

December 20, 2020

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Reference: Cloverleaf Rezoning (RS-20000 to RS-5000) and Preliminary Plan

NEPCO is providing the collective input from its membership that includes approximately 9,500 homeowners, 45 HOAs, and 20,000 registered voters within and around Monument, Colorado. The purpose of NEPCO, a volunteer coalition of Homeowner Associations in northern El Paso County, is to promote a community environment in which a high quality of life can be sustained for constituent associations, their members, and families in northern El Paso County. We collectively address growth and land use issues with El Paso County Planners and the Town of Monument, as well as addressing HOA issues of common interest among the members. NEPCO achieves this by taking necessary steps to protect the property rights of the members, encouraging the beautification and planned development/maintenance of northern El Paso County.

We note that at least some of the neighbors in this area have objected to these applications on the basis of increased residential density and traffic. NEPCO understands their important concerns and hereby provides the following information to support these and other relevant land use issues.

1. Density: As we have stated before, property rights are extremely important to all of us in El Paso County, but we understand that the right to rezone one's property—including to a higher density—is not one of those rights. There is admittedly a great deal of discretion when the criteria for a rezoning approval is whether the rezoning "is in general conformance or consistency with the County's Master Plan, including applicable Small Area Plans." But since a specific rezoning may grant a landowner property rights different than those of his or her neighbors or deprive a landowner of rights enjoyed by his or her neighbors, fundamental principles of fairness and equal treatment should come into play. We hope that the BoCC will earnestly consider these principles.
 - a. Why a rezone to RS-5000? The developer seems to intimate that the proposed rezone to RS-5000 is the only solution to providing a transition from the higher to lower densities in this location and is the unique solution to enable the conservation of a substantial area of Woodmoor Open Space (WOS) for the benefit of the surrounding neighborhood.
 - i. Why not RS-6000? Under the Land Development Code, Section 3.2.3. Definitions, the RS-6000 zoning district is a 6,000 square foot district intended to accommodate single-family residential development while the RS-5000 zoning district is a 5,000 square foot district intended to accommodate single-family and two-family residential development. Which is more appropriate for this area? (And we note in the same section that the RS-20000 zoning district is a 20,000 square foot district intended to accommodate larger lot, single-family residential development with available urban services. That fits this area precisely!)

- ii. Why are 141 lots required? One of the neighbor's letters suggested a compromise of 75 lots. That seems reasonable and fair given the expectations of these folks that either an open space or 20,000 square foot lots would result there.
 - iii. Is this consistent with the El Paso County Master Plan including applicable Small Area Plans? We think that the proposed rezone to RS-5000 is inconsistent with the "medium density" designation in the Tri-Lakes Comprehensive Plan (though we can find no definition of that term). Given that almost all of the Woodmoor Sub-Area is zoned for single-family development and that the only growth that can be expected is infill properties, we believe that the RS-5000 designation (or at least 141 lots averaging only 7,440 square feet in size) is much closer to high density than it is to Woodmoor's medium density. What precedent will rezoning to RS-5000 density set? Will equal treatment then guarantee all future developers of infill properties a high-density result and fill our community with islands of homes crowded together in the name of progress?
- b. Finally, we do appreciate the fact that there are a number of non-build areas to separate the developer's lots from the neighboring RS-20000 lots due east and west of the project, and that the largest of the developer's lots (15,000-18,000 square feet) are located near the neighboring RS-20000 lots in the northwest area of the project.
2. Water: It is interesting to see that the original owners of this property crafted a Water Allowance Transfer Agreement with Woodmoor Water in April 2003. That agreement specified that the water associated with this property (which includes the WOS and Cloverleaf parcels) would be transferred to the high-density RM-30 multi-family development to the south because the owners would place the remainder of their property (including the WOS and Cloverleaf) in a conservation trust or otherwise forego development of this property.
- a. In accordance with a new Supplemental Water Usage and Service Agreement, Woodmoor Water now has apparently chosen to supply Cloverleaf excess or supplemental water so that it can develop the land despite the earlier promise to forego development. Who is hurt thereby? All current Woodmoor Water customers whose bills will be affected as a result of the need to drill more wells to ensure the continued supply of this water; all northern El Paso County communities that rely on groundwater from the aquifers that are tapped; and Woodmoor Water customers in the future who would have requested supplemental water but it is no longer available because it was consumed by Cloverleaf.
 - b. One might suggest that the burden is on Woodmoor Water to merely explain/justify to its own customers its transfer of supplemental water to this development. It appears from our reading of the relevant documents, that Woodmoor Water always acted in good faith. Instead, we believe that the obligation is on Cloverleaf (and ultimately the BoCC if the rezoning and preliminary plan are approved) to explain what has materially changed when the owners promised to forego development of land in exchange for re-allocation of precious water resources to a high-density development and then reneged on that promise. Our hope is that other less scrupulous owners/developers will not take an approval of this application to mean that sharp practices (if left unexplained) are condoned in El Paso County.
 - c. Finally, we remind the developer and BoCC that there is a well-placed caveat for Region 2 in Table 5-3, Current Demand and Current Supplies, in the El Paso County Water Master Plan. Although there appears to be a surplus of water, even in the year 2040, "Water production from Denver Basin wells in this region may not be economically sustainable in

the long term, depending on local aquifer conditions.” Excess water available now may well be non-existent water in the future!

3. Lighting: As a staunch supporter of northern El Paso County’s dark skies, please ensure that all lighting for this development is Dark Sky compliant, full cut-off lighting (minimizing glare while reducing light trespass and skyglow in our night skies). Improper lighting from 147 homes located on rolling plains at 7,000 feet above mean sea level can ruin the dark sky for everyone in northern El Paso County, including the Air Force Academy Observatory located less than 6 miles away.
4. Our bottom line is that we feel that the current plans for this development may be an unwise precedent for the future of water use and land use planning in El Paso County. NEPCO requests that our organization be informed of subsequent actions related to this development and be a participant in the review and coordination process. Thank you.

//SIGNED//
Paul E. Pirog
Vice Chairman
NEPCO Transportation and Land Use Committee

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Greg Lynd
President, NEPCO