

EL PASO COUNTY PLANNING COMMISSION

JUNE 3, 2008

MINUTES

PRESENT DURING PART OR ALL OF THE MEETING

Bob Roulier
Ray Schanel
Verlin Dickman
Eddie Bracken
John Vohland
Steve Hicks
Steve Immel
David Kunstle

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
Paul Danley, 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
Tara McGowan, Development Services Department
Gary Hamacher, Development Services Department
Jeff Rice, 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. Roulier 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 #2.G had been continued to July 1st, #3, Gieck Ranch Drainage Basin Planning Study (MP-08-001) had been continued to the August 5th (see later decision for withdrawal) and items #4 and #5 had been continued indefinitely.

Responding to Mr. Bracken's inquiry there was discussion of the number of time an item can be continued. Ms. Seago pointed out the Bylaws allow two continuances. Answering Mr. Vohland, Ms. Kleckner explained there was a need to continue item #3 in order to allow the Department of Transportation time to satisfy requests made at the first hearing.

Mr. Schueler described the detention pond of which the property owner was not aware. Ms. Seago said the item should be withdrawn and then rescheduled/ re-advertised once it is ready for hearing.

Mr. Bracken made a motion, seconded by Mr. Vohland, and unanimously approved, to withdraw item #3, the Gieck Ranch Drainage Basin Planning Study Master Plan Amendment (MP-08-001).

Mr. Bracken then made a motion, seconded by Mr. Vohland, and unanimously approved, to continue item #2.G., the Special Use for Smithaven Family Dog Center (AL-07-008) to July 1, 2008.

1. Report Items

- A. Ms. Kleckner reported on the workload for Development Services Department staff. She said she will again begin to provide Regional Building Department's building permit information.

There was discussion of the fact staff will be taking on more projects with the departure of Mr. Schueler, and the possibility of reducing staff as recommended by the Development Fund Advisory Board (DFAB). Mr. Vohland pointed out service will deteriorate if staff is reduced.

Mr. Bracken said the Department is supported by fees. The number of staff should be increased when the workload goes up, reduced when the workload goes down. He inquired about possible subsidy from the General Fund.

Mr. Hrebenar explained Long-Range Planning and Code Enforcement are paid from the General Fund. The balance of the Department's expenses are paid for by fees

for services. It has been determined that the market cannot bear higher fees. Income for the first quarter was down because of the market. The budget has been met in April and May but a shortfall for the year is projected. The Department is to be run like a business with a reserve fund balance. The reserve balance is currently below the mandated amount. Direction received by the Department is to reduce staff, not increase fees, and build the reserve fund. He said indications are the economy is slowly easing back up but, to date, it has not been sufficient to compensate for the first quarter deficit.

Mr. Immel asked for a trend on volume and the impact of attrition and budget cuts on the workload. He said the last thing DFAB wants to do is cut staff and increase fees. The goal is operational efficiencies.

Mr. Vohland said he does not want to create additional work for staff and does not believe it is important for the Planning Commission to see the trends in workload(s).

- B. Ms. Kleckner said the Procedures Manual is available on the internet and can be copied to a CD. Some changes are still anticipated. A Work Session has been scheduled with the Board of County Commissioners on June 19th. Staff would welcome input from Planning Commission members, as well as the public.
- C. Revisions/ updates to the Land Development Code are in progress. These will follow the Procedures Manual.
- D. It is anticipated the Falcon/ Peyton Comprehensive Plan update will be scheduled for adoption by the Planning Commission in August. Mr. Hrebenar is now the point of contact since Mr. Schueler is leaving.
- E. Sufficient items are ready for hearing to justify a June 17th Planning Commission meeting.
- F. She reported on items heard by the Planning Commission and acted on by the Board of County Commissioners.

2. Consent Items

A. Minutes of the Regular Meeting held May 6, 2008

B. AL-08-002

SPECIAL USE T-MOBILE MONOPOLE

Request by Matt Butler (applicant) on behalf of the City of Colorado Springs (owner) for a special use for a 70-foot monopole cell tower and support equipment at 9875 Highway 24. The 34.29-acre site is in the R-T (Residential - Topographic) zone district and is adjacent to Green Mountain Falls. The property is in the Ute Pass comprehensive planning area. (Schedule No. 83093-00-018)

DEVELOPMENT SERVICES DEPARTMENT recommendation: Approval, subject to:

CONDITIONS OF APPROVAL

1. Approval is limited to one (1) commercial monopine tower and associated antenna(s) as depicted in the applicants' letter of intent and site drawings, with a maximum height of seventy (70) feet above the natural ground elevation. Approval is also limited to three (3) equipment cabinets and associated generator(s).
2. The tower shall be designed to allow for co-location of other antennas.
3. 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.
4. The tower shall remain in compliance with Section 5.2.19 of the El Paso County Land Development Code, including Sections 5.2.19 B. (7) b, Minimum Setbacks for Freestanding CMRS Facilities.
5. Prior to Board of County Commissioners' approval, a guarantee of financial surety shall be provided to El Paso County for the removal of the tower in case of abandonment.

6. The equipment cabinets shall be painted in a manner to blend into the surrounding landscape. The fence shall be maintained for optimum opaque screening of the equipment cabinets and generator(s).
7. The lower climbing apparatus shall be removed in order to prevent unauthorized climbing.
8. Throughout the life of the use, the tower and its accessory structures shall be maintained such that no deterioration occurs which would compromise the visual integrity of the tower as originally designed and installed. If, in the sole discretion of the Board of County Commissioners, the tower has not been properly maintained, the County shall have the option of revoking this approval after a duly advertised hearing.

NOTATIONS

1. 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.*
2. 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.*
3. Special 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.

See below for discussion/ continuance of items #C and #D.

C. PUD-07-002

**REZONING: RR-5 TO PUD
STAN SEARLE
SILVERADO RANCH**

Request by Stan Searle, for a PUD approval of Silverado Ranch. The proposed 320-acre PUD plan is in the RR-5 (Residential Rural) zone district. The PUD plan includes 64 single-family lots with a minimum lot size of 2.5 acre sites, and open space. The property is located at the southeast corner of the intersection at Drennan Road and Peyton Highway and is within the Ellicott Valley / Highway 94 comprehensive planning area. (Schedule No. 35000-00-082)

D. SP-07-003

**PRELIMINARY PLAN
SILVERADO RANCH**

Request by Stan Searle, for Preliminary Plan approval of Silverado Ranch development. The proposed 320 acre subdivision is in the RR-5 (Residential Rural) zone district and has a concurrent PUD (Planned Unit Development) rezone application submitted. The subdivision includes 64 single-family lots with a minimum lot size of 2.5 acre sites, and Open Space. The property is located at the southeast corner of the intersection at Drennan Road and Peyton Highway and is within the Ellicott Valley / Highway 94 comprehensive planning area. (Schedule No. 35000-00-082)

E. P-08-001

**REZONING: A-35 TO RR-5
TIFFANY SINCLAIR
JOR-LAN RANCH ESTATES**

Request by Tiffany Sinclair to rezone 40 acres from the A-35 (Agricultural) District to the RR-5 (Residential Rural) District for development of the Jor-Lan Ranch Estates subdivision. The property is located approximately one-half mile southeast of the intersection of Highway 24 and Scott Road. (Schedule No. 42000-00-276)

DEVELOPMENT SERVICES DEPARTMENT recommendation: Approval, subject to:

CONDITIONS OF APPROVAL

1. Recommendations made by the Natural Resource Conservation District shall be followed regarding livestock grazing.
2. All existing and proposed structures shall be in compliance with the Land Development Code, Section 5.2.47 regarding private stables and corrals.
3. A Board of Adjustment application for a side yard setback variance of 19 feet where 25 feet are required will need to be heard and approved by the Board of Adjustment to rectify the code violation for the existing pole barn/stable.

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 the pending update of the Falcon/Peyton Small Area Master Plan.

5. The applicant and future property owners are put on notice that this property may be impacted by an offsite road study and plans which may be developed and adopted for this area, and could result in obligations for financial participation of this project in offsite roadway funding at the subdivision stage.

6. If a commercial stable or equestrian boarding operation is proposed, be advised that a minimum lot size of 10 acres is required in the Residential Rural (RR-5) zone district. Lot one as shown on the preliminary plan under review (SP-08-001) would need to be modified to a minimum lot size of 10 acres. A special use approval will be required for commercial boarding and/or riding academy in the RR-5 (Residential Rural) zone district.

F. PUD-07-005

**REZONING: M AND RR-0.5 TO PUD
RANDY AND PATRICIA SCHRANZ
RYAN'S SUBDIVISION**

Request by Randy & Patricia Schranz for PUD approval of Ryan's Subdivision. The proposed approximate 17-acre PUD plan is in multiple zone districts which include the M (Industrial) zone district and the RR-0.5 (Residential Rural) zone district to PUD (Planned Unit Development) zone district. The PUD includes towing business and

outdoor vehicle storage as principle allowed uses. This property is located at the northwest corner of the intersection at Martin Luther King Jr. Bypass and east Las Vegas Street. (Schedule No. 64291-01-026)

DEVELOPMENT SERVICES DEPARTMENT recommendation: Approval, subject to:

CONDITIONS OF APPROVAL

1. Prior to scheduling Board of County Commissioner's hearing for the final approval of the Planned Unit Development Plan, Development Guidelines and associated documents, the applicant shall address any remaining technical corrections to these documents.

2. The existing opaque fence along Las Vegas Boulevard shall be extended along the property line of the PUD. The fence shall be maintained by property owner in good repair at all times.

3. The PUD Development Plan shall be recorded in the office of the El Paso County Clerk & Recorder prior to scheduling any Final Plats for hearing by the Planning Commission.

4. All owners of record must sign the PUD Development Plan. The applicant shall provide a current title commitment at time of recording.

5. The vacation of right of way for Mount Lincoln Avenue and the vacation of interior lot lines must be approved as necessary by the Board of County Commissioners prior to the recording of this PUD Development Plan.

6. Prior to initiation of the new uses, a Site Development Plan is required for submittal, review and approval meeting the requirements of the Land Development Code as amended. This Site Development Plan shall include, but is not limited to, landscaping, buffering, screening, lighting, and parking. The application is to include an acceptable drainage report, including provisions for storm water quality.

7. The owner shall enter into a license agreement with the County with respect to the existing fence and structure encroaching into the public right-of-way stipulating the County's rights and protection against liability. The agreement would also prescribe the owner's obligations as to maintenance, and removal of the items if directed to do so in the future by the County. The applicant shall complete prior to scheduling for the Board of County Commissioners Hearing.

8. Prior to scheduling this item for the Board of County Commissioners, the applicant shall coordinate with the Stratmoor Fire Protection District concerning the potential for annexing this property into that district, and provide documentation to the Development Services Department. This shall be accomplished prior to recording the PUD Development Plan.

9. No structures, fencing or storage is allowed within the 100 year floodplain as depicted on the development plan.

10. Special uses identified on the table shall require additional analysis including but not limited to traffic, drainage etc. at the time of review and may require improvements to be constructed prior to implementing the use.

11. Lighting in the vehicle storage area shall be shielded and down-cast to the storage area only.

NOTATIONS

1. If a zone or rezoning 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 to be withdrawn and will have to be resubmitted in their entirety.
3. 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 Environmental Protection Agency, Colorado Department of Wildlife, Colorado Department of Health and Environment, Colorado Department of Transportation, U.S. Army Corp 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 species.

Item #G was continued (AL-07-008)

H. U-08-005

**APPROVAL OF LOCATION
MIAMI-YODER SCHOOL DISTRICT JT 60**

Request by the Miami Yoder School District JT 60 for an approval of location pursuant to C.R.S. 30-28-110, to expand their existing facilities with the addition of a 21,000 square foot facility. The school is located in the A-35 (Agricultural) zoning district on a 10-acre tract, located on Rush Road south of Highway 94. The property is not within a comprehensive planning area. (Schedule No. 04150-00-002)

DEVELOPMENT SERVICES DEPARTMENT recommendation: Approval, subject to:

CONDITIONS OF APPROVAL

1. Prior to approval of an Erosion and Stormwater Quality Control Permit (ESQCP) the applicant shall provide a private detention pond maintenance agreement and easement.
2. Per Section 5.4 of the Engineering Criteria Manual, a driveway permit must be issued from the Development Services Department.
3. The Miami Yoder School District 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.
4. Locations and specifications for wall mounted and freestanding lighting shall be identified on the site development plan.
5. Revegetation specifications shall be shown on the site development plan.

NOTATIONS

1. Approval of location requests are not forwarded to the Board of County Commissioners for consideration. According to C.R.S. 30-28-110, final El Paso County action occurs at the Planning Commission.
2. Approval of this facility should not be construed as a justification for future approvals of any land uses in the area surrounding this facility if these land uses are otherwise inconsistent with adopted El Paso County Master Plan elements.

I. SF-06-031

**FINAL PLAT
PAINTED SKY AT WATERVIEW, PHASE 1, FILING 2**

Request by Waterview JV Partners, LLC for approval of Painted Sky at Waterview, Phase 1, Filing 2 Final Plat. The proposed site consists of approximately 23.515 acres in the PUD (Planned Unit Development) District, with 74 lots proposed. The property is located at the northeast corner of Bradley Road and Grinnell Boulevard. (Schedule No. 55072-04-015)

DEVELOPMENT SERVICES DEPARTMENT recommendation: Approval, subject to:

CONDITIONS OF APPROVAL

1. School fees (Widefield District #3) in the amount of \$15,318 shall be paid prior to recording of the final plat.
2. Park fees in lieu of land for regional park purposes in the amount of \$26,122 shall be paid prior to recording of the final plat.
3. Drainage and bridge fees (Windmill Gulch), in accordance with the final, approved drainage report, shall be paid prior recording of the final plat.
4. 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.
5. 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.
6. 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.
7. The Subdivision Improvements Agreement, including the Estimate of Guaranteed Funds as approved by the El Paso County Department of Transportation shall be filed at the time of the recording of the final plat.
8. Collateral sufficient to ensure that the public improvements as listed in the approved Estimate of Guaranteed Funds shall be provided when the final plat is recorded.
9. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time.
10. All Conditions and Notations set forth in Board Resolutions 05-511 and 05-512 (Reception #206020056 and #206020055, respectively) shall be met.
11. In conjunction with plat recording the applicant shall record a disclosure form approved by Development Services Department staff addressing the Waterview I Metropolitan District.
12. Prior to recordation of the final plat or final approval of associated documents, the applicant shall provide revised documents addressing remaining Engineering Division comments as documented in the memorandum dated January 3, 2007.
13. Prior to recordation of the final plat, the applicant shall provide funds in the amount of \$36,000, to be escrowed as a contribution toward the installation of a traffic signal at the installation of a traffic signal at the intersection of Powers Boulevard and Grinnell Boulevard. (This amount is based on a determination by the Colorado Department of

Transportation that this development, should contribute 12% of the total cost of the signal).

14. Prior to scheduling a hearing before the Board of County Commissioners, the applicant shall submit design plans for lengthening the westbound left-turn lane at the intersection of Powers Boulevard and Grinnell Boulevard. Collateral for this improvement is to be included in the Subdivision Improvement Agreement.

NOTATIONS

1. Final plats not forwarded to the Board of County Commissioners within twelve (12) months following Planning Commission action (or an extension thereof) shall be deemed withdrawn and a new final plat shall have to be submitted in its entirety.
2. Failure to record the Plat within one (1) year following Board of County Commissioner approval will require reconsideration by the Board. Said reconsideration may involve compliance with new criteria, regulations and updated fees.

A conditional finding of sufficiency regarding water.

There was discussion of the required setbacks for #2. E. (Jor-Lan Ranch Estates).

Regarding #D. (Silverado Ranch), Mr. Dickman pointed out discrepancies in the references to the township (13 versus 15) in the County Attorney's Findings and Conclusions, the letter from the State Engineer's Office, the letter of intent, etc. After discussion it was stated the applicant was not present and items #C. and #D. could be continued to August 5th so the discrepancies can be addressed.

Mr. Vohland said he would also like clarification on wastewater.

Mr. Bracken made a motion to continue the rezoning request by Stan Searle (PUD-07-002) and the preliminary plan for Silverado Ranch (SP-07-003) to August 5, 2008, and that these should be on the agenda as regular items. Mr. Vohland seconded the motion and, upon voting, it was approved by a unanimous vote (8-0).

Responding to Mr. Roulier's inquiry, Mr. Hicks pointed out the May 6, 2008, minutes did not reflect his appointment as a voting member at the time Mr. Bell was excused.

Mr. Bracken then made a motion for approval of Consent items #2. A., B., E., F., H., and I., seconded by Mr. Vohland and unanimously (8-0) 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 08-031 through 08-035, Resolutions of the El Paso County Planning Commission.

Mr. Roulier announced items #3, #4 and #5 would not be heard as previously discussed.

REGULAR ITEMS:

Item #3 – Withdrawn by earlier action

3. **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 – Continued indefinitely

4. **SKP-06-002**

SKETCH PLAN HIGH PLAINS RANCH

Request by Lindsey Case, Mid-Colorado Investment Company, RW Case II, Lawrence E. Long IRA, Marksheffel Woodmen Investments, for sketch plan approval of High Plains Ranch. The proposed approximate 1500+/- acre sketch plan is in the A-35 (Agricultural) zone district. The

sketch plan includes 1000 +/- single-family lots with lot sizes ranging from ½ acre sites to 2.5 acre sites, church, school, park, business park, neighborhood commercial, equestrian center and open space. The property is located northeast of the intersection at Murr Road and Jones and is within the Falcon Peyton comprehensive planning area. (Schedule Nos. 33000-00-136, 137, 398, 399, 417, 418, 420, 427, and 428)

Item #5 – Continued indefinitely

5. SP-07-022

**PRELIMINARY PLAN
HIDDEN FOREST ESTATES**

Lyle Heckathorn, Ellen Elliott, Mike and Debra Wermuth, and Richard and Brenda Fullerton, request Preliminary Plan approval of the Hidden Forest Estates development. The proposed 41 acre subdivision is in the RR-5 (Residential Rural) zone district. The proposed subdivision includes eight (8) single-family lots with a minimum lot size of five (5) acres. The property is located approximately ¾ mile southeast of the intersection at Hodgen Road and Roller Coaster Road. These parcels are within the Tri-Lakes comprehensive planning area. (Schedule Nos. 61281-00-010 and 61281-00-011)

6. VR-07-012

**VACATION/ REPLAT
WILDWOOD RANCH ESTATES FILING 3B**

Request by James and Denise Barnett to vacate and replat Lot 7 of Wildwood Ranch Estates Filing 3 from one lot to two lots. The property consists of one 20.34-acre parcel in the RR-5 (Residential Rural) District. The property is addressed as 14925 Basin Drive, located approximately 1.25 miles north of the intersection of Herring Road and Swan Road. (Schedule No. 51320-01-004)

DEVELOPMENT SERVICES DEPARTMENT utilized a PowerPoint team presentation. During the Long-Range presentation, Mr. Roulier thanked Mr. Schueler for the help he has been to the Planning Commission.

Nine adjoining property owners were notified of this request, with three responding in favor, one with the recommendation no access to Basin Drive be granted as it is a private road, maintained by one neighbor.

Mr. Rice distributed copies of a Deviation Request from Land Development Consultants dated May 13, 2008 (Exhibit 1).

There was discussion of the status of Herring Road, speed limit, allowance of dual access points on minor collectors, etc.

Mr. Roulier outlined the procedure for the meeting.

SPEAKING FOR: Pam Cherry, with Land Development Consultants, representing the applicants, displayed/ explained a drawing of the project. She said her understanding of the purpose of Early Assistance (EA) meetings is that they are advisory and not binding. The applicant should not be limited to the one access point for both lots, as agreed to at their EA meeting.

Ms. Cherry said park fees should be \$353 since fees were paid when the original lot was platted.

There was further discussion of Herring Road, existing driveways, etc. Ms. Cherry said limiting the applicants to one access would be a hardship on them, especially in view of the expenses they have incurred based on conversations with previous staff members.

Mr. Vohland asked whether the applicant would be willing to close one driveway if/ when Herring Road is improved. There was discussion of the cost of taking access off Basin Drive in view of the necessity of constructing a bridge because of the topography. Also discussed was the possibility of an easement for future use if/ when the second access point were closed.

SPEAKING FOR: Craig Barnett, applicant, said he did not understand what was presented at the Early Assistance meeting. He described the time/ money he has invested in this project, the cost of a bridge if access is from Basin Drive, turn-over in staff, length of time involved in obtaining approval for the water supply, cost of paving his drive, etc.

He displayed/ explained a photograph of the entrance to his property and asked about the location of an easement if that is the route followed.

Responding to Mr. Bracken, Mr. Barnett said, because of the future sale of his lot(s), he could not agree to a condition requiring closing the second access point if/ when Herring Road is improved. He also objected to providing an easement to accommodate a single access point on Herring Road.

SPEAKING AGAINST: None

Mr. Hrebenar said he had contacted the former staff member referenced by the applicant who said he did not agree to the second access on Herring Road. He displayed/ explained the minutes from the Early Assistance meeting, which indicated the applicant had stated he would utilize only one access. Mr. Hrebenar said this was confirmed when he listened to the recording of the meeting. He described the timeframe for submittal/ review, pointing out much of the delay occurred when the project was waiting for a response from the applicants. The Planning Commission makes a recommendation, but the Board of County Commissioners will make the final decision on both the subdivision and the deviation.

Mr. Danley pointed out the 2030 Major Transportation Corridors Plan (MTCP) shows Herring Road as a major collector (upgraded from its current minor collector status). He read the description of collector roads from that Plan. He also described other properties in the area which could be subdivided, which would add to traffic and require improvements to Herring Road. The policy for right-of-way reservation, referenced by Ms. Cherry, does not pertain to the 2030 MTCP, but rather to the 2050 Plan.

He said the request for the second access point was submitted after the project was scheduled for hearing.

Mr. Danley expressed opposition to adding a condition allowing the second access point until Herring Road is upgraded, citing future costs to the taxpayers of the County.

Mr. Bracken said, in reality, the County does not have the funds to upgrade Herring Road, now or in the future. Discussion followed.

Mr. Kunstle pointed out the reason for one access is safety. While this road may not be heavily traveled at the present time, he does not want to create a safety hazard, once Herring Road is improved to major collector status. Responding to his inquiry, Mr. Rice stated more driveways create greater safety issues. Discussion followed.

Responding to Mr. Kunstle's inquiry, Mr. Danley said experience has proven that trying to deprive a party who was not part of the original agreement at a future date usually costs the County. There is an opportunity to avoid that with the current request by limiting this subdivision to one access point onto Herring Road.

Answering Mr. Dickman, Mr. Rice explained how dual access points on other properties will be addressed in the future. Ms. Seago explained individual negotiations which will need to take place and said the County must provide access to the public road system. Discussion followed.

Mr. Bracken said he does not foresee a problem if an easement is shown on the plat. Mr. Kunstle said he understands neither staff nor the applicant agrees to an additional condition.

Mr. Barnett stated, after talking with Ms. Cherry, he would be willing to have two access points now and, if Herring Road is widened in the future, the second one would be closed. He again stated he did not understand issues presented at the Early Assistance meeting.

Ms. Weber referenced the Early Assistance meeting notes and said staff had made a concession by allowing one drive onto Herring Road in accordance with the drawing provided by the applicant.

She described the procedure for a deviation request and said the Planning Commission did not have authority to override the denial by the *Engineering Criteria Manual* administrator. The applicant can appeal that decision to the Board of County Commissioners.

Mr. Dickman said, if he were going to subdivide a parcel, he would have indicated the access points for each lot. Mr. Hrebenar said the record clearly states the applicant indicated one access point.

Responding to Mr. Immel, Mr. Rice explained Basin Drive is not constructed to County standards and has not been accepted for maintenance. Mr. Immel suggested the possibility of the County assuming responsibility for maintenance. Mr. Rice pointed out this would be a costly option.

There was discussion of the number of parcels in the area which could be subdivided.

SPEAKING FOR: Ms. Cherry said access to Basin Drive is not possible, as discussed at the Early Assistance meeting. Commitments are not made in Early Assistance meetings because of issues which arise during the development process. In addition, the applicant was not knowledgeable at that time.

Mr. Vohland made a motion for approval of Resolution No. VR-07-012 (utilizing the Standard Resolution on page 49) regarding the Vacation/ Replat for Wildwood Ranch Estates, Filing 3B, as requested by James and Denise Barnett, more particularly described in Book ____, Page 08-036, Resolutions of the El Paso County Planning Commission, and that this matter be forwarded to the Board of County Commissioners for their consideration. Mr. Dickman seconded the motion.

The motion included deletion of proposed condition #12. Mr. Vohland suggested an alternative condition, stating the rationale for his motion was two drives were existing but there had been confusion. If Herring Road is improved the County will have to deal with many property owners who have dual drives and could deal with this one in the same manner.

Ms. Seago again stated this body does not have the authority to overrule the decision of the *Engineering Criteria Manual* administrator. Rather than deletion of condition #12, she suggested addition of a notation.

Regarding the amount cited in condition #11, Ms. Parsons pointed out the property was originally platted prior to the Subdivision Regulations and, as a result, no park fees were paid. Therefore, the \$706 figure is correct.

Mr. Bracken agreed with Mr. Vohland regarding the County's limited financial ability to make roads into major collectors. Two driveways currently exist on this property. He described other roads where multiple driveways exist and said the County will have to deal with them if/ when the County has the money and ability to improve the roads. He said he was distressed by accusations made and thought the better approach would be to solve the problem.

Responding to Mr. Immel, Mr. Vohland said no easement would be included, even though the applicant agreed to it. If the road is improved in the future, the County will have to deal with many others driveways. He pointed out, across the road, there are several five-acre lots, each with a driveway onto Herring Road. Mr. Immel said, in his opinion, it would be good to require the easement now so future owner(s) are not surprised when an access has to be closed.

Mr. Bracken disagreed and said a notation should be added in bold type that the Planning Commission does not agree with condition #12. He agreed the County could deal with this property along with others on this road.

Mr. Kunstle said he appreciated the efforts to provide a solution but he questioned the rationale. Multiple accesses exist along the road, but the owners of those properties are not subdividing. This is the County's opportunity to correct a situation. If, in 20 years the road is upgraded to a much wider facility, he does not know what basis the County will have to correct this situation. If the County does not get a "second bite of the apple" then it becomes a safety issue.

Mr. Bracken said, if the road is widened, the County will have to take action to eliminate the second access via condemnation. Mr. Kunstle objected to having to use taxpayer dollars, even 20 years in the future. Ms. Seago described compensation which has been provided in other situations when driveways have had to be relocated.

Upon voting on the motion, it was adopted by a vote of 7 to 1 (Mr. Kunstle voting in opposition), subject to the following:

CONDITIONS OF APPROVAL

1. 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.
2. 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, or 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.
3. 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.
4. The Applicant shall submit Mylar to Enumerations for addressing.

5. 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 species.
6. The County Attorney's Conditions of Compliance shall be adhered to at the appropriate time
7. A completed U.S. Army Corps of Engineers permit should 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 would be acceptable.
8. Prior to scheduling for Board of County Commissioners' hearing, a commitment to serve letter meeting the standards of the Black Forest Fire Protection district will need to be provided to the Development Services Department.
9. The owner / developer / builder of each lot within this subdivision shall have the responsibility of meeting the 2003 IFC (International Fire Code) standards. Additionally, at the time of approval of this project, this property is located within the Black Forest Fire Protection District, which has adopted this Fire Code requiring residential fire sprinkler requirements for covered structures over 6000 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 adopted Fire Code.
10. Fees in lieu of school land dedication in the amount of \$306 shall be paid to El Paso County for the benefit of Academy School District 20 prior to recording of the vacation/replat.
11. Park fees in lieu of land dedication for regional park purposes (Region 2) in the amount of \$706 shall be paid prior to recording of the vacation replat.
12. Both lots shall access Herring Road from one (1) shared driveway per plat note #17. Shared access agreements and/or private road maintenance agreements for Herring Road access must be approved by the County Attorney's office prior to scheduling for Board of County Commissioners hearing.
13. Driveway permits will be required for each access to an El Paso County owned and maintained roadway. Driveway permits can be obtained from the El Paso County Development Services Department.
14. Prior to scheduling this item for hearing by the Board of County Commissioners, the applicant shall add a plat note referencing the recommendations of the Colorado Geological Survey.

NOTATIONS

1. Final plats not forwarded to the Board of County Commissioners within twelve (12) months following Planning Commission action (or an extension thereof) shall be deemed withdrawn and a new final plat shall have to be submitted in its entirety.
2. Failure to record the Plat within one (1) year following the Board of County Commissioner approval will require reconsideration by the Board. Said reconsideration may involve compliance with new criteria, regulations and updated fees.

NOTE: The Planning Commission recognizes that the *Engineering Criteria Manual* Administrator has denied applicants' deviation request and that such denial is appealable only to the Board of County Commissioners. The Planning Commission recommends approval of the deviation request.

Subsequent to the vote, Mr. Vohland said he appreciated all the time spent on this matter and, in his opinion, a good conclusion was reached. The matter goes back to the County's budget issue which results in staff turnover. Good personnel leave and take other employment.

There being no further business to come before the Planning Commission, the meeting was adjourned at 11:35 A.M.

Elaine Nelson, Recording Secretary

Adopted: June 17, 2008