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EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting
Thursday, July 20, 2023
El Paso County Planning and Community Development Department
2880 International Circle – Second Floor Hearing Room
Colorado Springs, Colorado

REGULAR HEARING, 9:00 A.M.

PC MEMBERS PRESENT AND VOTING: THOMAS BAILEY, BECKY FULLER, BRANDY MERRIAM, WAYNE SMITH, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: JAY CARLSON.

PC MEMBERS PRESENT AND NOT VOTING: JEFFREY MARKEWICH.

PC MEMBERS ABSENT: SARAH BRITAIN JACK, ERIC MORAES, KARA OFFNER AND TIM TROWBRIDGE.

STAFF PRESENT: JUSTIN KILGORE, KARI PARSONS, KYLIE BAGLEY, GILBERT LAFORCE, MIRANDA BENSON, AND EL PASO COUNTY ATTORNEY LORI SEAGO.

OTHERS PRESENT AND SPEAKING: JENNIFER IVEY, KYLE THOMAS, JOE DESJARDIN, AND ANDREW BIGGS.

1. REPORT ITEMS

A. Planning Department. Next PC Hearing is Thursday, August 1, 2023, at 9:00 A.M.

Mr. Kilgore advised the PC that Mr. Carlson will join online.

2. Call for public comment for items not on hearing agenda – NONE.

3. CONSENT ITEMS

A. Adoption of Minutes of meeting held July 6, 2023.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (5-0).

B. VR-21-014

BAGLEY

**VACATION AND REPLAT
VILLA CASITAS FILING NO. 4**

A request by Jesus Barron for approval of a 5.80-acre Vacation and Replat illustrating a vacation of one single-family residential lot and platting into one (1) single-family lot which will include a portion of County right-of-way. The property is zoned RR-5 (Residential Rural), and is located at 10015 Calle Bernardo Point, directly south of the intersection of Calle Bernardo Point and La Piedra Point. (Parcel No. 5735004001) (Commissioner District No. 4).

PUBLIC COMMENT – NONE.

Ms. Fuller commented that this is a great example of why a survey should be done before building. She doesn't think the current owner did it, but this is a painful process to legitimize the situation.

PC ACTION: FULLER MOVED / MERRIAM SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM NUMBER 3B, FILE NUMBER VR-21-014 FOR A VACATION AND REPLAT, VILLA CASITAS FILING NO. 4, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH FOUR (4) CONDITIONS AND ONE (1) NOTATION, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (5-0).

4. CALLED-UP CONSENT ITEMS – NONE.

Mr. Carlson joined the hearing online. He was established as a voting member.

5. REGULAR ITEMS

A. ID-23-003

PARSONS

**SPECIAL DISTRICT SERVICE PLAN
EAGLEVIEW METROPOLITAN DISTRICT**

A request from PT Eagleview, LLC., for approval of a Colorado Revised Statutes Title 32 Special District Service Plan for the Eagleview Metropolitan District. The 121.2-acre area included within the request is zoned RR-2.5 (Residential Rural) and is located directly west of the Paint Brush Hills subdivision, north of Stapleton Drive, south of Arroya Lane, and east of Raygor Road. The proposed service plan includes the following: a maximum debt authorization of \$8,000,000.00, a debt service mill levy of 50 mills for residential, and an operations and maintenance mill levy of 15 mills, for a total maximum combined residential mill levy of 65 mills. The statutory purposes of the district include the provision of the following:

- 1) street improvements, safety protection;
- 2) design, construction, and maintenance of drainage facilities;
- 3) design, land acquisition, construction, and maintenance of recreation facilities;
- 4) mosquito control;
- 5) design, acquisition, construction, installation, and operation and maintenance of television relay and translation facilities;
- 6) covenant enforcement;
- 7) design, construction, and maintenance of public water including fire hydrant systems, and sanitation systems; and
- 8) solid waste disposal.

(Parcel Nos. 52260-00-001 and 52260-00-002) (Commissioner District No. 2).

STAFF & APPLICANT PRESENTATIONS

Ms. Merriam asked if the property currently had wells and septic systems.

Ms. Parsons referred to an aerial image of the area. She explained that the surrounding rural residential developments (north, west, and south) are served by on-site well and septic. The area to the east is on water and wastewater central services provided by Paintbrush Hills Metro District. She referred to an image of the approved Preliminary Plan. There is an emergency access road to the Paintbrush Hills neighborhood for emergency fire hydrant connections, if necessary.

Ms. Merriam asked if the new development would be on a water system, not well and septic.

Ms. Parsons answered that the new development has minimum lot sizes of 2.5 acres which qualify it for well and septic. The State Engineer Office, County Attorney Office, and Public Health Department have already made their recommendations to the BOCC for water sufficiency, quantity, and quality during the Preliminary Plan stage.

Ms. Merriam asked to review the list of items that the mill levies are associated with.

Ms. Parsons referred to that slide in her presentation and added that the applicants are requesting the standard statutory allowances for their Service Plan. They are not currently proposing to provide the full list of services but are still including those allowances within the plan. She will defer to the applicant's representative to explain the rationale.

Mr. Markewich asked for further information regarding the agreement between this development and the Paintbrush Hills Metro District as it pertains to hydrants and fire protection. What is considered "normal" for hydrants in a district like the one proposed?

Ms. Parsons explained that she hasn't seen hydrant systems proposed within rural developments on well and septic systems. A District may request a cistern in that scenario. In this case, because there is an urban development that is already centralized, the surrounding districts did not request an extension of the centralized hydrant system nor did they want a cistern. It would be rare to have hydrants in an area served by wells.

Mr. Markewich clarified that the Fire Protection Districts feel they have enough hose and equipment to get into the existing hydrant system if there were a fire.

Ms. Parsons stated that at the time of the Preliminary Plan, the Fire Protection Districts provided comments that they could serve the development with the current design.

Mr. Carlson, online, stated that the mill levy rate seems just as high as a District that will provide services like water treatment, which this District is not proposing.

Ms. Parsons replied that is correct. The applicant is requesting the maximum mills.

Mr. Carlson further clarified that the outline of what they can spend the money on includes water services, sewers, etc., but they aren't going to provide those services.

Ms. Parsons stated that it is her understanding that each individual lot owner will install their own well and septic systems.

Mr. Whitney clarified that the maximum mill levy would be 65 and the separate 5 mills mentioned for covenant enforcement would only kick in if they don't use the full 15 mills designated to operations and maintenance (O & M).

Ms. Parsons explained that it is common for a District to request covenant enforcement authority in their Service Plan even with no mills designated.

Mr. Bailey reiterated that the maximum mill levy will not exceed 65 mills total.

Ms. Parsons confirmed. The applicant's presentation then began.

Mr. Bailey clarified that approval of this application only sets the limits of what could be borrowed and what could be charged. Similar to how it does not guarantee land-use approval, it does not lock the developer into anything. This would provide a boundary as to what *could be* done in the future in order to make this happen.

Ms. Jennifer Ivey, with Icenogle Seaver Pogue P.C., agreed with that assessment and further explained that the State's laws are the biggest box, the County's regulations are the next box, and the Service Plan puts them into a smaller box which states they cannot exceed \$8 million or 65 mills. As to the debt, that depends on market conditions. There has been a slowdown in the market recently, so districts have not been able to issue as much debt. Hopefully by the time this project is ready, conditions will be back to better rates and more proceeds will be available. The presentation continued.

Ms. Fuller asked how much each homeowner would be paying in taxes if 65 mills were applied to each \$1.2 million valued home.

Mr. Kyle Thomas, with D.A. Davidson & Co., answered that it would be \$5,577.00/year or \$465.00/month.

Mr. Bailey added that the reduction in the home price is recouped within 10 years.

Ms. Fuller stated that their proposed plan is projecting a 4-year buildout of high-end homes on which the high interest rates have categorically put a damper on sales. She asked the applicant to address that concern.

Mr. Joe Desjardin, with Proterra Properties and PT Eagleview, LLC, answered that they anticipate one sale per month. For 38 lots, that will total 4 years until final buildout.

Ms. Fuller asked if there was market data that supported that estimate.

Mr. Desjardin mentioned that they also are the developers for Winsome Properties, which is approximately 800 acres located a couple miles north of this property. He stated they have an experienced track record over those multiple filings. They are confident they can achieve that 4-year timeframe even with the raising interest rates.

Ms. Fuller asked if Winsome also reached final buildout within 4 years. She explained that she's trying to gauge the feasibility, which is an important part of this approval.

Mr. Desjardin stated he didn't know the exact numbers, but they're sold out now. They were more than half sold out the day they were listed on the market. The proposed development consists of expensive homes marketed to custom home builders. Even though sales are slow, there's a shortage in inventory. He stated builders are calling daily to ask when the lots will be available.

Mr. Bailey added that the bond issuer is ultimately the one to determine if the schedule is reasonable because they're the ones being paid back. That acts as a market-check on the process.

Mr. Thomas added that there are groups that conduct market studies on this topic, and results showed that there are 11 communities in the surrounding area of the County that are currently building and selling homes with price points over \$1 million. He listed community names and

stated some of the communities are nearing buildout. Since 2020, there have been 265 units sold over that price point, which averages 75 units/year. He can provide more details, if needed.

Ms. Fuller reiterated that 2020 was a different market with different interest rates. It was a different environment when buying a million-dollar home compared to today. She wonders about the statistics for 2022 specifically.

Mr. Thomas stated that they work with multiple homebuilders across the Front Range, and most of the purchasers in this price point are cash purchasers. The interest rate situation is effectively irrelevant. Some people are “down-sizing” from out of state and paying \$1.2 million cash is not unreasonable. Many homes are being purchased without a mortgage.

Ms. Merriam asked for clarification on the existing mills and the proposed mills.

Mr. Thomas explained that the 137-mill levy total would include the existing tax entities as well as the proposed Metropolitan District’s 65 mills.

Ms. Merriam suggested Ms. Ivey use the term “inflation” instead of “overage” in her presentation.

Ms. Fuller asked for further explanation of the earlier comment regarding the debt market changing and not being able to change very much.

Mr. Thomas explained that any district or taxing entity’s revenue is based on the market value in that community and the mill levy rate. If projected over a 40-year time horizon, there will be a certain amount of revenue generated by the district. The value of that revenue today is based upon the interest rate at which you are currently borrowing. If you are borrowing at 7% versus 5%, the amount of principal you can advertise over that period is going to adjust. By issuing bonds during a higher interest rate environment, more of those mill levies collected are going towards interest cost and less to paying down principal. By leveraging the tax-exempt bond market and borrowing at lower rates versus other mechanisms, you’re still achieving a lower overall cost and it’s the most efficient way to fund the infrastructure.

PUBLIC COMMENT – NONE.

DISCUSSION

Mr. Kilgore clarified to the board that PCD staff does not make a recommendation. When there are no concerns regarding consistency with the Master Plan, State Statute, various regulations, and criteria, that’s just about the consistency. That is not to be interpreted as a recommendation.

Mr. Bailey stated the PC relies on PCD staff to not bring them anything that might be problematic, but that’s not necessarily a recommendation. An application must meet certain criteria, a minimum threshold, before it goes to a hearing, but PCD staff does not have decision authority.

Ms. Parsons explained that when reviewing a land-use application, PCD staff use the LDC criteria of approval to analyze whether the proposal meets or does not meet those standards. For a Special District application, however, the language in the staff report refers to what the applicant’s Service Plan states. PCD staff is not analyzing that data, simply repeating and concentrating on areas within the proposed Service Plan and supporting documents to summarize them into the staff report. The only consistency finding she is making is with the County’s Master Plan.

Ms. Seago added that PCD staff does their best to anticipate areas of concern to help the applicant address issues that may arise in showing compliance with the criteria for approval. However, PCD

staff cannot and do not refuse to bring an application to hearing that they feel does not meet the criterion. That is not their decision to make. Just because an application is in front of the board does not mean PCD staff has made the assessment that the criteria of approval has been met.

Mr. Bailey stated he didn't mean to imply that. He clarified that PCD staff makes sure the application contains all the necessary information that the board must consider, but it isn't PCD staff's place to determine whether it's reasonable or not. It's the PC's responsibility to ask questions and deliberate on what information has been provided.

Mr. Markewich asked Ms. Parsons to clarify her comment that the application for this Service Plan is separated from the normal process in terms of the development plan. Was this application moved up due to elections?

Ms. Parsons stated that was not the case. She stated it is common for a Service Plan to be brought to hearing after a Sketch Plan approval. This project was not large enough to require a Sketch Plan project, but this applicant has secured the zoning and the site-specific design in the Preliminary Plan. The Final Plat is the last "crossing of the t", includes the Engineering documents, and acts as the final step that the developer takes with the County before legal conveyance of a lot can occur. Final Plat is also the County's opportunity to obtain public right-of-way and do a subdivision improvement agreement. There's no additional requirement that this developer must do that's out of the ordinary. It was her opinion that this developer is ahead of the game because he has an approved Preliminary Plan. She thinks that because they don't have the value of the final drainage report design, it will be at Final Plat that the exact financial valuation will be known. Once the drainage report is approved, they will know exactly how much debt the developer will have to incur to make drainage improvements. This is normal.

Mr. Bailey clarified that there's no exact place in the process that the Special District application must come forward. However, these applications do have the additional driving factor of elections.

Ms. Parsons added that they would not accept a financial plan, which is required with an application for Special District, before zoning or sketch plan approval.

Ms. Ivey clarified that it is this applicant's preference to bring projects before the County closer to the Final Plat stage because they realize people frequently have development-related questions.

Mr. Markewich reiterated that approval of this project is not contingent on a future proposal or vice versa.

Mr. Whitney asked what services would be provided by the Metro District with the 50 mills if homes are on wells and individual septic systems.

Ms. Ivey stated that the 50 mills will pay for the service costs for debt issued for drainage and roadway infrastructure costs going in up front. That would include the capital infrastructure of public improvements being developed. She doesn't think there's anything included within the water aspect because that will fall under the O & M performed by the District. Regarding sanitation, there are several drainage improvements required. Whether or not there will be enough bond proceeds to pay for that estimated expense is still to be determined.

Mr. Carlson asked why a Metro District is being requested instead of adding a \$55,000 cost to each home to cover the anticipated debt. The applicant's presentation mentioned that these homes would likely be cash purchases around \$1.2 million and that the cost wasn't a big deal to these people.

Ms. Ivey stated there would be ongoing O & M needs in the community for roadways, water reporting, and to allow for intergovernmental relationships with the existing districts that will be providing services. A Special District helps facilitate those things in a different way than an HOA or not having any entity at all.

Mr. Andrew Biggs, with Proterra Properties and PT Eagleview, LLC, further clarified that what they're trying to do is sell lots between \$250,000 to \$300,000. While \$55,000 might not seem like much when talking about an overall price of \$1.2 million for the completed house, it does become a significant cost when talking about the price of the lot just to get onto the land.

Mr. Bailey added that Special Districts also give the developer the opportunity to borrow funds to establish the infrastructure before selling to lots and then is paid back over time (after those sales begin). It doesn't make sense to develop the drainage after the sale of the lots, but the developer won't have the revenue from those sales yet. This process allows for other funding and provides the legal ability to seek financing for improvements before lots are sold and houses are built.

Ms. Fuller asked why an HOA can't manage ongoing reporting and maintenance. There will not be centralized water or wastewater treatment facilities. She agrees with Mr. Carlson's comments.

Ms. Ivey clarified that an HOA can't go to a municipal bond market. There is an O & M function, but an HOA wouldn't be able to enter the capital market. She added that while water and sewer treatment facilities are commonly included in other Metro Districts, she knows of many that are not. She also knows of many that put in limited infrastructure and then conveyed it to another entity. She doesn't think it's atypical to establish a district in this case, especially with the lot sizes.

Mr. Bailey explained the way he understands the situation. There's a difference between the mills that are assessed to pay back the loan versus the amount of the loan in the first place.

Ms. Ivey continued by saying if this development were on centralized water and sewer, there'd be a higher cost. She also stated that if there isn't a need for \$8 million, then that amount won't be issued. There are more improvement costs projected than bonds that will be available.

Ms. Fuller stated that the maximum debt equals \$210,000 for each lot (\$8 million divided by 38 lots). She clarified that it sounds like the goal is to establish a Special District to allow the developer to access the bond market. She stated that instead of selling it within the lot price, they're adding a tax liability forever. If a buyer thinks it's a bad deal, they don't have to buy into the development. She asked what happens if there's a discrepancy between what was borrowed and recouped.

Ms. Ivey answered that a district can only pay what it raises. A district relies on various fund sources to include the bond market, the mill levy, and developer advances. Whatever the district can't pay for, the developer will have to pay for.

PC ACTION: MERRIAM MOVED / WHITNEY SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM NUMBER 5A, FILE NUMBER ID-23-003 FOR A SPECIAL DISTRICT SERVICE PLAN, EAGLEVIEW METROPOLITAN DISTRICT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SEVEN (7) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION WAS APPROVED (5-1).

IN FAVOR: BAILEY, CARLSON, MERRIAM, SMITH, AND WHITNEY.

IN OPPOSITION: FULLER.

COMMENT: Ms. Fuller stated she hopes the BOCC looks at creating financial opportunities for people to get through this system that may not be available to the public.

6. NON-ACTION ITEMS

A. Water Training with Lori Seago.

Ms. Seago completed a water training regarding water rights, aquifers, State required sufficiency criteria, the 300-year water rule, and the general development application review process.

MEETING ADJOURNED at 11:51 A.M.

Minutes Prepared By: Miranda Benson