

From: Felicia A Grillo
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Rock Creek Mesa

Subject: P209 Application to Rezone PARTS of Rock Creek Mesa

To: El Paso County Colorado County Planning Commission

Dear Commissioners and Planners,

This is my personal letter of STRONG OPPOSITION to the request that PARTS of Rock Creek Mesa (RCM) are rezoned from F-5 to RS-5000. This is a lengthy letter, but I appreciate you taking due diligence to read it thoroughly as the lives of everyone in Rock Creek Mesa will be affected by the outcome of this application, if approved. Thank you.

Stinar, Zendejas, Burrell, and Wilhelmi, PLLC is the legal representation for me, and other members of Rock Creek Mesa community and they sent you a seven-page letter covering facts regarding application P209 and ultimately why it should be denied.

My comments are intended to bring attention to additional reasons why P209 should be denied.

RS-5000 is an inappropriate rezone request for Rock Creek Mesa, Unincorporated El Paso County. C.R.S. 30-28-101: Unincorporated means situated outside of cities and towns, so that, when used in connection with "territory", "areas", or the like, it covers, includes, and relates to territory or areas which are not within the boundaries of any city or town. Per the Southwestern Highway 115 Comprehensive Plan, one land use goal is to "preserve and enhance the existing stable character of the Planning Area which is defined as rural and foothills residential."

1. RR-0.5 (approx. 21,000 sq. ft. lots) would have been the appropriate zoning request to fit into the existing, established neighborhood, circa 1958. According to the United States Census, and other sources, Rock Creek Mesa is considered rural. This is most evident by the lack of urban amenities including no public transportation. We have rural utilities: Rock Creek Mesa Water District, septic systems, Colorado Spring Utilities, and propane services. Most properties outside the rural 42-acre mobile home park are on a minimum of 20,000 sq. ft. lots and go up to 42 acres at the west end of Rock Creek Mesa. Additionally, three sides of the Mesa are contiguous with more than 600 acres of Colorado Springs Open Space, and more than 1900 acres of Federal Land. All land is zoned F-5 or Agriculture. The fourth side of the Mesa, to the east, is training area two on Fort Carson with heavy helicopter traffic. RS-5000 is a high density, suburban, zoning request and will only benefit the developer and is not suitable in the established Rock Creek Mesa neighborhood.

The developer has stated the smaller RS-5000 lots will buffer against the density of the mobile home park. That statement is misleading and not accurate: the mobile home park is a self-contained 42-acre lot with one entrance/exit. F-5 property is contiguous on the south side and

hundreds of open spaces are contiguous with the west and north end of the mobile home park. Housing on larger lots would be the most appropriate fit and would also comply with the Southwestern Area Comprehensive Plan (SACP), as it states that residences in the Planning Area are on individual large lots (SACP, page 65). The SACP also states that the average lot size in Rock Creek Mesa Subdivision 2, where the developer is asking to rezone, is .24 acres. (SACP, pg. 71).

SACP further states that the large amount of Federal and State land within and adjacent to the Planning Area could have a significant impact on its character and future development and that the desired land use mix would preserve the existing rural character, be compatible with existing uses as Planning Area residents desire to maintain the existing rural character of the area as new development occurs. (SACP, pp 74,82, &83).

2. Regardless of the appropriate rezoning request, “islands” of rezoning would constitute spot zoning. I have questioned many experts in land use and have received many different variants about spot zoning, but all agree: this constitutes spot zoning and at the very least is questionable in terms of land use rezoning. “Islands of rezoning” is inappropriate for the existing neighborhood pattern and the rezoning benefits one person-the developer that could be viewed as preferential treatment. There has been no change in conditions in the surrounding neighborhood since the Master Plan was adopted in 1990, that would constitute a zoning amendment change.
3. Rock Creek Mesa has limited growth potential due to the geography/ topography. Two main roads access Rock Creek Mesa. Pawnee runs east/ west and goes for about ½ mile up into the dead end where an unpaved county road goes to the larger 10 acres plus lots. The second road, Cherokee, runs east/west and it runs about 1/4th mile dead ending at Piute Rd which runs north/south. The rural mobile home park that is situated on 42 acres has one entrance/exit accessed from the north end of Piute Rd.
 - A. Rock Creek Mesa has had several wild fires within the past few years: One was at the entrance of Rock Creek Mesa at the intersection of Highway 115 and Pawnee, one was a grass fire on the developer’s property, and there was a fire up the Mesa in the forested area. Several more fires have burned across the road at Fort Carson. We have a remarkable volunteer fire department and Fort Carson assists with emergency calls as a secondary service if they are not busy with their own base demands. If there were a catastrophic wildfire on the Mesa, the placement of density that the developer is asking for could cause a bottle neck at the two ingress/egress points. Members in the mobile home park have also stated their concerns in fire egress and not being able to get out with the density requested. Many of the homeowners on the Mesa have lived here for over fifty years! They are older. They are concerned for their lives. They couldn’t walk out if there was a bottle neck. Even if the fire wasn’t on the Mesa but the Mesa was ordered to evacuate, there could be a bottle neck. Years ago, there was the Wild Horse Fire south on Highway 115. I drove down to see how far away it was and to see if I needed to get started on the evacuation of my mother and pets. When I saw the flames, I turned around to come back to the Mesa. There was

heavy smoke and cars were creeping!! It was a terrible traffic jam. We all watched the slow crawl evacuation from the Waldo Canyon Fire and I'm sure we all watched the Carr Fire in California where people exited vehicles and ran for their lives. We have a high percentage of elderly folks who couldn't walk out. We all have pets: dogs, cats, horses and chickens that would need evacuation too. Regardless, we are rural, and it takes time before emergency vehicles reach our neighborhood. There could be significant loss of homes and possibly life with the islands of density being proposed.

The Waldo Canyon after action report, National Institute of Standards and Technology (NIST) Technical Note 1910 A Case Study "A Community Affected by the Waldo Fire -Event Timeline and Defensive Actions", states that we should learn something from this fire: density can make houses indefensible, density can cause embers to burn hotter and spread causing loss of additional houses, topography should be taken into consideration when building, and the composition of the building should be taken into consideration when building in fire prone areas. The NIST report also states that houses in fire prone areas should be built with fire safe material. For instance, my siding is concrete siding. I am doing my best to mitigate any fire fuel. It is an ongoing process, but everyone in the community is trying. Adding houses that have 5ft or 10 ft. side set backs are definitely not helping our community remain defensible. We reside in a high fire danger area.

Many re-zoning opposition groups are stating fire as big concern-because it is! Fire Danger is real in Colorado. If community members state positions regarding fire concerns it is because they have an honest worry about it. These legitimate concerns should be taken seriously by those in public power. We are a drought state. Bringing water in to support a high density, inappropriately placed, community, isn't the answer. The answer is limiting the density to begin with to reduce the greater losses. Again, closely placed homes can all ignite and it takes time for emergency services to reach our neighborhood. Having large space between homes imperative.

So again, in Rock Creek Mesa, it's not that building additional homes is the problem, it's the density of homes; what is a good fit in established neighborhoods limited by topography? Please review Southwestern Area Comprehensive Plan, page 58, for more details about Wildfire.

- B. There are two hillsides that should be considered hillside overlays. One of the hillsides steeply slopes down into the Rock Creek Mesa Water ponds-the communities water source. The second slope on the south end of the proposed building area is definitely more than 30% as it looks like a shear drop off. Building near these slopes should be limited if not eliminated. According to the Colorado Geological Survey there have been growth pressures. The steep slopes create tension cracks and eventually structures on the moving ground can be displaced. Landslides are often created by human activity and aggressive development as the weight of the development will cause the ground to change and the slope gives way. The developer will of course need to be signed off on geographical hazards; however, this is something I want to bring to your attention to the high grade of these two areas.

Those two specific properties with the slopes are both part of the land that is not currently owned by the developer but would be purchased if the rezoning were allowed. Schedule number 7500000236 is zoned A-5 / F-5 and the property is 367 Acres, contiguous with our community. The second parcel, schedule number 6531200007, zoned F-5.

“Due to steep slopes and related natural constraints, much of the Planning Area is suitable for only low-density residential development.” (SACP, pg90)

4. Dense housing would affect wildlife. I have witnessed wildlife concerns being dismissed in hearings. However, according to El Paso County Land Use Code, Chapter 6.3.9 states that proposed development should be reviewed in consideration of the impacts on wildlife and wildlife habitat, and to implement the provisions of the Master Plan. The chapter further states that wildlife is important to the quality of life in El Paso County. This is exactly how we feel on the Mesa. Wildlife is one of the top reasons many of us have chosen to live on the Mesa and out of the urban city! The Mexican Spotted Owl (MSO) is endangered and has a nesting ground south of our community in Rock Creek. The division of wildlife has a station at Rock Creek and follows the MSO. The owl has been heard in the mobile home park and our community has pictures of the owl in a back yard of a neighbor in the Mesa. We have bears, mountain lions, wild turkey, deer, and many other wild animals. These animals might be dispersed and sadly harassed with the number of houses that RS-5000 would bring. Please see Southwestern Area Comprehensive Plan page 53. Again, it isn't additional housing in general that affects the wildlife-it's the density of housing. Large lots with open yards allow the deer and wild turkeys to feed. Wildlife is important to Coloradan's, and it should be a crucial factor in land use decisions.

5. The developer has stated he will bring needed infrastructure to the Mesa. The developer needs to clear out the mobile home park septic system before he can begin building his apartments at the bottom of the sewer plant. The developer also needs the water and sewer to build out the F-5 lots he recently purchased. The burden, the cost of the infrastructure *he* requires for his for-profit development, should not translate to dense housing in our predated (circa 1958) large lot rural community. Mr. Mientka and the owner of Cheyenne Mountain Estates (CME) mobile home park have been in talks for a few years discussing the infrastructure at CME. Meanwhile, over the years of their discussions, the owner of CME has not been proactive in maintaining the water lines in the park nor the sewer plant. Rock Creek Mesa Water District (RCMWD) has consistently provided water to CME. CME has a master meter and receives water from RCMWD. CME has not been able to maintain a constant water supply to their tenants due to lack of infrastructure repair and maintenance in the mobile home park. There are many times CME tenants are left without water for days due to the broken water lines in CME. Again, Rock Creek Mesa Water District has always been able to provide water to the mobile home park. The state of Colorado approves three types of sewer plants for RURAL mobile home parks. CME does have one of the three approved sewer systems and it has been operational for over fifty years. Like anything in a home, yearly maintenance is required to keep things in good repair. The sewer system at CME has been neglected; it could be repaired and continue to be operational without the assistance

of the developer, albeit it would be a very expensive endeavor. Therefore, apparently, CME has agreed to work with the developer regarding the sewer and perhaps other infrastructure issues. ***As of 7/12/21, per the El Paso County health department, there have been zero septic violations (to include Cheyenne Mountain Estates) in Rock Creek Mesa. With no violations, there is not a need for infrastructure to be brought to the Mesa.

The benefit is for the two businessmen, not the Rock Creek Mesa community as the infrastructure outside the mobile home park is intact and in code according to the El Paso County Health Department.

The developer claims he will bring needed water to the Mesa.

Full transparency: there are a few vacant lots and a few houses that are not tied into the Rock Creek Mesa Water District. In our community petition, four homes that are not served by the district, signed the petition opposing the rezone to RS-5000. They haul water. They purchased their large lots in the county knowing they would have to install cisterns and haul water. They and all of us, love our community for the large lots and rural lifestyle. We chose this lifestyle. While no one is questioning whether an additional water source close to the community is a problem-the problem is that there is a viable Special Water District that has delivered water to the Rock Creek Mesa Water District since 1959. The developer is not allowed to cross over any of the existing water lines-that is an entirely different issue that I am not well versed in-but it needs to be mentioned because the developer states that he will deliver water to all the new home sites-the six different "islands" and the question is, "how can he do this without crossing lines?"

Water is very scarce in the unincorporated area of El Paso County, as it is for the entire state of Colorado. The F-5 properties that Mr. Mientka knowingly purchased as F-5, as developer, will require 300 years of water. Our community should not be penalized with dense housing to cover *his* expenditures for *his* "for profit" development.

Regardless of the deals between the developer and the owner of CME, the Rock Creek Mesa community should not be required to suck up the expense of this endeavor by the means of high density. Mr. Mientka will claim he is helping the community. And, while the health of the community is paramount, it is the lack of maintenance by the MHP owners that have created the failing septic and as a business they should be responsible for the expense, not RCM. Rock Creek Mesa infrastructure is completely operational.

The developer and the mobile home park owner are wealthy businessmen. They operate for profit businesses; RCM residents should not be the victims of their business antics and nor should the planning department or commissioners be concerned with the infrastructure expenses that the developer will claim are enormous therefore trying to justify high density housing.

6. The developer claims he is contributing homes to Colorado Springs. While every Coloradan knows there is a need for affordable housing, dense housing in every area is not appropriate. In the medical field we do not give every diabetic the same amount of insulin. There are many

things to take into consideration when prescribing dosage. The same holds true, should hold true, when considering building in established areas. Providing homes on 20,000 sq ft lots is still providing homes and it is appealing to many people who like to live in rural America. Again, Rock Creek Mesa is not served by urban transport. One other troubling fact is that the developer has several family-owned lots that he has disclosed on maps but is not including them in his development plan. As a community, we are sure his plan is to get the high-density housing approved and then turn around and build multi-family housing unit on those properties. The home owners with congruent land and across the street from that land were going to be blindsided by this; you can see that our community has caution regarding this developer. One of the properties that shares lot lines with those properties is over 1.5 acres. We ask for transparency.

The developer is building Reagan Ranch which will provide approximately 1600 new homes (Gazette, Feb 2021). This is appropriately set on the east side of Colorado Springs on completely vacant land with room to grow to the East. He is not retrofitting into an existing community. The mixed land use is appropriate and the community will have over 60 acres of green space. The development plans for Rock Creek Mesa show that the one existing park will be removed and there will be no added green space or parks. This could constitute discrimination. The American Planning Association, Healthy People 2020, Colorado Springs Parks Master Plan, and other resources all state that open space is critical for the mental and physical well-being of people and that parks and open space should be included in all new builds.

We understand Reagan Ranch is a PUD and we are not...however, disparity should not be taken lightly.

- Note, as of the planning hearing meeting, the developer had added a proposed green space area.
7. Encroachment on training areas at Fort Carson: I believe several commissioners serve on the Pikes Peak Area of Council of Governments and are aware of the Joint Land Use Study (JLUS). The developer will say that the military welcomes new homes for their members. I have spoken with the Directorate of Public Works for Fort Carson. Their official comment on additional housing is NO comment. As a retired military member well versed in military housing, I can assure you, the public housing on the Air Force Academy would be used for military housing if there were a crisis. Additionally, I called almost every apartment complex north of the military base and they all assured me there was plenty of vacancies. That being said, our neighborhood is sought after due to the open space, large lots, wildlife, and quiet serenity inherent with rural property. Homes on large lots would be appropriate and would reduce the amount of light emitted that could interfere with night vision training. I was told by personnel on Fort Carson that reducing encroachment is important to the training mission and that land by Turkey Creek, south of the Mesa, is currently being looked at to be purchased through the Army Compatible Use Buffer (ACUB) program to minimize encroachment on the Pinon Canon Training Area. A few years ago, the 4th Combat Aviation Brigade stood up at Butts Army Air Field. With this realignment, the Post actually lost about 1500+ soldiers and family members. However, they are concerned with encroachment as they train at night with night vision (4th Aviation Brigade website and conversations with Ft Carson training officials). I will add a picture of a helicopter

training at area two, which is at the end of Pawnee and Cherokee at Hwy 115. Dense housing would ultimately cause more night lighting and could affect training: shouldn't we be good neighbors and only allow ¼ of the building to begin with?

8. Highway 115 is a heavily travelled corridor and there should not be a light at Pawnee. The developer proposes a stop light at Pawnee and Highway 115 to accommodate the large number of vehicles that will be at the Mesa with the additional 165-211 houses. With a reduction in homes at the zoning RR-0.5 there would not be a need for a signal. There are two stop lights near our area on Highway 115. There is one at Pine Oaks Rd and one at Wilderness Rd. That is 1.4 miles between the two lights. If a light were put at Pawnee, there would be three stop lights within 1.4 miles on a heavily trafficked highway. The line of sight on the highway is poor because the grade is extreme at that point-the peak is at Pawnee and Highway 115. This brings up another problem for truckers who are one of the main commuters on this highway. I have spoken to many truckers and they are completely opposed to the idea of an additional stop signal on Highway 115. Many of the trucks come from the quarries with heavy loads-starting and stopping, especially on a grade could cause traffic hazards, if not rear-end collisions. CDOT and other federal agencies state that heavily trafficked highways should have no more than two signals within one mile. This would mean 3 signals within 1.4 miles of "rolling hill" highway.

Colorado Department of Highways states that "increasing the distance between traffic signals improves the flow of traffic on major arterials, reduces congestion, and improves air quality for heavily traveled corridors." They further state that increasing the distance between signals reduces the incident of crashes; the appropriate spacing between signals for a particular corridor depends greatly upon the speed and flow of traffic, but anything greater than two signals per mile has a significant impact on congesting and safety.

www.accessmanagement.gov.

Again, with less density, there would not be a need for an additional signal on this highly travelled highway.

In conclusion, there are many legitimate reasons why application P209 should be denied.

El Paso County Land Map Amendment (Rezoning) states the purpose of zoning is to locate particular land uses where they are most appropriate, considering public utilities, road access, and the established development pattern.

"Zoning protects the rights of property owners while promoting the general welfare of the community".

The Rock Creek Mesa Opposition to Rezone petition is signed by almost every resident in the community. Our mental wellbeing has already been in peril since we received letters from the developer asking us if we wanted to pay approximately \$30 a month for 30 years for his infrastructure, that will change our rural way of life to an urbanized one. We have working infrastructure! And those who signed the petition and haul water don't want to sacrifice their rural way of life for urban services. We are not saying don't build-we are saying build responsibly and be forthright! Build to fit the existing neighborhood as required by state statutes. Spot zoning is not appropriate. Leap Frog development is not advocated and yet a municipal district was approved almost 4 miles south of city limits; three miles

of the four is Cheyenne Mountain State Park! Our community is surrounded by Federal, State, and City open space on three sides.

Colorado Springs recently approved a new Master Plan. There was a lot of time and energy spent developing that Master Plan. A lot of publicity has reflected how important the city's Master Plan is. We ask that the Southwestern Area Comprehensive Plan be given the same respect. Our community members came together and spent countless hours giving due diligence to every aspect that makes a community safe and resilient. The character of the neighborhood has not changed since the Master Plan was adopted by the commissioners in 1990. Our infrastructure is intact.

All I ask, all my community asks, is for honesty and due diligence regarding land use decisions. The same rules should apply for everyone. Our community is vibrant and alive. We thrive. We CHOSE to live in this community on large lots. We love where we live and how we live. Land developed throughout our established neighborhood should comply with the set precedence as mentioned in the Colorado Springs Land Use Code, 5.3.5, "...consider the established development pattern."

Respectfully,

Felicia Grillo
Rock Creek Mesa Resident
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