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April 30, 2019

El Paso County Planning and Community Development Department  
Attn: Nina Ruiz, Project Manager  
2880 International Circle  
Colorado Springs, CO 80910

**SUBJECT: Monument Academy Approval of Location  
Response to NEPCO Comments  
U-19-002**

Dear Nina:

In conjunction with our Site Development Plan re-submittal, this letter provides responses to the letter from the Northern El Paso County Coalition of Community Associations, Inc. (NEPCO) dated March 25, 2019. These comments are specifically addressed as follows **(Applicant responses are annotated in bold / red / parenthesis following each comment):**

**General Concerns/Questions related to the Monument Academy Approval of Location:**

**1. General Comments:**

- a. It appears that the review standards for an “approval of location” application are contained in the EPC Land Development Code, Section 5.2.3 Approval of Location (J) -- Review Standards: The application for a public use, structure or utility is reviewed for conformity with the submittal and processing requirements included within this Code and Procedures Manual and for conformity with the adopted Master Plan.
  - i. The relevant Master Plan is the Black Forest Preservation Plan. The school (and its additional 44-acre parcel) is located in the Land Use Scenarios in the area called Northern Grasslands. Under the Plan, Executive Summary, the entire Northern Grasslands are not recommended for substantial development or subdivision at this time. **(A closer examination of the Black Forest Preservation Plan shows that this location is not a part of the area identified as Northern Grasslands, but rather a part of**

**the Highway 83 Corridor. The Preservation Plan identifies this at the junction of Highway 105 and SH83 as a “Potential location for commercial uses which are specifically geared toward the needs of local residents.” As demonstrated by school demographics, the proposed school at this site, located near the geographic center of the school district, is a need for a large number of local residents.)**

- ii. Also, under the Plan, Page 88, paragraph 9.11, the policy is to discourage the construction of large centralized water and sewer systems in rural residential areas to avoid direct or indirect growth inducement. This is precisely what is happening here as Walden Corporation, an apparently private corporation which is responsible for providing centralized water and waste water services to *The Preserve at Walden*, has offered centralized water to the school (and we believe to future development in the 64-acre parcel) and is thereby inducing more growth of smaller residential lots (and commercial activity) nearby in violation of the Black Forest Preservation Plan policy. **(This project will connect to the existing Walden central water and sewer system, which is an established central water and wastewater system currently serving the Walden community and Kilmer Elementary School. As noted above, this location has been specifically identified as a commercial node and thus the proposed development is consistent with the Black Forest Preservation Plan.)**
  - iii. Despite NEPCO’s best attempts to research how Walden Corporation is obtaining its water, we have not discovered their source (renewable or non-renewable water). Most utilities are very transparent; this one appears not to be. **(Water Resources reports for the Walden project are on file with the County and accessible through EDARP. Walden has consistently demonstrated sufficient water supply capacity with long-standing groundwater rights.)**
- b. Since a YMCA is planned to be co-located at this school, EPC Planning should call this out as a special use in an RR-5 zoned area and should only allow approval if they meet appropriate conditions (e.g., no special events during normal school arrival/departure times). In addition, the day care associated with the YMCA is also Special Use and should be called out as such with appropriate conditions (see above for example). **(The YMCA use will require processing of a Special Use Permit through the County)**

## **2. Conflicts between the Preliminary Plan and Approval of Location applications:**

- a. In the **Preliminary Plan, Letter of Intent**, Page 2: “Monument Academy is requesting a waiver from some aspects of the County landscape design criteria, which are further described as follows:” ... (4 waiver requests).
  - i. In the **Location for Approval, Letter of Intent**, Page 5: “No waivers to the El Paso County Land Development Code or deviations to the El Paso County Engineering Criteria Manual are proposed within this application.” (See also waiver contained in para b below.) Which one is correct? They may be mincing words here, but it can be confusing if one looks cumulatively at the whole development. **(Alternative compliance requests have been further described in the updated LOI)**
- b. In the **Preliminary Plan, Letter of Intent**, Page 3: “Further, Monument Academy requests a waiver from the requirement to post financial assurances required under the El Paso County Engineering Criteria Manual Section 5.2.8.”
  - i. In the **Location for Approval, Letter of Intent**, Page 5: “The applicant will be responsible for constructing all required public improvements at its sole expense. Installation of the required improvements will be guaranteed by a completion bond, letter of credit or joint certificate of deposit acceptable to the El Paso County Board of County Commissioners.” Which one is correct? **(Collateral will be required with the future subdivision process)**
- c. NEPCO believes this once again highlights the confusion in roles between the Owner and Applicant. Is this the Owner or the Applicant speaking/guaranteeing?
- d. **Another Waiver Request:** Under the **Location for Approval, Letter of Intent**, the applicant has waived the statutory 30-day requirement for EPC to schedule the Planning Commission’s approval. Despite this input, please be advised that the purpose of the 30-day requirement is also so that public agencies and the community (e.g., NEPCO as one representative entity) can have the time to thoroughly review the application. NEPO does not waive this time period and trust that you will not waive it to the public’s detriment.
- e. **Traffic Study:** Since this application and this traffic study is for the Monument Academy only, all references to any development of the remaining 44 acres should be specifically culled out of this report and ignored – otherwise when the developer applies for developing these parcels, he/she will rely on your potential previous approval.

- i. Short-term traffic growth rates, Page 5: The study states that short-term (year 2025) background traffic volumes are estimated by LSC based on “the existing traffic volumes shown in Figure 4 with a yearly growth rate of two percent per year.” This growth figure should be combined with known developments that are scheduled to provide traffic to this general area in the next 5 years instead of just assuming 2 percent.
- ii. Further, Monument Academy plans to construct future phases in their long-term plan. With each additional phase it is reasonable to expect an associated incremental, perhaps large, increase in student related traffic. For instance; if the first phase structure relates only to grades 9 and 10 and the next phase relates to grade 11 and then 12. A full complement of students associated with those grades must be assumed into the traffic generation. Schools do not grow by 2% per year when they are adding new structural space.
- iii. Table 1 Land Use Codes. The Letter of Intent, Page 2, for the Site Development Plan contemplates a day care at the YMCA. This should be included and may generate additional traffic in Table 1 of the study.
- iv. Conclusions and Recommendations (Pages 10-12): Almost every long-term conclusion/recommendation for intersections and even many turn lanes are caveated with verbiage similar to, “Traffic control for these intersections may need to be reevaluated when development plans for the future tracts are submitted.” Because the traffic study includes the future tract (the 44-acres) developments unrelated to the school, it makes 2040 conclusions/recommendations almost worthless. What exactly is the school contributing to this traffic problem? We don’t really know!

**(Revised Traffic Study has been submitted by LSC addressing County review comments)**

- f. What will approval of this application mean? Please note that there are 3 different versions of what appears in the plats of the non-school portion of the 64-acre parcel in the Approval for Location and Site Development Plan applications:
  - i. **Approval for Location, Plot Plan Drawings**, calls the 2 non-school areas, “Zoned RR-5, Un-platted, Vacant.”
  - ii. **Site Development Plan, SDP Drawings**, refers to the same 2 areas as “commercial” and “residential.”

- iii. And finally, the **Approval for Location, Traffic Impact Study**, page 18, refers to the same 2 areas as “office/commercial” (including Page 14, Table 1 estimation of the traffic created by a gas with convenience store, shopping center, fast food restaurant, sit down restaurant, drive-in bank, general office, and medical/dental office) and “multi-family residential” (including a Table 1 estimation of the traffic created by 164 dwelling units on less than 20 acres).

**(While technical reports have made general assumptions regarding potential future developments in order to provide sound preliminary engineering as the basis of design for transportation and drainage facilities, this land use action is limited to Approval of Location for the proposed Monument Academy High School campus.)**

3. **Concern:** Please do not let this developer use the need for a school to force what might otherwise be an untenable commercial and high-density residential development in the middle of the Black Forest Preservation Area! Any approval should point out that future development of this 64-acre parcel must stand on its own and not rely on any approval for the Monument Academy (even the developer’s **Letter of Intent** in the Approval for Location states this).
  - i. Furthermore, no documents contained in the Monument Academy applications should be valid for any other future land use application – otherwise the developer is using this application for future land use (e.g., how do you disagree with a Traffic Impact Study that you already relied on to allow the school?). Further development should need to follow standard development submittal procedures.  
**(Further development will need to follow standard development submittal procedures)**
4. **Ownership Confusion:** Page 3 of the **Approval for Location, Letter of Intent states;** *“In turn, the developers of the Walden community agreed to donate 20.75 acres [emphasis added] to the Monument Academy for the construction of a middle and high school facility serving all of the north[ern] El Paso [County] area community”*
  - i. If the land was donated to the Monument Academy...why is the 83 Walker, LLC, a Colorado Limited Liability Company listed as the owner?
5. **More Confusion on roles:** NEPCO notes that 83 Walker LLC incorporated as an LLC only 19 days prior to purchasing this property from D-38 in November 2018. We admit we do not know much about financing to build a

school, but it seems like D-38 sold their land to a developer so that the developer could construct the school and make money on the property not dedicated to the school's use. Therefore, it seems EPC should assume that it is dealing with a typical public developer and not the public-school district. Therefore, requests for waivers should be viewed in that context not as a public school.

6. **Zoning Issues:** The lot is zoned RR-5. According to the EPC Land Development Code, Table 5-1, Principal Uses in an area zoned RR-5, a public school is an "allowed use." However, a "community building" (i.e., the YMCA) is a "special use" which may be subject to approval and special requirements, different from those usual requirements for the zoning district in which the "special use" is located. **(Special Use Permit will be processed for the YMCA use)**
  - i. NEPCO notes that a "parking lot" is not a permitted use within an area zoned RR-5, though it seems logical for a school. There may be special permission needed for that as well. Perhaps a Zoning change request should have been part of the original development package. Without it a waiver must be granted and that sets a precedent.
7. **Utilities:** The previously submitted Development Plan contained a typical homeowners Detention Basin Maintenance Agreement. The EPC County Attorney review comments stated: *"With respect to the Detention Maintenance Agreement, please resubmit using the template for Owner-Developer. Because a subdivision is not being proposed at this time, the Owner-HOA template that appears to have been used is not applicable."* **(EPC Attorney comments will be addressed through the review process)**
8. **Key information is unsettled:** Would it not be prudent to await the outcome of the discussions between Monument Academy or 83 Walker, LLC, a Colorado Limited Liability Company, party of the first part, (whichever speaks for that group), and the YMCA of the Pikes Peak Region, party of the second part, are settled so the County knows what it is approving?
9. **Data Deficiencies:** The problem with this Plan is that it does not address, in any useful manner for review; water, utilities, wildfire mitigation, noxious weeds, and community input, or if it does, these reports have not been included in the application. The Planning Commission should require a lot more information like the above, and probably a final plat approved by the BoCC (see LDC 1.13.3), in order to properly review this application. **(A subdivision plat will be processed as a separate application.)**
10. **Health Concern:** The athletic field (football, soccer, lacrosse, perhaps rugby) is just up the hill from the settling pond. The Applicant did place the school building farther to the SSW, but the fields are painfully close. **(Availability**

**and proximity of central wastewater service is critical for service to the proposed school campus)**

- 11. Dark Sky Compliance:** The Lighting plan indicates that cross-boundary lighting will exceed the 0.1 lumens limitation required of Dark Sky compliant lighting practices. This is a commercial application in a rural setting...Dark Sky requirements should be enforced as a good neighbor policy in this rural setting. **(The lighting plan has been designed to provide appropriate lighting for a school campus.)**

**NEPCO's Final Comments:**

**Bottom Line:** It seems that approving this Approval of Location Application will not only avoid many land use planning standards and information that should reasonably be considered, but also potentially launch much more than creation of a school. Time is of the essence for a new school, but the package needs to be carefully segmented to address only the school site in this approval process. **(This land use application is limited to Approval of Location and Site Development Plan approval for the proposed Monument Academy High School campus.)**

Please call if you have any questions or need any additional information.

Sincerely,  
**JPS Engineering, Inc.**

John P. Schwab, P.E.

cc: Brian Risley, CRP Architects