in the greenway, pumping water from the aquifers, and the downstream impact.

Representing the Transportation Committee, Ms. von Ahlefeldt objected to impacts on area roads. She suggested a relocation of some of the roads and said offsite impacts need further consideration. She also suggested perimeter roads be completed first.

SPEAKING AGAINST: Karen Marchman, member of the Black Forest Land Use Committee and adjoining property owner on 30 acres, expressed concern about the impact on wildlife. She described the wildlife on the property, natural amenities, etc. and asked for open space to protect it.

Mr. Sery pointed out a lengthy letter had been received from the Division of Wildlife, expressing their concerns.

She also asked for adequate setbacks to accommodate both the natural features and wildlife.

Mr. Bell said he would not be voting on this project but pointed out this is a Sketch Plan and said there are issues on both sides, some of which are academic. They have not been addressed in the regulations (such as water, which is a concern to all), but there is a need to look at this objectively, especially where there are regulations which should be followed. He suggested keeping in mind there are subjective things that will be manifest at a later date. He urged those present to keep in mind this is the first step in a multi-step process. He said, in his opinion, this is a workable document at this stage of development.

Mr. Bell asked to be excused for the balance of the meeting (2:10 P.M.) following a public thanks for his years of service. Mr. Sery appointed Mr. Hicks as a voting member.

SPEAKING FOR: Mr. Maynard addressed issues which had been raised. He said the Black Forest Plan is subject to interpretation. They believe they are substantially in compliance with that Plan. Other issues such as compatibility are also important.

He described infrastructure they will construct and the need for this density in order to make the project financially viable.

Regarding water, he said they believe they have provided information to show they have a probable supply. Cherokee will not be providing the water. Rather, they intend to purchase it from sources other than the Upper Black Squirrel Groundwater Basin. He said they are not willing to disclose the water source(s) until the Sketch Plan has been approved because they have not yet agreed on a price.

SPEAKING FOR: Mr. Mulliken said the master plan is advisory and discretionary. He said water will be further addressed at a later stage in the development, but stated they have rights to an adequate supply.

He addressed PUD zoning and said the Sketch Plan is a conceptual document. He described requirements inside the City limits to rezone to an agricultural district as a holding zone until the correct zoning is determined. He said they do not want future purchasers of adjoining properties to rely on something that might change in the future.

Mr. Roulier expressed concern about buffering on the southern portion and said it seems more should be provided. Mr. Mulliken described the 50-foot landscaping buffer and said they believe it is adequate, especially since residents have been adjacent to a mining operation.

Responding to Mr. Sery, Ms. Kleckner addressed the suggested requirement for PUD zoning, acknowledging the condition may be a bit stringent but said it is standard. The intent was to place the applicants on notice that a higher level of detail will be required. She read provisions of the Land Development Code for zoning and a conceptual plan and said the new Procedures Manual will give an even greater ability to work with the developer. She concluded by saying staff supports the proposed condition.

Responding to Mr. Kunstle, there was discussion/ explanation of the buffering, when it will be detailed, and what staff will be considering in their review. Lack of requirements in conventional zoning was explained.

In response to Mr. Kunstle, Mr. Schueler explained the effect of a master plan, saying case law indicates it is advisory except for PUD zoning when general conformity to the master plan must be shown. If the Board of County Commissioners makes that finding at the sketch plan stage, staff assumes it is true for the PUD zoning.

Mr. Vohland made a motion for adoption of Resolution No. SKP-07-007 (utilizing the Standard Resolution on page 36) regarding denial of the Sterling Ranch Sketch Plan, more particularly described in Book ____, Page 08-030, Resolutions of the El Paso County Planning Commission, and that this

matter be forwarded to the Board of County Commissioners for their consideration. Mr. Bracken seconded the motion and, upon voting, it was adopted by a vote of 7 to 1 (Mr. Kunstle voting in opposition to denial).

Prior to voting Mr. Bracken said he was troubled by the developers' representatives who imply that, while the area to the north will probably be developed with high density and the areas to the south should not be of great concern because someone will purchase them and they will be developed with higher density. Clearly, this development is an urban cluster, surrounded by rural residential areas – five acres on all sides. For them to make assumptions that that will somehow break down is not very valid. He said he had heard similar comments about the Falcon area to justify higher densities. With respect to the type of zoning, he agreed with the County regarding PUD zoning. If this project ever comes before the Planning Commission again, that condition should be included in any approval.

He disagreed with the developers' interpretation with regard to compatibility with existing land uses. He said he agrees with the County's position that this project is not in compliance with the Black Forest Plan. It is very clear the quarter-mile transition line is not geographically fixed on the map but is contingent upon the ultimate design of the major east-west transition. In his opinion, densities north of the quarter mile should be brought into compliance with the Black Forest Land Use Plan.

He had questions about water. He said he understands the developers' dilemma with respect to disclosing the source of the supply; nevertheless, it is a concern.

He expressed concern about traffic and the detail provided to date. He also expressed concern whether the fire department has the capability and infrastructure to support this development.

He also expressed concern about the north-south Sand Creek corridor, not only from an ecological and drainage perspective, but also the impact on wildlife.

Mr. Vohland said, in his opinion, this project does require PUD zoning and is one that needs a higher level of planning, detail and control because of the location. He does not like the transition areas, particularly on the south, because of the five-acre areas on that side. He does not think a 50-foot barrier is adequate.

He acknowledged water is outside this particular stage of the project but said it is of major concern.

Regarding the disagreement regarding density above the line, to let the developer move through the Planning Commission and make revisions before the Board of County Commissioners is unfair to the citizens. What changes might be made are not clear, so the Planning Commission needs to again review the Sketch Plan after the revisions have been made.

Mr. Dickman said his main concern is the issue regarding water. It has been said the question of water is not applicable to a Sketch Plan, but he said he respectfully disagrees. Typically, the issue is not raised and, in most cases, there is no reason to question the probability of a source of supply. This, however, is not a normal and usual case. There is a history regarding Cherokee and, in this particular case, a probable source needs to be documented. That is one of the reasons for holding a public hearing on these matters. If there were no basis for considering water at the Sketch Plan level, the provision from the Code read into the record by Ms. Seago would be meaningless. He said he would not only find there is an insufficiency for a probable source of water, but there is no evidence. The only thing the Planning Commission has is a commitment by a provider the State Engineer's Office has said is over-committed. That is a poor basis on which to proceed.

He said this is no reflection on Mr. Maynard. If he prepared and presented all the petitions heard by the Planning Commission, it would be well served. He is a first-class planner, but many of the loose ends need to be resolved before the project goes forward. This may be the case that proves the exception. The Sketch Plan may be a good place to stop the process before both the developer and the Development Services Department invest too much money without critical issues being resolved.

Referring to buffers, Mr. Powell said various buffers are discussed but, in his opinion, transition zones are more important. A 50-foot buffer between five-acre and quarter-acre lots is one thing, but a transition zone would be more appropriate. That would direct the higher density toward the center of the property, with the lower densities on the perimeters transitioning to the existing five-acre lots.

Mr. Kunstle said he has a different view. In his opinion this is a well-conceived plan, especially for this stage of the development. He said, keeping in mind this is a Sketch Plan, by definition, there will be loose ends. This is true with respect to a number of issues. The applicant is not required to prove sufficiency regarding water at this state. In his opinion, they should not be asked to do that. They are following the rules and expectations at this stage. Water is a valid concern, but not at the Sketch Plan stage.

With regard to the PUD zoning, the applicant was convincing in saying they should not be shackled with this requirement at this stage. Staff has admitted this is a rather heavy condition and, in his opinion, it is inappropriate at this time.

He said he does have concerns about buffering the densities on the north, west and south sides. He said he would like to see something different but, again, this is a Sketch Plan and the details will be evaluated again at a later time.

The last issue is the quarter mile distance in the Black Forest Plan which is advisory and was implemented in 1987. It is specific language, but the Planning Commission's job 21 years later is to determine if the intent of the Plan is being furthered and whether this is in general conformity. He said, in his opinion, it is. There are 2.5-acre lots on the east and north sides where the City is expanding. He said he thinks that is why the line was drawn to the north of Woodmen Road. In his opinion, this plan provides for gradual buffering of density which meets the spirit of the Plan. He said he does not think it is the intent to be shackled to the letter of the language. That is why the Planning Commission looks at the entire plan and holds the hearing. He said he thinks it makes sense to approve this Sketch Plan.

Mr. Sery said he believes this to be a very good plan, but it is in the wrong place. It is urban density in the midst of rural zoning, and he has a problem with that.

Mr. Bracken said the *Black Forest Preservation Plan* was approved by a public process, and it has been well supported by the citizens in that area for a long time. It is still supported and, even though it is advisory in nature, with the purpose of advising the County Commissioners, unless there is a regional impact, the Plan should be followed. He said he is very disturbed that the Planning Commission can make concessions because of what they think the future holds for this area, and that they believe it will inevitably be higher density development. That facilitates that process and is the wrong approach for this Commission to take. Any revisions of the Plan should be left to the public process.

Following the vote, Mr. Kunstle said he appreciated Mr. Bracken's comments but this is a public process. That is the whole point of having this hearing – to look at the plans, and it is the job of this panel to evaluate them in light of the facts presented.

7. Procedures Manual Update

Mr. Gebhart explained the background/ history of the Procedures Manual. Displaying the framework (organization) of the Manual, he explained the contents and progress.

Mr. Bracken suggested a flowchart be created for a subdivision, saying it would be helpful to the public. It would give an overview of the process.

Ms. von Ahlefeldt said this Manual will have a major effect on information flow and what is presented to the Planning Commission. She suggested a special session with the Planning Commission to see how they will be impacted, what goes into a packet, who should be contacted for information, etc.

Mr. Gebhart explained specific areas which needed input from stakeholders, such as the Subdivision Improvements Agreement, type of collateral, how it is released, etc. He further described stakeholder meetings which were held on these issues as well as public involvement matters. A combined stakeholder meeting was held on April 24th. He displayed a list of 15 questions/ notes from that meeting.

Responding to Mr. Bracken, Mr. Gebhart outlined the proposed schedule for making the Manual available for review.

8. Land Development Code Revisions Update

Mr. Gebhart said the intent is to update the Code on an annual basis. He described potential changes under consideration, process of what will be included in this revision via classifying them as minor/ major, typographical errors, etc.

Mr. Vohland asked whether there will be a designation of the latest update in these two documents.

Mr. Hicks asked if there had been any indication from the customers that they thought the Code should not have been updated. Mr. Gebhart outlined concerns that have been received and said one problem is the procedures in the old Code are still being followed under the new Code.

Responding to Mr. Sery's inquiry about a timeframe for the Code revisions, Mr. Gebhart said the Procedures Manual is a priority. Approval of that will determine the timeframe for the Code revisions.

SPEAKING: Larry Barrett, with Scenic Colorado, thanked Mr. Gebhart for being available to answer his questions in the past. He expressed concern about billboards and visual pollution. He described his memo (handed out) and asked for consideration of their position/ concerns in future revisions.

Mr. Bracken pointed out Mr. Null had, in the past, asked about involvement of the Code Committee in this revision. He asked about the status of reconvening that group. Mr. Gebhart said that decision would be made once staff has reviewed the document. The Committee has a vested interest in the current document. Mr. Bracken said he thought the public should be involved before the document is presented to the Planning Commission.

9. Update on Falcon/Peyton Small Area Master Plan

Mr. Schueler described a tentative schedule for presenting this Plan to the Planning Commission for adoption. The first hearing could be on July 1st, with adoption scheduled for July 15th. Legal notice will be published on June 17th. He explained the status of the update.

SPEAKING: Aaron Briggs, Project Manager with HB&A, explained the process and current status of the update. He displayed/ explained a map of the area.

Mr. Bracken expressed concern about the area that was formerly in the Black Forest Plan and is now included in this Plan.

Ms. von Ahlefeldt pointed out the length of time these revisions have been under consideration. She identified developments on a map and described the transition areas adjoining this Plan. She objected to identifying urban density for the Sterling Ranch area.

She described the cooperative area which, she said, has to comply with both Plans.

Mr. Hicks asked about the number of access points to Highway 24. Mr. Schueler explained that roadway is controlled by the Colorado Department of Transportation. Intersections are assumed to have one-mile spacing and the highway is anticipated to have at least four lanes.

Mr. Schueler thanked Mr. Briggs for his efforts. He took responsibility for determining the boundary of the Plan. The Sterling Ranch was reviewed entirely under the Black Forest Plan.

Referencing the 15 acres in the entire Plan area, Mr. Powell said someone is always going to disagree with something. He explained the transition zoning and its relationship to Sterling Ranch. He said the committee process has worked well, and he would like to draw this process to a conclusion.

Mr. Vohland asked, if the Sterling Ranch is being considered under the Black Forest Plan, why it is shown in the boundaries of this Plan. Mr. Schueler explained the past assumption Sterling Ranch might be inside the City limits by the time this Plan is approved.

There being no further business to come before the Planning Commission, the meeting was adjourned at 4:30 P.M.

Elaine Nelson, Recording Secretary

Adopted: June 3, 2008