

Seclusion Development, LLC

9540 Federal Drive, Suite 100
Colorado Springs, CO 80921

March 10, 2023

Ms. Kylie Bagley
Planning and Community Development Division
El Paso County
2880 International Circle, Suite 110
Colorado Springs, CO 80910
Sent via email: kyliebagley@elpasoco.com

RE: OBJECTION TO MAKINGS SUBDIVISION (MS-23-003) – GUNNERS RIDGE MINOR SUBDIVISION

Dear Ms. Bagley:

I am the owner/developer of the Seclusion property for which a rezone from PUD to RR-5 to accommodate 35-acre parcel development was approved by the BoCC by Resolution 21-346 on 24th August 2021. The proposed Makings Subdivision is Parcel 1 on the attached exhibit and the owner is proposing to subdivide the property into one (1) 23.8-acre lot and three (3) ~5-acre lots. The Applicant's Letter of Intent (LOI) indicates that *"The applicant proposes to develop the parcel into 4 Single Family residential lots. Lot #1 would like to have the option for a second house (larger than 1,800 square feet) in the future."* It goes on to state that *"the owner/applicant of Lot #1 would like to include horse boarding on Lot #1. There are 7 horse paddocks proposed. Each paddock will be 100 feet by 125 feet +/- with a maximum of 5 horses per paddock."*

There are various aspects of this application and the applicant's future intent as stated in the LOI that are of concern to us as the developer of Seclusion and owner of Parcels 3, 5 & 6.

Appropriateness of the Minor Subdivision:

1. Compatibility

Land Development Code (LDC) Chapter 7.2.1.C.1 (c) states that *"a minor subdivision shall be required to conform to all preliminary plan and final plat requirements including the criteria for approval, except to the extent that those requirements are modified by this Code or the Procedures Manual."* Chapter 7.2.1.D.2 (e) of the LDC sets out the criteria for approval of a Preliminary Plan, which includes: *"The proposed subdivision has established an adequate level of compatibility by ... (3) incorporating physical design features in the subdivision to provide a transition between the subdivision and adjacent land uses."*

Seclusion is a 35-acre parcel development that was not intended to accommodate 5-acre lots. When proposing to rezone the property from PUD on 2021, we had an Early Assistance (EA) meeting with

the County Planner, with a view to rezoning the property to A-35 to support the proposed 35-acre parcels. At the EA meeting on December 16, 2020, the Planner indicated that RR-5 zoning was preferred as it was more compatible with the surrounding RR-5 zoning. While we understand that the proposed subdivision is within the parameters of the RR-5 zone, we consider that the currently proposed configuration is not compatible with the adjacent 35-acre lots. A better configuration of the lots to address compatibility would be to move the five acre lots to the south end of the property adjacent to the 5-acre platted lots in the adjacent Armonia Ranch Subdivision. This would place the single 23.8-acre lot to the north where it would act as a transition between the smaller 5-acre lots and the 35-acre parcels to the west and north.

2. Circumvention of Process

The Applicants LOI indicates an intent for an additional dwelling on Lot #1. LDC Chapter 7.2.1.C.1 (e) states that *"if it is determined that the applicant is using the minor subdivision process to circumvent the subdivision ...the applicant shall be required to comply with the preliminary plan and final plat process."* An Additional Dwelling is not permitted in the RR-5 zone. The only zone in which an Additional Dwelling is permitted is the A-35 zone. Conversely, the A-35 zone would not allow subdivision to less than 35-acre lots. It is clearly the case based upon the applicant's intent for an additional dwelling in the future that the applicant is trying to circumvent the subdivision process by applying for a minor subdivision.

3. Lot Access

We do not understand the applicant's justification for the requested waiver for 30' lot frontage on a public road. The reference to the unique shape of Lot #1 and the impact to lot 4 is bogus. The applicant has created the shape of Lot #1 with this proposed subdivision. Currently the parcel is a large uniform shape. Lot #4 could be moved south of Lot #2 or, as suggested above, all three 5-acre lots should be moved to the south boundary. This would allow all lots to have direct public road access and Lot #4 would be no more burdened by the powerline easement along Goodson Road than Lots 2 and 3. We think it would be better planning for all the lots within the subdivision to have direct access from Goodson Road, and there is adequate room on this 35-acre parcel to do so.

5. Inadequate supporting Information

Mr. Makings purchased his parcel from my company on August 22, 2022 following his EA meeting with your office on August 18, 2022. The EA meeting clearly described the allowed uses with the RR-5 zone and how those differed from his suggested intended use.

Appropriateness of the proposed Additional Dwelling on Lot 1:

The applicant purchased this lot in the knowledge that it is zoned RR-5. While this allows subdivision to 5-acre lots, it does not allow for additional dwellings. The only zone in which an Additional Dwelling is permitted is the A-35 zone. The applicant has not requested a rezone to A-35 as this would not allow the proposed subdivision to less than 35-acre lots. The only way the additional dwelling could conceivably be allowed in the future is with a use variance. The County should not knowingly support a proposed subdivision that will result in a use variance request in the future.

Appropriateness of the proposed Commercial Stable on Lot 1:

The applicant purchased this lot in the knowledge that it is zoned RR-5. While this allows subdivision to 5-acre lots, it does not allow for a commercial stable. A commercial stable is a Special Use in the RR-5 zone. No special use request has been made. LDC Chapter 5.3.2.C. provides the criteria for approving a special use, which includes: "The special use will be in harmony with the character of the neighborhood, and will generally be compatible with the existing and allowable land uses in the surrounding area." Additionally, a commercial operation of this size will have adverse effects on surrounding property values and traffic counts.

At the EA meeting on December 16, 2020, per the Planning Checklist on EDARP under Zoning Analysis, the planner indicated:

"Applicant has proposed to rezone the existing parcels to A-35. The subject property is surrounded by RR-5 zoning. Staff recommends that the parcels be rezoned to RR-5 to mitigate potential agricultural externalities that may impact the surrounding neighborhood as a result of the A-35 zoning uses allowed within the district. Agricultural uses may still be permitted within the RR-5 District, under a more limited scale." In the audio recording of the meeting, the Planner states that RR-5 zoning is better because it requires Special Use review which then allows neighbor involvement and input for certain uses. The Planner also states that RR-5 potentially has fewer allowed uses which may impact surrounding land uses that could be seen as negative, higher intensity in nature.

It is clear from these recommendations of the Planner at the 2021 EA meeting that Planning staff did not consider the more intense agricultural uses, such as commercial stables, as an appropriate use in this location, given the character of the surrounding area. It was for this reason that we rezoned to RR-5 rather than A-35 as originally requested. Although a special use request has not yet been submitted, it is clear from the applicants LOI that this is the intent. We would oppose such a request on the basis that a commercial stable is not compatible with the residential character of the neighborhood. The property lies within the Large-Lot Residential place-type in the El Paso County Master Plan, which indicates that the "the focus of Large-Lot Residential is intertwining residential uses with the County's treasured natural environment without disruption or degradation. As such, commercial uses are minimal in this place-type with a small-scale standalone business located on a major roadway." The proposed commercial stable for up to 35 horses is neither small in scale, nor is it located on a major roadway, and is therefore an inappropriate use in this place-type.

In addition, we question whether a well permit will allow for this commercial operation in the Upper Black Squirrel Creek Ground Water Basin ("UBS"). The applicant's Water Resource Report relies only on the Dawson water to supply the wells and replacement of the actual depletions from septic return flows. While Dawson wells may be allowed in the UBS with an approved replacement plan, it is doubtful that only septic return flows will be enough to meet the required 100% of actual depletion. We further object to allocation of the water necessary to supply a commercial boarding operation.

6. Notification

Seclusion's property is separated from Mr. Makings by 60' of road (two – 30' driveways for Parcels 2 & 4). It seems Seclusion should have been notified as an adjacent neighbor just as those east of Goodson Road were notified. Future notification would be appreciated.

Mr. Makings never approached us with his ideas and desires for this property; if he had we would have been happy to discuss them with him. Unfortunately, we are only left with responding to the requested minor subdivision before us and the applicant's future intentions as set out in the LOI.

Please keep us informed of the progress on this or any other applications associated with this property.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "George C Hess III", written over a light blue horizontal line.

George C Hess III
Seclusion Development, LLC

Cc: Caroleen F. Jolivet
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