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October 17, 2018

Gave Sevigny
Development Services
280 International Circle, Suite 110
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NEPCO
P. O. Box 714
Monument, Colorado 80132-0714

Re: Rolling Ridge Estates Commercial PUD Application – Response to September 29, 2018 NEPCO Letter

Dear Mr. Sevigny,

As requested, I am responding on behalf of the applicant, TC&C, LLC, to NEPCO's September 29th letter concerning its commercial PUD application. As acknowledged in the letter, the applicant met with a NEPCO representative on June 21st to discuss both the commercial PUD application and the adjacent residential rezoning request. The purpose of this letter is to try to address the remaining questions set forth in NEPCO's September 29th letter.

First, as an overview, it appears that many, if not most, of NEPCO's remaining questions/issues on the PUD application are ones that will be addressed in the subsequent stages of the PUD approval process. The current request is only the initial request for a change of zoning and a PUD Development Plan. Pursuant to the County's Land Development Code, no sale of lots can occur and no building permits can be issued until and unless Final Plat and Site Development Plan applications are subsequently approved. Showing final building architecture, final dimensional site plans, final grading and drainage plans, final utility plans (including well and septic locations), and final landscape plans are

requirements of the subsequent Site Development Plan. The purpose and intent of the initial PUD Development Plan is to verify the overall feasibility of the proposed development program.

NEPCO acknowledges that the commercial rezoning request at the intersection of SH83 and Hodgen Road is consistent with the Tri-Lakes Comprehensive Plan (Note #1, Final Comments, p.7). However, it questions the fact that there are no buyers for the proposed uses and cites the lack of specifics (p. 3). It further categorizes the request as speculative based on the length of time the property has been owned by the applicant and the relatively short duration of the applicant entity (Note # 6, p.7). NEPCO should understand that it is illegal under State and County law to sell or otherwise transfer equitable title (contract) to property containing less than 35 acres until a final plat is approved by the Board of County Commissioners and recorded. Also, without belaboring the point, "speculative rezoning" generally refers to a rezoning of land where there is no obvious market. It does not refer to the length of time a parcel has been owned by an applicant nor the background of the applicant, neither of which are generally relevant or legal considerations in a rezoning action. It is a rare occasion when a long time property or ranch owner becomes the actual developer of a particular property. Nor would it be logical, or legal, to require a holding period for land use requests when land is purchased. The core issue is whether there is a market and need for commercial uses at this location. For the reasons set forth in its Letter of Intent, the applicant obviously believes there is and the Tri-Lakes Comprehensive Plan indicates the same.

NEPCO states on Page 3 that "the architectural renderings that we were shown at the June 21 meeting could take away or strip mall comment – if it is formally submitted." Again, final building architecture is a matter for the subsequent Site Development Plan. As a review agency, the Site Development Plan will be forwarded to NEPCO for its input. The Firewise Communities Program, referenced in the applicant's Wildfire Hazard Report, and questioned by NEPCO, P. 3, will be incorporated into the details of the Final Plat and Site Development Plan.

NEPCO questions (P.3) why the Traffic Study and Preliminary Plan show 90' right of way for State Highway 83 while the County's Major Transportation Corridor Plan (MTCP) indicates 104' right of way (westerly half only). Both the Colorado Department of Highways and the County requested an additional 40' of right of way from the applicant to combine with the existing 50' and that is shown on the plans and will be dedicated to the State at no cost on the final plat. A noise study required by CDOT and the County concluded that an additional 67' setback from the westerly line of Highway 83 was also necessary and that is shown on the plans. No structures will be allowed in the 67' setback.

The balance of NEPCO's comments on Pages 3 and 4 purport to address the applicant's commercial PUD proposal but instead appear to address the applicant's adjacent rezoning request from RR-5 to RR-2.5 to accommodate 16 single family lots. NEPCO, at Paragraph 1.a., P.4, correctly states that this property is in Sub-Area 8 – West Cherry Creek of the Tri-Lakes Comprehensive Plan and cites the Plan's recommendation that lot sizes in this Sub-Area should remain rural residential and average a minimum of five acres. However, NEPCO fails to point out that the specific recommendation for this portion of Sub-Area 8, as shown on Map 7.1 of the Plan, are "High Density and Medium Density" residential rather than five acre lots. "Rural-Residential Development" is defined at P. 64 of the Plan as "land development and uses which are characterized by predominately residential lots or parcels ranging from 2.5 to 10.0 acres in area." Two and half acre lots are therefore consistent with the Plan.

NEPCO, at Paragraph 1.b., P. 4, questions the applicant's references to a change in the character of the neighborhood since the land was last zoned (1955). It needs to be pointed out that a showing of

a change in character of the neighborhood is not required, under either the County Land Development Code or case law relating to rezoning actions, when a rezoning request is in conformance with the county master plan. As stated above, this rezoning request is in express conformance with the Plan's recommended land uses for this portion of Sub-Area 8.

However, as mentioned in the applicant's Letter of Intent, there has been an obvious and substantial change in character in the area since 1955. While the applicant agrees with NEPCO that the overall population growth figures for El Paso since 1955 are not directly relevant to the immediate neighborhood, every subdivision within a five to ten mile radius, including but not limited to, Rolling Ridge Rancheros, Cherry Creek Crossing, Canterbury East and West, Bent Tree, and Kings Deer, all located in Sub-Area 8, has been approved and developed since 1955. Many of the lots in these subdivisions are 2.5 acres in size. NEPCO points out at Paragraph 1.b.iii. P.4., that Rolling Ridge's proposed lots are surrounded on the west and south borders with lots that are all 5 acres or larger. While this is correct, NEPCO fails to mention that the Rolling Ridge plan provides a 100' deep "no construction disturbance" buffer adjoining the five acre lots to the south and has designed the subdivision so that the existing five lots to the south are mirrored by the same number of five lots on the north. It also fails to mention that the required 25' setback on the westerly boundary of Rolling Ridge next to a twenty acre parcel has been increased to 75'.

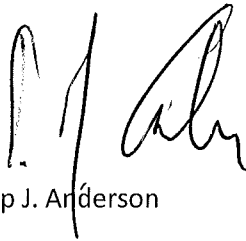
NEPCO asks how the large increases in population and traffic in the area since 1955 affect this community, P.4. For the residential rezoning, the answer is that the hundreds of 2.5 acre lots developed and purchased in the area, including those in Sub-Area 8, over the past several decades shows a strong need and market for these Rural-Residential lots. It is the opposite of "speculative rezoning". Similarly, the construction of Hodgen Road in 2003 (one of only two fully connected east/west roadways in Tri-Lakes) and the increased use of State Highway 83 (one of only two fully connected north-south roadways in Tri-Lakes) makes the intersection of these two major arterial roadways a logical location for certain types of commercial use as recommended in the Tri-Lakes Comprehensive Plan. Due to the rural nature of Sub-Area 8 and the surrounding area, motorists have to travel greater distances for their retail, medical and other office needs. Meeting the needs of the neighboring residents at this location with convenient access from these two major arterial roadways should decrease the incentive for commercial development elsewhere and help maintain the desired rural character of the area.

NEPCO's comments on Pages 6 and 7 of its letter are specifically related to the commercial PUD rezoning request. With several exceptions, the issues raised are relevant to the subsequent Final Plat and Site Development Plan when a final mix of uses can be determined, as mentioned above. This includes hours of operation of particular uses, exact location and regulation of any above ground or underground storage tanks, and exact location of wells. The speculative commercial zoning issue in Paragraph 6 is addressed above. The comment in Paragraph 3 that NEPCO hopes the project "looks better than a strip mall" is understood. Again, final architectural and design plans will be reviewed at the Final Plat and Site Development Plan stages. However, the property falls approximately 44 feet from east to west and a walkout building concept has been developed so that the buildings are single story on the uphill side of the grade and two stories on the downhill side of the grade. Side benefits of this type of architecture are a much more interesting and varied building façade, protection of the view shed from Highway 83, and a strengthening the non-strip center approach. Roofs will be pitched with overhangs and constructed of colors and materials evoking a residential character. Landscaped open spaces are spread throughout the site and total 43% of the site coverage. Lighting will be integrated into the building structures and, where required for parking lot security, poles will be residential in scale and fixtures will be such that the light source will be concealed.

Finally, NEPCO states that the commercial buildings will not be part of the HOA. It is correct that they will not be part of the residential HOA but a strong Owners Association will be in place to ensure proper design and maintenance pursuant to the covenants, conditions and restrictions. The applicant will continue to work with the Donald Wescott Fire Protection District and the Firewise Communities Program.

Please do not hesitate to contact me if additional information is desired. The applicant looks forward to working with the County and NEPCO on this application as well as the subsequent Final Plat and Site Development Plan should the PUD rezoning request be approved.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Anderson', written over the printed name below.

Philip J. Anderson