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EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting

Thursday, June 6, 2024

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, SARAH BRITTAIN JACK, JIM BYERS, JAY CARLSON, BECKY FULLER, ERIC MORAES, BRYCE SCHUETTELPELZ, TIM TROWBRIDGE, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: NONE.

PC MEMBERS PRESENT AND NOT VOTING: JEFFREY MARKEWICH AND WAYNE SMITH.

PC MEMBERS ABSENT: BRANDY MERRIAM.

STAFF PRESENT: MEGGAN HERINGTON, JUSTIN KILGORE, JOE LETKE, ASHLYN MATHY, KYLIE BAGLEY, DANIEL TORRES, HAO VO, ELIZABETH NIJKAMP, VICTORIA CHAVEZ, MINDY SCHULZ, MIRANDA BENSON, AND LORI SEAGO.

OTHERS PRESENT AND SPEAKING: CHRISTOPHER MACIEJEWSKI AND STEVEN PHILLIPS.

1. REPORT ITEMS

Ms. Herington reminded the board that there will be a presentation provided by the consultant assisting with the LDC update process, Clarion Associates.

Mr. Kilgore advised the board that the next PC Hearing is Thursday, June 20, 2024, at 9:00 A.M. There will not be a hearing on July 4, 2024.

2. ANNUAL ELECTION OF OFFICERS

PC ACTION: BRITTAIN JACK MOVED / CARLSON SECONDED TO NOMINATE BAILEY TO SERVE AS CHAIR OF THE PLANNING COMMISSION. THE MOTION PASSED BY UNANIMOUS CONSENT (12-0).

PC ACTION: TROWBRIDGE MOVED / MORAES SECONDED TO NOMINATE CARLSON TO SERVE AS VICE-CHAIR OF THE PLANNING COMMISSION. THE MOTION PASSED BY UNANIMOUS CONSENT (12-0).

3. CALL FOR PUBLIC COMMENT FOR ITEMS NOT ON THE HEARING AGENDA (NONE)

4. CONSENT ITEMS

A. Adoption of Minutes for meeting held May 16, 2024.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT.

B. MS232

MATHY

**FINAL PLAT
FALCON SELF STORAGE AND U-HAUL SUBDIVISION**

A request by Oliver Watts Consulting for approval of a 5.00-acre Final Plat creating one (1) lot. The property is zoned I-2 (Limited Industrial) and is located roughly one-half of a mile north of the intersection of Woodmen Road and Bent Grass Drive. (Parcel No. 5301002005) (Commissioner District No. 2)

NO PUBLIC COMMENT OR DISCUSSION

PC ACTION: MS. FULLER MOVED / MR. MORAES SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 4B, FILE NUMBER MS232 FOR A FINAL PLAT, FALCON SELF STORAGE AND U-HAUL SUBDIVISION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH NINE (9) CONDITIONS, TWO (2) NOTATIONS, AND A RECOMMENDED FINDING OF SUFFICIENCY WITH REGARD TO WATER QUALITY, QUANTITY, AND DEPENDABILITY, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).

5. CALLED-UP CONSENT ITEMS (NONE)

6. REGULAR ITEMS

PC ACTION: Mr. Bailey moved agenda item 6B to be heard before agenda item 6A.

B. U232

LETKE

**APPROVAL OF LOCATION
PEYTON FIRE PROTECTION DISTRICT UNMANNED STATION**

A request by Bennett Cullers Family Partnership LLP for Approval of Location to allow an unmanned fire station. Should the Planning Commission approve the location of the unmanned fire station, the applicant will be required to obtain Site Development Plan approval. The site is located approximately halfway between Bradshaw Road and Peyton Highway on the south side of Sweet Road. (Parcel No. 3100000255) (Commissioner District 2)

STAFF & APPLICANT PRESENTATIONS

Mr. Trowbridge asked for clarification concerning ownership and the applicant. There is a discrepancy between the executive summary in the Staff Report and the Letter of Intent regarding whom the application was submitted on behalf of. He further asked Ms. Seago if a public utility could be established by a private party.

Mr. Letke replied that a law firm had been retained by the Fire Protection District to navigate the entitlement process. There is a condition of sale related to approval by the Planning Commission.

Mr. Trowbridge understood. He remarked that the way the proposal has been submitted seems backwards. Instead of the Fire Protection District (under contract to buy the property) acting as the applicant, the family is proposing the location of a fire station.

Ms. Seago stated that there is no requirement in the C.R.S. or the Land Development Code that the applicant must be the entity that owns or operates the public facility. She does not have legal concerns with the proposal.

Mr. Bailey asked if an applicant needed to have ownership interest in the project to begin with.

Ms. Seago answered that if the applicant is not the owner, there is a document (or section of the application) that allows the owner to sign a statement of authority to authorize another entity or individual to act on their behalf.

Mr. Letke confirmed. He concluded his presentation. The applicant's representative then presented.

Mr. Markewich verified that the proposal will not replace the existing station; this will be an additional location able to be used by the Fire Protection District.

Mr. Jack Reutzel, with Fairfield and Woods P.C., confirmed.

Mr. Whitney asked if the existing station was a manned station.

Mr. Reutzel confirmed. They plan for the unmanned station to be a pole barn-style building with a firetruck parked inside. When volunteers are called, they will not need to travel all the way to the existing station before responding.

NO PUBLIC COMMENTS

NO FURTHER DISCUSSION

PC ACTION: MR. CARLSON MOVED / MR. SCHUETTEL SECONDED TO APPROVE REGULAR ITEM 6B, FILE NUMBER U232, FOR APPROVAL OF LOCATION FOR THE PEYTON FIRE PROTECTION DISTRICT UNMANNED STATION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND ONE (1) NOTATION. THE MOTION TO APPROVE PASSED (9-0).

A. AL2321

MATHY

SPECIAL USE MONUMENT GLAMPING 1 - SPECIAL USE MODIFICATION

A request by Chris Jeub for approval of a Special Use to allow a recreational camp for 12 sites. The property is 6.44 acres and located at 16315 Rickenbacker Avenue, approximately one-quarter of a mile south from the intersection of Rickenbacker Avenue and Doolittle Road. (Parcel No. 7127001011) (Commissioner District No. 3)

STAFF & APPLICANT PRESENTATIONS

Mr. Whitney asked for more information on the previous approval being found compatible with the Large Lot Residential placetype.

Ms. Mathy explained that AL223 was found compatible with the placetype because it consisted of tents and yurts. She clarified that the initial Special Use approval was for 8 sites that allow tents and yurts while the current proposal is for 12 sites that allow shipping containers and RVs.

Mr. Whitney further clarified that the proposal had been found consistent due to the size of the lot and the use of tents and yurts.

Ms. Mathy agreed. She then continued her presentation.

Mr. Bailey pointed out to the audience that if the Special Use modification is approved, there will be a future, required Site Development Plan to address specific details. There will be future opportunities for the neighbors to work with the developer. During multi-level projects such as this one, different stages have different levels of specificity within the criteria of approval. The presentation continued.

Mr. Trowbridge asked for clarification on shipping containers. Are they treated as temporary or permanent structures?

Ms. Mathy answered that shipping containers are classified as a hard-sided structure and are included in the request. The applicant is requesting that they be allowed to move the shipping containers throughout the sites, if needed. Shipping containers do not require a building permit from Pikes Peak Regional Building Department (PPRBD).

Mr. Trowbridge asked if the shipping containers would be like storage containers or if they would be modified to be habitable structures.

Ms. Mathy answered that the shipping containers would be modified to use as glamping.

Mr. Bailey asked if the red structure in one of the slideshow photos was the shipping container.

Ms. Mathy clarified that the red structure is the RV.

Ms. Fuller asked to see the photo again. She mentioned that the RV looks like a tiny house.

Mr. Bailey asked what the other structure in the photo was.

Ms. Mathy answered that the other visible structure was the primary residence. She further explained that the photos are from a couple years ago and some things have been moved. The shipping container is not visible in the photos.

Mr. Smith asked for more information regarding PPRBD not requiring building permits for shipping containers.

Ms. Mathy explained that PPRBD does not require building permits for structures less than 200 square feet.

Mr. Smith asked if the shipping container could be modified to include a kitchen.

Ms. Herington clarified that PPRBD does not require building permits for shipping containers. PCD does not regulate what would be allowed to go inside a shipping container. She stated they can put whatever type of equipment inside the trailer needed for recreational camping. The applicant may provide further clarification, but PPRBD does not need to complete an inspection because it is not considered a permitted structure.

Ms. Fuller asked if a person could have multiple structures under the 200 square-foot threshold and not trigger an inspection for any of them.

Ms. Herington replied that multiple structures under 200 square feet would not trigger inspection. PPRBD does not inspect shipping containers regardless of the type of use. PPRBD does not consider it a permanent structure.

Mr. Markewich asked if a person were to purchase multiple shipping containers, cut off the sides and put them together as one, resulting in a structure larger than 200 square feet, would that still be considered temporary?

Ms. Herington replied that PPRBD would need to answer that question. Once the shipping containers are being modified and tied together, PPRBD may have different requirements.

Mr. Markewich asked if it would be a County Code Enforcement issue or a PPRBD issue if a person were to combine shipping containers to create a permanent structure.

Ms. Herington answered that PPRBD would need to determine what they consider the structure to be. If shipping containers are stacked, modified, or combined to create a permanent structure, it becomes a different classification of structure type. It would no longer be just a shipping container. She stated that she is unsure where PPRBD draws the line between those classifications.

Mr. Markewich asked if the Land Development Code had a definition that differentiates the two or identifies what the trigger may be. He commented that both tiny homes and modified shipping containers are becoming more popular to meet housing needs.

Ms. Seago stated that further discussion on that topic could be held another time. She added that if the board is concerned about the use of shipping containers, options to proceed include disapproval of the application or further conditions of approval that restrict uses. For example, a condition of approval could state that one shipping container cannot be joined to another.

Mr. Bailey added that the Site Development Plan will identify the size and location of structures.

Ms. Seago clarified that the Site Development Plan is an administrative process and will not appear before the board or be subject to public comment and input.

Mr. Markewich referred to the slideshow image to remark that 12 yurts would have a very different impact than 12 RVs like the large one already on site. He suspects that the neighbors' concerns are that the Special Use will balloon into something extremely intensive on the property.

Ms. Mathy confirmed that neighbors have voiced that concern. She stated that the LDC does have a definition for Recreational Camp that does not limit the number of structures or RVs on site. There is, however, a zoning type called RVP (Recreational Vehicle Park) that specifically includes "2 or more" RVs. Staff's conditions of approval are intended to reduce potential impacts to neighbors. She stated that she would need to defer to the applicant to clarify how many RVs or shipping containers would be on the site because that information has not been provided to County staff.

Mr. Markewich asked if all RVs on the property would be owned by the applicant. He stated that if the sites act as locations that visitors can pull their personal RVs onto and use hook-ups for electricity, water, sewage, etc., it becomes more like an RV park.

Ms. Mathy deferred to the applicant to address that question because that information is not known to County staff.

Mr. Kilgore reiterated that the applicant could address Mr. Markewich's questions. He added that he does not believe the structures will be permanently affixed to the ground, have concrete foundations, plumbing, etc.

Mr. Bailey added that because the proposal doesn't fit neatly into an existing definition, they are discussing the various other definitions in the LDC.

Mr. Whitney stated that he is concerned by the blurring of definitional lines between Recreational Camp and RV Park. He clarified that the applicant's request remains defined as a Recreational Camp. He looks forward to the applicant's presentation.

Mr. Smith asked if setbacks only apply to permanent structures.

Ms. Mathy answered that the setback applied to all structures. All sites defined by the applicant's current proposal are located beyond the minimum setback of 25 feet.

Mr. Smith asked to see the aerial view of the site again. He asked about the structures in the southwestern corner of the property.

Ms. Mathy identified one as the shipping container that received a Code Enforcement complaint. It is currently located within the setback. The applicant will be required to move it, potentially to one of the compliant sites after BoCC action. The staff presentation continued.

Mr. Smith asked for clarification regarding condition of approval number 5, that all sites must be connected to an individual or community on-site septic system. He asked if that truly meant all (12) sites, or if that meant all outhouses.

Ms. Mathy replied that because certain details are not yet known, staff included this condition of approval to provide clarification and mitigation for the applicant and neighbors. The condition was also added because there is no commercial septic permit approved for the property. The Site

Development Plan will incorporate the Public Health Department to ensure all health and safety requirements are met for the proposal. There are currently 4 shared bathrooms on the property. This process is being deferred to the Site Development Plan stage, so if more sites are added, staff wanted to ensure that the Public Health Department is involved.

Mr. Markewich pointed out that condition number 3, all lighting shall be turned off, implies that interior lighting is included. He suggested the condition be revised to include “exterior” lighting.

Ms. Mathy stated the condition could be revised for clarity. The presentation concluded.

APPLICANT PRESENTATION

Mr. Craig Dossey, with Vertex Consulting, clarified that Mr. & Mrs. Jeub will own every RV on the site and will not allow people to park their personal RVs on the property. His presentation continued.

Mr. Markewich clarified that the sites closest to the creek (sites 8, 9, and 10) are described as only being tents/yurts. He then asked what the other sites would look like. He pointed out that there is a significant difference between tents, yurts, the small shipping container, and the large 5th wheel RV.

Mr. Dossey stated that tents are hard to maintain, and in his opinion, hard-sided structures are more visually appealing.

Mr. Markewich clarified that he is asking about the size, regardless of whether it is a tent or structure.

Mr. Dossey remarked that he knows of tents bigger than 5th wheel trailers. He then stated that the sites will need to be specifically defined at the Site Development Plan stage. He added that if multiple shipping containers were connected, PPRBD would define it as a permanent dwelling. The site plan included in the current proposal defines general site locations and defines the minimum setbacks for each one. The site plan and Site Development Plan (which will identify sites to scale) are enforceable by Code Enforcement.

Mr. Markewich asked about parking for each location. He further asked if the limitation on the number of guests was part of the site plan, conditions of approval, or the Site Development Plan. If not, he suggested that it be added. He mentioned the potential that families using the site may have a boat trailer, for example, if they are coming to vacation. He expressed concern regarding the impact and number of vehicles on the property.

Mr. Dossey replied that he could discuss that point with the Jeubs. He stated that it would be easier for the County to enforce the number of vehicles than to enforce the number of families. He added that there is space on the property that perhaps overflow parking could be provided, but he doesn't think the situation is typical.

Ms. Brittain Jack stated that it appears the existing RV has been on the property for a while. She asked if it was part of the original approval.

Mr. Dossey confirmed Ms. Brittain Jack's remarks and added that the County considered it as a tiny home at the time, not an RV.

Mr. Moraes asked about the historic occupancy rate of the business.

Mr. Dossey verified with Mr. Jeub that it remains about 50% occupied.

Mr. Moraes asked about the current breakdown (type) of the 8 allowed glamping sites.

Mr. Chris Jeub explained that 2 of the 8 glamping sites are not tents right now. He stated that 3 sites will be required to remain tents because of their proximity to the creek. Those are currently 2 bell tents and 1 wall tent. He then described having an additional 3 premium wall tents, which are large outfitters tents with walls and floors. Two of those have private bathroom facilities. Of the 2 non-tent accommodations, they have an RV (red) that he thought he had permission to have, and a 10x20' container home (black) that was converted into a modular.

Mr. Moraes asked what the additional 4 sites would consist of, if approved.

Mr. Jeub answered that 3 of the additional sites would be located on the west side of the property and he anticipates them being container homes. He added that container homes do very well in the glamping market. He discussed the evolving glamping market and mentioned an annual trade show. He stated that he wanted to keep the designations general until the Site Development Plan because of the many options available. He reiterated that their glamping sites accommodate 2-4 people with one queen-sized bed and an inflatable mattress for any kids. The 4th additional site would be located by the existing safari tents and shipping container. He would like to see a walled structure or container home in that location.

Mr. Moraes asked if overall, 3 of 4 additional sites would be container homes with the 4th being a safari tent.

Mr. Jeub replied that the 4th location could possibly be a safari tent, a dome, or a container home.

Mr. Moraes asked if the discussed number of each type (tents, RV, container homes) would change after approval of the Special Use modification. For example, would any of the existing tents be changed to container homes?

Mr. Jeub replied that they could change. He stated the safari tents deteriorate after several years. If they can swap it out for a container home, they may do that. The three tents by the creek are required to remain tents.

Mr. Moraes reiterated that ultimately, there could be 9 container homes and 3 tents.

Mr. Jeub confirmed.

Mr. Moraes then asked if changes would be made to the site plan or Site Development Plan.

Mr. Dossey remarked that it's hard to anticipate the future market. He stated that it's important that they show pad sites that could be for either a tent or container home. Tents could fall apart, or containers could become cost prohibitive. He made a comparison with a KOA by stating that someone wouldn't be restricted from putting a tent in the same spot an RV could go. The

restriction is to the location, not type, and the applicant is requesting that flexibility. The drainage, traffic, lighting, etc., of the Site Development Plan will remain the same.

Mr. Moraes mentioned a past application where the location of tents, structures, and RVs had to be specifically defined.

Mr. Dossey reiterated that the applicant is agreeable to defining the locations of sites. He mentioned the cost to maintain tents.

Mr. Moraes replied that maintenance is included in the cost of business. He then asked Mr. Jeub about the structure in the southwest corner of the property.

Mr. Jeub explained that the structure is the existing container home and he recognized that it is currently within the 25' setback. It will be moved in the future.

Mr. Moraes asked why it hadn't been moved yet.

Mr. Dossey stated that Mr. Jeub will move it to a location approved by the site plan/Site Development Plan.

Mr. Jeub added that he has been working with Code Enforcement regarding its location. He was told that (if the Special Use is approved) PCD would review and approve the Site Development Plan. The property owner to the south didn't care about its location, so it hasn't been moved since being placed there 4 years ago.

Mr. Moraes reiterated that it's known to be in the setback and hasn't been moved.

Mr. Jeub confirmed and stated that he hasn't seen any impact by its location.

Mr. Byers stated the impact is the encroachment into the setback.

Mr. Dossey explained that as they're going through this application process, they would like to make sure they are moving it to the correct location.

Mr. Jeub added that he had a previous arrangement with the owner to south, but she has since passed away. She was going to be a business partner and two container homes were going to be located on her property. The existing shipping container was placed in its location with her permission. There were originally 3 shipping containers on the south side of the property; 2 have been moved. They are waiting on a definitive agreement on how they will move forward before relocating the final shipping container.

Mr. Moraes verified that Mr. Jeub has no opposition to the condition that generators must be 200' away from all property lines.

Mr. Jeub confirmed and added that there are no generators there currently.

Mr. Moraes remarked that Mr. Dossey's comment during the presentation that since Monument is adjacent to the property and that they could put 17 single-family residential units on the

property was disingenuous. He stated that while they could apply to rezone the property and do that, the configuration of the subject property makes it unlikely to be compatible.

Mr. Dossey replied that properties more difficult than this one are currently being developed because of the inability to extend centralized services. There are infill projects with creeks that need to be channelized, bridges built, etc., because that's the property that's left.

Mr. Carlson asked if the background information from the staff report, which explained that the RV and hard-sided structure were part of a Code Enforcement violation and not permitted with the original Special Use approval, is disputed by the applicant based on previous remarks.

Mr. Dossey clarified that he was not involved during that stage of the project, but the confusion may have stemmed from the LDC definition of Recreational Camp, which includes additional structure types. However, the site plan that was approved with the Special Use only identified tents.

Mr. Jeub added that the RV replaced an existing safari tent. He stated that he looked at the approved site plan with 8 sites and had a discussion with County staff, so he installed it thinking that he had permission. He then received a letter of violation, which resulted in tense discussions because he had already installed it by that point. The RV then became a violation when he thought he was correcting the previous one, which led them to the subject application. The RV has a queen bed and couch which can accommodate 2-4 guests. It's a beautiful unit, so he'd like to keep it. After walking around the property with Mr. Dossey and Ms. Ruiz, evaluating the cost screening, representation, etc., it was discussed that increasing the number of allowed sites could be requested to offset the additional cost of the entire process. He doesn't know of the reason restricting the number to 8 sites was chosen – he remarked that it could have been 20.

Mr. Dossey added that the project has been treated like a Variance of Use, which does try to tack down all details because what is being requested is outside of what is normally allowed in the zoning district. A Special Use is different in that the zoning type generally allows the use and the County makes sure that certain impacts are mitigated. He doesn't think the level of detail being asked of Mr. Jeub is typical of a Special Use.

Mr. Carlson asked if hard-sided structures are specifically being called out in the application or if it's falling back on the general definition of Recreational Camp.

Mr. Dossey said they are requesting a Special Use to allow a Recreational Camp as defined in the LDC with no exemptions.

Ms. Fuller clarified that ultimately, what was approved on the residential property allowed 8 tent sites with shared bathrooms. It did not include hard-sided structures. The current request is not "just 4 more sites". There are now [6] tents and 2 other structures that each have their own bathrooms. She asked how many sites had their own electricity.

Mr. Jeub confirmed. Of the 8 sites, 6 have their own electricity.

Ms. Fuller commented that the neighbors who retracted their opposition may have done so thinking that tents wouldn't be that bad and would only be used in the summer. She believes the original approval specifying tents was intentional. She thinks the current request is very different

from what is already approved. She pointed out that with 3 tent sites located near the creek, guests may be tempted to use “the glorious outdoors”, which becomes municipal water, rather than a shared bathroom. Overall, she doesn’t see the compatibility of year-round accommodations versus short-term summer camping. She then pointed out that the original Special Use was established after a Code Enforcement violation, which resulted in approval of 8 tent sites. Then there was another violation. She expressed a dislike for asking forgiveness rather than permission. She asked what would stop them from adding more sites after this is potentially approved. What would protect the neighbors from that happening? It seems as if they are proving that they don’t honor their agreements.

Mr. Jeub answered that the nature of glamping is going to be difficult. He is present to try and fit into the County’s definition of Recreation Camp. The structure is attempting to provide an outdoor or semi-outdoor experience for the guests. By providing the history of the previous Code Enforcement violations, he believes they are very close to full compliance.

Ms. Fuller replied that the Special Use is within a residential neighborhood, so they are asking for special rights that the neighbors don’t have. She wants to ensure sensitivity to the neighbors.

Mr. Byers asked if Mr. Dossey was Director of PCD when the Special Use initially came through.

Mr. Dossey stated that approval of the Special Use was rendered by a different person.

Mr. Byers asked when the original Special Use was applied for.

Mr. Jeub stated he believes that it was January of 2022.

Mr. Byers asked about the criteria that was used for administrative approval at that time. He mentioned that he is unsure if the public had much, if any, input during that process.

Mr. Dossey explained that the public would have been given notice of the application, and if they objected to the request, it could have been elevated to a public hearing. He added that when that was written into the LDC, there had been a high number of Special Uses going to public hearings that perhaps didn’t need to.

Mr. Byers asked for an example of a similar use nearby.

Mr. Dossey stated that he hopes there isn’t one nearby because that would be competition.

Mr. Byers clarified that he asked for an example to show compatibility. If it’s compatible, it would stand to reason that there would be a similar use nearby. Where could they find a similar use?

Mr. Dossey stated he’s unsure because he doesn’t live in the area. He mentioned Mr. Jeub’s other property that provides glamping. He then mentioned National Forest campgrounds and added that people can camp on their own properties.

Mr. Byers pointed out that, besides Mr. Jeub’s property, those aren’t really glamping.

Mr. Dossey then said that there are overnight accommodations in the Town of Monument.

Mr. Byers replied that those accommodations are likely on properties zoned for that use.

Mr. Dossey stated there could be examples because many hotels are approved as Special Use.

Mr. Byers asked if there is a reason that this application is being presented as it is instead of a rezone to completely legitimize the use.

Mr. Dossey stated that if the property were to be rezoned as commercial, then that would bring with it an entire set of allowed uses that would certainly not be compatible with the neighborhood.

Mr. Jeub added that they did discuss rezone options, but that's not the outcome they wanted for their property. As a glamping operation, they maintain ownership of the units.

Mr. Byers stated that when he looks at the site plan, it looks like a campground.

Mr. Jeub agreed.

Mr. Byers asked if they're trying to build a campground.

Mr. Jeub replied that it may feel like it, but he doesn't feel like they need to rezone – it can be a Recreation Camp.

Mr. Byers asked if the electricity for the existing structures was hardwired. (It is.) He then asked if it was built to code.

Mr. Jeub answered that a professional electrician installed the wiring.

Mr. Byers asked if it was done through PPRBD.

Mr. Jeub replied that the electrician was certified.

Mr. Byers clarified that he asked because he worries about introducing a fire hazard.

Mr. Jeub agreed and stated that the electrician installed something on his property and dug trenches.

Mr. Dossey added that PPRBD will permit a connection but does not permit the inside.

Mr. Smith wondered about the semantics of the words RV and tiny home being used interchangeably.

Mr. Dossey agreed that they are similar. They are interchangeable in the current discussion.

Mr. Bailey clarified that while electricity is involved, it's not part of the Special Use request. Overall, the board is considering the request for a certain number of sites.

Mr. Whitney remarked that Mr. Jeub's comment about not understanding why it was limited to 8 sites and presuming that it could have been 20 is at the heart of why they're dealing with their current situation. Ultimately, 8 tent sites were approved. He disagrees with the assumption that 20 could have been for the reasons that have been mentioned.

Mr. Dossey supplied that perhaps Mr. Jeub was referring to how the definition for a Recreational Camp doesn't apply a limit to the number of sites.

Mr. Whitney replied that while that may be the case, the request was approved administratively having found that 8 tent sites would be compatible with the surrounding area. A request for 20 sites may have had a completely different result.

Mr. Markewich reiterated that the currently approved Special Use is for 8 tent sites.

Mr. Dossey stated that is the interpretation of County staff.

Mr. Markewich further clarified that openly allowing hard-sided structures like RVs and shipping containers (excluding the 3 creek sites) is a modification from the original approval, in addition to an increase to the number of sites. If he were a neighbor, he would be concerned that 9 RVs the size of the existing one could one day be on that property. A 45' long trailer with all the popouts and extensions would have a significantly greater impact than a 10x20' shipping container. He asked if the applicant would be open to a condition of approval limiting the length to 20' like the shipping container conversion. He believes that would be a reasonable, neighborly compromise.

Mr. Jeub stated he would need to think about it, but anything is on the table. He stated that he could meet with neighbors to determine if that is an acceptable compromise, regardless of the PC recommendation.

Mr. Dossey agreed that it's a great recommendation. He further stated that it would limit the type of thing allowed on the site.

Mr. Jeub stated that for the record, he is open to that kind of limitation. How it is defined can be decided later. The heart of the request is adding 4 additional sites to help pay the cost of required mitigation for the neighbors. He is open to discussion to fine tune that recommendation. The applicant's presentation concluded.

Mr. Carlson asked County staff for more information regarding the decision to administratively review the initial application for Special Use.

Ms. Mathy explained that the application was approved administratively and specifically showed 8 tent sites with 4 shared bathrooms. Opposition had been received and there had been a neighborhood meeting. She wasn't present at the neighborhood meeting, but the opposition was withdrawn afterwards. For that reason, previous staff made the decision to move forward administratively.

Mr. Carlson reiterated that the decision to move forward administratively was based on the site plan with 8 tent sites. (Ms. Mathy confirmed.) He then asked Ms. Seago if approval then is tied to what is depicted on the approved site plan or if the applicant then is allowed to have whatever is allowed under the general Recreational Camp definition.

Ms. Seago asked for time to review the approved Special Use.

Ms. Herington added that generally in Land Use Planning, there is a definition of a use. That use may be a permitted use in some zoning districts and a Special Use in others. The Special Use process is meant to determine if the proposed use is compatible with and works in a specific location. This is why there are notes on the site plan, notes on the Site Development Plan, and conditions of approval imposed either administratively or through PC recommendation. For that reason, she can't imagine that the County staff which approved this administratively were thinking that while they were specifically labeling it only one thing, tents, they didn't really mean just tents. She added that limiting it to 8 sites was identified because it was evaluated that that was the number appropriate for the specific location.

Mr. Whitney expressed gratitude for Ms. Herington's explanation because he was troubled by Mr. Dossey's response that 8 tent sites was only staff's interpretation. He's sure that County staff was not pulling that from nowhere. It's not a matter of interpretation; that is what the application was approved for.

Mr. Bailey noted that dialogue between staff and applicants takes place during the process and judgement is applied throughout. County staff's job is to apply their judgement until at a certain point it is passed along to the Planning Commission, where additional judgment is applied, then to the Board of County Commissioners, and so on.

Ms. Seago stated that she pulled up the file for the past Special Use approval. She read directly from the letter of approval that a condition of approval specifically states, "Approval is limited to the recreation camp, as discussed and depicted in the applicant's letter of intent and site plan drawings." She further stated that the site plan identifies all 8 locations as tent sites. Therefore, in her opinion, the approval was for 8 tents.

Ms. Herington stated that that aligns with what she has gathered from the interim Director, who was in place during the initial Special Use approval, as well as staff that was present during the time. There were conversations with neighbors and County staff regarding what was compatible in the subject location. The result was the compatible type of sites and number of sites that were agreed upon at the time.

Mr. Trowbridge stated that upon review of the LDC, it does say that Special Use approvals are limited to what is depicted in the approval. That reiterates that the approval was for 8 tent sites.

Mr. Bailey commented that it ties back to what was specifically requested by the applicant at the time. The current request will identify that not all sites are tents, some can be hard-sided structures.

PUBLIC COMMENTS

Mr. Christopher Maciejewski, Attorney with Robinson and Henry, P.C., representing several neighbors, spoke in opposition. He stated that he represented 20 or so neighbors surrounding the subject property. Topics included: forgiveness versus permission, Code Enforcement history, potential occupancy totals, the increased impact from 8 tent sites, the lack of compatibility with the surrounding character, and the neighborhood's covenants.

The initial proposal was presented to neighbors as being unobtrusive to the neighborhood, but that is not what they've experienced. He stated that Mr. Jeub's remorseful attitude during this

hearing towards the Code Enforcement violations is a stark contrast from what neighbors have experienced in-person and from Mr. Jeub's social media and YouTube comments/videos. He read a response to County staff's request for more information regarding the types of proposed structures, "the type of structures will not be included as the nature of a recreational camp is that the structures are temporary, and a note has been added to reflect this." He believes the intention is to remain vague so that things can slip between the cracks. He further mentioned the difficulty with enforcement, especially with the applicant's past behavior.

He mentioned that Mr. Jeub has not stopped renting the RV or container home even after being notified of the violation(s) or while applying for permission/forgiveness. While Mr. Jeub stated occupancy is 2-4, one of the sites is advertised to accommodate up to 6. If all sites are rented (at an average 3.5 guests per site), the resulting guest count would be 28. Increasing the number of sites by 4 could increase the total count to 44 guests. He reiterated that the current request, which could result in 9 hard-sided structures and 3 tents, would open the site to year-round use instead of seasonal, and Mr. Jeub's estimation of 50% occupancy could increase greatly. He also mentioned that the intention discussed by Mr. Jeub (to expand onto the neighbor's property) does not appear to have been a request that was ever submitted to the County.

Regarding transitional businesses, the neighborhood is made up of large lots. Many residents have small businesses on their property. He listed two farms, one with pumpkin patch, petting zoo, and fruit orchards. Those home businesses are not year-round, nor are they 24/7 like the subject proposal. He disagreed with Mr. Dossey's opinion that the proposal is compatible because it serves as a transition between high density to the east and the larger lots to the west. If the neighborhood is turned into a transitional neighborhood, he asked where the line will be drawn. The creek provides an adequate natural buffer. He disagreed with the implication that a commercial campground is necessary to provide a transition between homes on small lots to homes on large lots.

While approving a Special Use request is allowed, approval is discretionary and can also be revoked. He again mentioned the Code Enforcement history. He pointed to the neighbors and stated that they have the "fool me once" mentality and are not withdrawing their opposition this time around. He stated that some neighbors dispute having withdrawn their initial opposition.

He then spoke about the subdivision's covenants and restrictions to highlight the intended character of the neighborhood. The original covenants require that all occupied structures should be a minimum of 1,100 square feet and prohibits temporary structures for occupancy. The intention of the neighborhood was for single-family use. While the recorded covenant is not considered binding on the PC or BoCC, it is a contractual obligation Mr. Jeub should be bound to but hasn't abided by. He spoke about the increased traffic 12 year-round sites will generate. The only permitted access to the site is off Rickenbacker Avenue. The question regarding guests with trailers is not unreasonable. He brought up that while boats may be less popular, dirt bikes and ATVs are common among campgrounds in Colorado. He mentioned that he brings a motorcycle when he goes camping, but his campsites are not located in a residential neighborhood.

Mr. Jeub's website advertises that the creekside campsites are equipped with "Cabela commodes" which are a 5-gallon bucket with a plastic bag liner and a chair over the top of it. He reiterated the legitimate concerns of using the creek instead. He discussed the hard-sided structures typically requiring additional heating/cooling, which can generate noise. Regarding water rights, he is concerned about the water consumption that 9 hard-sided structures will generate. He listed the features (dishwasher, flushing toilets, sinks, etc.) advertised with the existing 2. Surrounding residents are concerned about how this level of use will affect their own wells.

He concluded by suggesting that perhaps approval of the Special Use modification should not be granted because they have violated the terms of the initial request since the start. While many of the surrounding neighbors would like to see the operation either curtailed or shut down, they would at least like it to be brought into compliance. They believe strict requirements are necessary to ensure enforceability and accountability.

Mr. Steven Phillips spoke in opposition. He spoke about his experience with Mr. Jeub during the initial proposal. He was told that it would only be 5-6 tents. Neighbors were all told similar things. He told Mr. Jeub that while he didn't think it was good for the community, he wouldn't oppose or support the request. He later discovered that 8 tents were requested. He read the documents and disagreed with the suggestion that there was any ambiguity in what was approved with the initial request. With the second application, he mentioned that he has submitted opposition. He stated that in a December video of Mr. Jeub "addressing the neighborhood", which only included 2 neighbors, Mr. Jeub specifically addressed that letter of opposition to 12 sites. Mr. Jeub looked directly into the camera and said, "Steve, you're wrong. There's not going to be any more than 8 sites." Because of past experiences and the pattern of behavior, neighbors are concerned. He then brought up the past and current Code Enforcement situations on the subject property and 2 others. There are additional Notices of Violation where he claims ignorance.

He concluded by stating that he called PPRBD to ask if there were any issues and he was told, "oh yeah, there's been lots of issues of violations and [non-]compliance." He believes the pattern will continue. Even with the posted notice for the public hearings, the poster was damaged but not replaced as required. In discussions with the neighbors, he has heard that Mr. Jeub isn't concerned about the current request being approved because he has allegedly told people that he is friends with a County Commissioner, and that they will approve what he is requesting.

Mr. Dossey provided rebuttal. He began by stating that the comments regarding Mr. Jeub's character are likely hurtful to hear. He presented part of an email chain dated March 30-31, 2023. After approval of the initial application, Mr. Jeub reached out to County staff to inquire about modifying one of the tent sites to an RV site. The response was, "Please add those changes to you[r] letter of intent and the site development plan." He asserts that Mr. Jeub tried to do the right thing. He brings it up because Mr. Maciejewski suggested that past behavior should be used against the applicant as if it were part of the criteria for approval.

Ms. Fuller clarified that Mr. Jeub asked to replace one tent site with the RV and was told to add it to the letter of intent and site development plan. This email occurred after the initial Special Use approval. She asked if the email was sent before or after the Code Enforcement complaint and further asked if he ever acted upon making that requested change.

Mr. Dossey stated that the email led into further conversation which led Mr. Jeub to the current request. He stated that his point in presenting this part of the email was to say that it created confusion. He stated that Mr. Jeub was relying on staff to guide him, and based on the presented response, he thought it would be ok after adding it to his already approved site development plan.

Ms. Fuller stated that she doesn't see where the email states that the change is approved.

Mr. Dossey suggested that County staff should have replied with, "you can't do that under your Special Use, you need to amend your Special Use." Instead, what was implied was that he could

just add the request to his already administratively approved site development plan. Moving on, he addressed the remarks of forgiveness and permission. The Jeubs are not seeking forgiveness regarding the number of sites. There are only 8 now; he's seeking permission to increase that to 12. They are seeking forgiveness for the types of structures. His understanding of Mr. Jeub's past conversations with neighbors was that they would have preferred hand-sided structures for both appearance and noise. Mr. Jeub had also received comments that tents reminded people of the homeless, hence the push towards the hard-sided structures.

Regarding the comment that there's a disrespect for County government, the presented email shows that Mr. Jeub did attempt to reach out for approval and guidance. He disputed that a unit with a queen bed and two bunk beds could accommodate 6 people. Regarding the total number at maximum occupancy, while 44 may be accurate, enforcement can be managed by the number of cars. The other non-residential uses that are happening in the neighborhood may also be identified as Special Uses. While many of them are likely grandfathered in, many other home-based businesses require approval by the County because they can expand beyond what was initially planned. He disagreed that the proposal is far different from other home-based businesses because they all start small and then they grow. At what point the business needs to relocate has been a discussion for years.

Public notices were sent out under a previous Director and no letters of opposition were received. If people were opposed, he asked why opposition wasn't submitted. He stated that he couldn't find the mailed notice in EDARP. He further stated that a notice mailed out by Mr. Jeub did not mention tents. That notice only mentioned a recreation camp. He stated that an assumption that the sites would only include tents was not part of a notice sent to neighbors. He recognized, however, that the Special Use site plan does specify tents.

It was implied that 9 hard-sided structures could not be rural in nature, but he asked if that would be the case if they were cabins. He believes the proposal is an improvement from a cabin and will last longer. The LDC states that the only zoning districts that can allow a recreation camp through Special Use are Forestry, both Agricultural districts, Residential Topographic, and RR-5 (Residential Rural) which applies to the subject property. He stated that this supports a recreational camp serving as a transition between urban and rural per the LDC. The heaters on site are radiant heaters, so no noise is produced. If the structures are used more in the winter following the Special Use modification, he thinks it could also be assumed that people will be spending more time indoors and make less noise.

Regarding the past experience between Mr. Jeub and Mr. Phillips, he recognized that Mr. Jeub had told him that it would only be 8 tents. He stated that only changed after the County wanted to see additional mitigation that Mr. Jeub realized he couldn't afford. The additional 4 sites were suggested as a way to generate more revenue. Perhaps he should have reached out to the neighbors, but that's the way business works. Mr. Phillips mentioned a conversation with PPRBD, but he did not provide documentation or the name of whom he spoke to. He stated that it may not have even happened; it's hearsay.

The notice of public hearing posters were placed on the property per County instructions. Mr. Jeub was out of town when they folded in half. The poster is made of flimsy cardboard. There was no intent to deceive or hide the notice.

In regard to the comments of being friends with the County Commissioners, Mr. Dossey stated that he purposefully tried to focus on the review criteria. He stated that it doesn't matter

who your friends are if the application is not found to be in favor of the criteria. He believes that he's made a compelling case that it meets every one of the criteria.

Mr. Jeub also spoke in rebuttal. He stated that the application speaks for itself. He thanked his neighbors for keeping his feet in the fire since the beginning. He also recognized that he did say 8 tents in the video, but 3 months later, further discussion took place. He stated that he honestly is trying to be compliant with the new and unique idea called glamping. He'd like to continue serving the community by doing it.

Mr. Moraes asked if the single-family residence on the property is where Mr. Jeub lives. (It is.)

DISCUSSION

Ms. Fuller asked for more information about the neighborhood's covenants. She expressed understanding that the County does not *enforce* HOA covenants, but she asked if the County could approve a Special Use that is not allowed by covenant restriction. Could the neighbors override what the County decides?

Ms. Seago answered that the County does not consider covenants when denying or approving land use applications. Something could be approved by the County even if it violates the covenants. County approval, however, does not negate the covenants. The neighbors have the opportunity to enforce any violation of the covenants that they see fit.

Mr. Moraes asked for clarification regarding LDC section 5.3.2(G), which states, "Any land on which a special use permit is approved shall be limited to those uses and structures enumerated within the special use permit and no more than one principal allowed use." Most Special Use requests are an accessory use, but recreation camp is listed in the principal use table. He asked if approval would result in the subject property having 2 principal uses? (A single-family home and a recreational camp.)

Ms. Seago responded that she would investigate the question and provide an answer later.

Mr. Carlson summarized his opinion of the request. The original request approved 8 tent sites, confirmed by Ms. Herington and Ms. Seago. He views the current request as drastically different type of business request in the neighborhood.

Mr. Markewich requested that a definition of permanent structure be addressed in the LDC update. He also suggested differentiation between RVs and tiny homes. He then suggested a condition of approval be added that limited the size of the hard-sided structures.

Mr. Trowbridge thanked the public for their participation. He stated that he didn't see anything in the letter of intent (as Special Use approval is tied to) that limited the sites to either tents or hard-sided structures. The only thing he found was that *TWO* sites on the site plan are explicitly shown for tents, not 3 as discussed. In his mind, approval could result in a single-family dwelling and as many as 10 other small home-like structures on less than 6 acres of buildable land (due to the creek). The resulting density exceeds what is supposed to be in that area. He mentioned that the subdivision's covenant enforcement would be a civil matter dealt with separately. Regarding

revocation of the existing Special Use, that's not something the Planning Commission can do. That is addressed under LDC 5.3.2(L) and is accomplished through the BoCC. Overall, he does not believe the application is compatible with the neighborhood. While he understands the idea behind the initial administrative process, he doesn't think it should have been done that way.

Ms. Fuller agreed with Mr. Trowbridge's remarks and added that needing to afford mitigation to come into compliance when you're in violation of the Code is not a persuasive reason to approve the request. She stated that seasonal use of 8 tent sites is more reasonable than tiny homes or permanent-like structures, which is entirely different. She does not think the proposal is compatible with the neighborhood.

Mr. Moraes brought up that the Large-Lot Residential placetype is defined in the Master Plan as consisting of 1 dwelling unit per 2.5 acres. Considering that the subject parcel is 6.44 acres, he estimates that 2.5 dwellings could be compatible. It was previously stated that the occupancy rate is approximately 50%. Of the proposed 12 units, if 6 were occupied in addition to the primary residence, that results in 7 dwelling units being occupied at any given point. For that reason, he believes the proposal exceeds what the Large-Lot Residential placetype should look like.

Mr. Whitney stated that he realized that tourism and economic development are both important, but they have nothing to do with whether or not it is appropriate to allow a Special Use approval which permits up to 9 hard-sided dwellings [and 3 tents] on the subject property which was previously only approved to have 8 tent sites. He is not in support of the application because he does not think it is compatible. He added that it's not really a modification, but a brand-new request.

Mr. Schuettpelz agreed with previous comments. He added that the email presented during the applicant's rebuttal was sent March 30, 2023. He referenced the background section of the staff report, which explains that Code Enforcement responded to complaints about an RV on the property. The email shows that he wasn't asking permission but was again asking for forgiveness because he had already received another Code violation. He mentioned the difference between hard-sided sites and tent sites. He doesn't think the request is compatible.

Ms. Seago stated that after further discussion with Ms. Herington, she interprets the Code as allowing for a principle allowed use and, in the case where a Special Use permit has been granted, a Special Use on the same parcel of property. While both a recreational camp and a single-family residence are principal uses, one is an allowed use and one is a Special Use. Those two types of uses are distinguished throughout the Code as being different.

Mr. Bailey expressed disappointment that the testimony was very speculative and accusatory. Motives were implied that may not be in evidence. While he appreciates the opinions expressed by other board members, he disagrees. He recognized that there are other chapters of the Master Plan which encourage economic development and tourism, which he believes the application provides. He stated that he is persuaded by the location of the subject parcel and that the topography allows for harmony with the neighborhood. He believes the past Special Use is compatible and he believes that the expanded request is still compatible.

Ms. Brittain Jack agreed with Mr. Bailey.

PC ACTION: MR. TROWBRIDGE MOVED / MR. WHITNEY SECONDED TO RECOMMEND DISAPPROVAL OF REGULAR ITEM 6A, FILE NUMBER AL2321, FOR A SPECIAL USE, MONUMENT GLAMPING 1 SPECIAL USE MODIFICATION, AND THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND DISAPPROVAL PASSED (7-2).

IN FAVOR: BYERS, CARLSON, FULLER, MORAES, SCHUETTELPELZ, TROWBRIDGE, AND WHITNEY.

IN OPPOSITION: BAILEY AND BRITAIN JACK.

COMMENTS: In addition to previous remarks, Ms. Fuller added that if the BoCC approves the request, a revision of the condition of approval regarding *outdoor* lighting should be considered. Additionally, she would recommend a condition that all 12 sites should be for tents only.

7. NON-ACTION ITEMS

A. MP241

CHAVEZ

MASTER PLAN MAJOR TRANSPORTATION CORRIDOR PLAN MP 2024

The El Paso County Department of Public Works requests adoption of the Major Transportation Corridors Plan (MTCP) into the Your El Paso County Master Plan. With adoption, this Plan will become the principal plan for further planning and development of roads within unincorporated El Paso County. The MTCP is a critical step in creating an effective and efficient transportation infrastructure that meets future needs. The Plan will provide an updated vision for future transportation, a list of transportation improvements, and a long-term right-of-way preservation plan for each major roadway. (All Commissioner Districts)

B. Informal Presentation. A presentation by Clarion Associates, LLC regarding the Land Development Code Update process.

MEETING ADJOURNED at 2:53 P.M.

Minutes Prepared By: Miranda Benson