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Board of County Commissioners

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EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting
Thursday, January 18, 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: SARAH BRITTAIN JACK, JAY CARLSON, BECKY FULLER, JEFFREY MARKEWICH, BRANDY MERRIAM, BRYCE SCHUETTPELZ, WAYNE SMITH, TIM TROWBRIDGE, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: NONE.

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: THOMAS BAILEY, JIM BYERS, ERIC MORAES, AND KARA OFFNER.

STAFF PRESENT: MEGGAN HERINGTON, JUSTIN KILGORE, MIRANDA BENSON, AND LORI SEAGO.

OTHERS PRESENT AND SPEAKING: VICTORIA CHAVEZ.

1. REPORT ITEMS

Mr. Kilgore advised the board that the next PC Hearing is Thursday, February 1, 2024, at 9:00 A.M. He also mentioned the appreciation brunch may take place following that meeting.

Ms. Herington further explained that multiple PC members were unable to attend this meeting, and PCD is trying to invite Commissioner VanderWerf, the Commissioner Liaison for this board.

Mr. Carlson asked if there was an update on a joint PC and BoCC meeting.

Ms. Herington explained that Commissioner VanderWerf would like to meet with the PC Chair and Vice-Chair to discuss meeting topics. PCD is currently arranging a time for that discussion. A potential meeting with both full boards would follow.

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

3. CONSENT ITEMS

A. Adoption of Minutes of meeting held January 4, 2024.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (9-0).

B. Adoption of the “2024 Sunshine Law Resolution”.

PC ACTION: FULLER MOVED / TROWBRIDGE SECONDED ADOPTION OF THE “2024 SUNSHINE LAW RESOLUTION” AS IT WAS PRESENTED. THE MOTION PASSED (9-0).

4. CALLED-UP CONSENT ITEMS (NONE)

5. REGULAR ITEMS

A. MP233

CHAVEZ

MASTER PLAN CO 83 ACCESS CONTROL PLAN

The El Paso County Department of Public Works in conjunction with Colorado Department of Transportation (CDOT) and the City of Colorado Springs requests adoption of the CO 83 Access Control Plan as an element of the El Paso County Master Plan. With adoption, this Plan will become the principal plan for further planning and development of the CO 83 corridor access within unincorporated El Paso County and the City of Colorado Springs on this CDOT owned highway. The Plan encompasses CO 83 at Powers Boulevard (CO 21) to County Line Road (Palmer Divide Road). (All Commissioner Districts.)

Ms. Victoria Chavez, the project manager with DPW, requested that this item be postponed to a date certain of March 7, 2024. She also mentioned that the 2045 Major Transportation Corridor Plan is currently online and open for public comment through January 31, 2024.

PC ACTION: FULLER MOVED / WHITNEY SECONDED POSTPONEMENT OF REGULAR ITEM 5A, FILE NUMBER MP233, FOR A MASTER PLAN, CO 83 ACCESS CONTROL PLAN, PER THE APPLICANT’S REQUEST TO A DATE CERTAIN OF MARCH 7, 2024. THE MOTION TO POSTPONE PASSED (9-0).

B. LDC233

KILGORE

LAND DEVELOPMENT CODE AMENDMENT LANDSCAPE CODE UPDATE

A request by the El Paso County Planning and Community Development Department to amend Chapter 6 of the El Paso County Land Development Code (as amended) pertaining to Section 6.2 Development Standards for Ancillary Facilities and Activities, specifically, sections 6.2.1 and 6.2.2, to provide clarification of the requirements, increase options for landscaping materials, and provide a Landscaping and Planting Manual for reference. The proposed revisions, in their entirety, are on file with the El Paso County Planning and Community Development Department. (All Commissioner Districts.)

STAFF PRESENTATION

Mr. Trowbridge asked if PCD would allow trees that are in place for screening purposes to be replaced by boulders.

Mr. Kilgore answered that PCD staff would evaluate that screening requirement in the review process. He added that Mr. Moraes submitted comments he would later explain. The presentation continued.

Mr. Carlson mentioned the requirement for a landscaping island every 15 parking spaces. He asked how that would look in instances where cars are “double loaded” or parked head-to-head. Would an island be required every 7 rows?

Mr. Kilgore answered that the 15 parking spaces would be counted lineally. Typically, head-to-head parking examples, like Mr. Carlson mentioned, construct a longer island at the endcaps.

Mr. Carlson indicated 15 parking spaces between landscaping may not be enough (the islands may be too frequent) especially when considering larger shopping center over multiple acres. He mentioned the struggles in irrigation and maintenance.

Mr. Kilgore stated that an applicant can submit an alternate design or substitute plan in that case. He also noted that there is now more flexibility with internal (parking lot) landscaping and the landscaping buffering a building when they are close to one another. The presentation continued.

Mr. Carlson asked if a landowner must replace landscaping with what was required at their landscape plan approval or if they can replace it with what is allowed after this code amendment.

Mr. Kilgore replied that PCD could process an administrative modification to the approved plan if that scenario happens. The presentation continued.

Ms. Merriam asked how noxious weeds are handled in the eastern portion of the County where the prairie is being developed and “noxious weeds” are more prevalent.

Mr. Kilgore explained that the State has different levels on the noxious weeds list. List A consists of plants that need to be removed immediately. List B consists of the “not advisable” plants. List C consists of plants considered less invasive but still need to be controlled/removed. He stated he would need to speak with the Environmental Division regarding how the State handles items on List A, which he believes are the only highly controlled plants.

Ms. Merriam asked if the County did anything regarding noxious weeds in open space.

Mr. Kilgore answered that the landowner/developer would manage any noxious weeds until the land is taken over by a management group or HOA. He can't give an answer to how noxious weeds are handled County-wide, only how PCD reviews the subject for application review purposes. He would defer to the Environmental Division to answer that question.

Ms. Merriam stated she would like to know how that process works and would appreciate it if Mr. Kilgore would follow-up with her regarding what he discovers.

Mr. Markewich asked if a landowner could request noxious weed code enforcement if an adjacent property has items on the list that they want to avoid migrating onto their own property.

Mr. Kilgore stated he would need to research and follow-up with Mr. Markewich because he's not sure if County Code Enforcement enforces the Environmental Division's noxious weed list (as they do with weed height). He stated the *Noxious Weed Control Book* may cover enforcement procedure.

Mr. Whitney asked if there was a County-wide eradication plan for noxious weeds.

Mr. Kilgore asked if the board would like the Environmental Division's *Noxious Weed Control Book* to be presented during the hearing (they did not). He believes that information may be included in the book. He believes eradication is only required for List A.

Mr. Carlson asked if the book could be sent to all board members. (It has since been uploaded to the EDARP project file for LDC233.)

Mr. Kilgore completed his presentation.

NO PUBLIC COMMENTS

DISCUSSION

Mr. Kilgore reviewed the comments submitted by Mr. Moraes.

Mr. Carlson asked for the comments to be shared with the board. (They have since been uploaded to the EDARP project file in their entirety.) The board indicated they do not need to see the comments before voting during the hearing. Mr. Carlson asked if changes were made to the Code amendment, besides scrivener's errors, following Mr. Moraes' comments. (There were not.)

Mr. Whitney reiterated that he would like to see Mr. Moraes' comments but does not feel the need to do so before voting.

Mr. Markewich asked about the nature of Mr. Moraes' comment regarding artificial turf.

Mr. Kilgore explained that Mr. Moraes' concern was about PFAS potentially leaching into the soil.

Mr. Whitney clarified that Mr. Moraes' comment was about the possible environmental impact.

Mr. Kilgore confirmed.

Ms. Brittain Jack asked if it was safe to assume that artificial turf would not have been allowed in the Code unless it met environmental impact requirements.

Mr. Kilgore replied that would be correct. He added that the review process included sending the proposed amendments to 43 different agencies, including the land-use team of the HBA. That team includes landscape architects and engineers. They provided a letter of recommendation. Many of the changes and suggestions came from the review agencies. He stated 4-5 of the significant returned reviews included environmental comments.

Mr. Carlson asked if any commercial developers were included in the review request.

Mr. Kilgore answered that there are multiple commercial developers on the HBA land-use team.

Ms. Seago addressed the earlier question regarding noxious weed code enforcement. She stated she cannot speak for the County's policy regarding noxious weeds on County-owned property, however, there is an ordinance for noxious weed enforcement on private property which is handled by the Environmental Services division (Parks Department). That ordinance grants the County similar powers to those of the PCD Code Enforcement division. She then explained the judicial process of noxious weed enforcement: a warrant may be granted for entry to inspect, voluntary compliance is sought with the landowner, court-ordered compliance may be sought, or the County may seek permission to perform mitigation measures, seeking reimbursement afterward. She is not aware of the judicial process being necessary on a noxious weed issue in recent past, but it is an option.

Mr. Carlson asked how citizens could request noxious weed enforcement on County property.

Ms. Seago suggested the citizen contact the County's Environmental Services division. She doesn't know what that department's budget or plan is regarding noxious weeds.

Ms. Merriam asked if enforcement was limited to List A mentioned by Mr. Kilgore.

Ms. Seago stated she had not read the ordinance in detail, but it appeared to address all lists and how each of them are separately handled.

Mr. Markewich asked if Appendices A and B were brand new.

Mr. Kilgore confirmed. He explained that Appendices A through C were added to the Landscape and Planting Manual for ease of reference to the LDC all in one place.

Mr. Markewich asked what assurance is in place that the Landscape and Planting Manual will be used after integration. He wonders why it wasn't used before.

Mr. Kilgore answered that the LDC referenced the Landscape and Planting Manual previously, but the manual was never adopted and codified.

Mr. Markewich clarified that after the PC potentially recommends adoption, the BoCC could adopt the manual and it would officially be part of the Code and rules that everyone must look at.

Mr. Kilgore confirmed but added it would be an administrative document that is subject to changing recommendations. He gave an example that Colorado Parks and Wildlife could recommend adding a plant to the "not advisable" list and it wouldn't need to be brought before the Board for that addition. Only major revisions would need to go back to PC and BoCC.

Mr. Markewich asked if the future, full LDC revision was taken into consideration when making the subject amendments. He assumes that updating sections of the Code now will allow more attention to be placed on other areas that were not recently updated.

Mr. Kilgore replied that recently updated sections would still be reviewed for consistency and further recommendations. PCD felt this was necessary to address before that full revision because it has been delayed for so long.

Ms. Merriam asked how it would be handled if someone from the public had an issue with anything within the manual, being that it is an administrative document.

Mr. Kilgore stated that was one of the provisions within the revisions. (He then laughed at himself.) He continued to say that as those situations arise, they should be handled at the administrative level and members of the public should not be prohibited from alternative options. He gave an example of an airport that didn't want to use any form of vegetation in their site development plan because they had experienced problems with deer and birds in the area. That flexibility for an alternative design is handled at the administrative level and is allowed.

Mr. Carlson asked if the public could give input for administrative revisions to the manual.

Mr. Kilgore replied that the public can always submit an issue with an administrative decision (appeal), which would then be escalated for review. Administrative changes to the manual that exceed minor scrivener's errors/clarification language would be made available to the public via EDARP. PCD is cognizant of the public-facing nature of the department and staff members are deliberate in having all information available as public record.

Ms. Herington added that there are many avenues to make that information available to the public (i.e., social media, PCD website, PIO announcements) when it is a topic of interest. She added that the current staff isn't able to give much clarification regarding *why* certain manuals were not used or well documented in the past, but staff members are working on bringing those documents together now to create a standardized process.

Mr. Whitney commended Mr. Kilgore for his presentation and the proposed update.

Mr. Smith asked if this part of the LDC is mainly applicable to developers. For instance, private citizens do not need permits to change their own landscaping.

Mr. Kilgore agreed and added that the recommendations will exist for private citizens to use as informational reference. He explained that an individual homeowner would only need to adhere to this part of the Code if acting as a developer via "paper subdivision" and had purchased multiple vacant lots to build on, or if adherence was required in a PUD.

Mr. Smith mentioned that much of the information covered in this manual is information he would have requested from the Colorado State University (CSU) Extension service. Should the public go there, or go to PCD?

Mr. Kilgore answered that they could go to either place. Planning departments are generally a one-stop-shop. He added that the CSU Extension service is a wonderful resource.

Mr. Markewich gave a hypothetical example of a private property landscape project. If that work is done by a contractor, is a permit that follows the subject Code update required?

Mr. Kilgore explained that the subject Code update is applicable at the initial development stage and for commercial site development plan conformance. He gave an example: if a commercial lot was sold and the new owner came in and chopped down all the trees that had been planted as part of the site development plan approval, the new owner would be in violation of the approval. PCD would work with the new owner to replace the trees or come up with an alternative design to meet the buffering requirement.

Ms. Herington added that the short answer to Mr. Markewich's question is "no". There is no individual lot landscaping requirement for the example he suggested, nor is there a required permit. She believes the City of Colorado Springs is looking to implement an individual lot residential landscaping permit with Colorado Springs Utilities but that does not exist in the County.

Mr. Carlson asked if there was a difference in landscaping requirements between different zoning types (i.e., residential, commercial, industrial) or is the requirement dependent on being adjacent to residential. He mentioned that trees and landscaping would block signage and retail buildings.

Mr. Kilgore stated those considerations would be evaluated at the site development plan stage.

Mr. Carlson asked how stringent PCD would be on the height of trees in a retail center. He asked if bushes that reach 6' high would be an acceptable replacement or does PCD want the canopy and ground shade that trees provide.

Mr. Kilgore stated tree caliper and diameter at breast height requirements are addressed in the manual. Substitutions can be discussed with PCD.

Mr. Carlson clarified that if a developer wanted to vary from the requirement, they would ultimately need to request a deviation through PCD.

Mr. Kilgore explained that a separate variance request would not be needed after adoption of the proposed Code amendment. Alternatives will all become part of the same process.

Mr. Carlson mentioned the requirement of 1 tree for every 500 square feet of lot area. He asked if that was a requirement across the board for all commercial properties. He gave an example that a gas station on a single acre would require 87 trees.

Mr. Kilgore confirmed but added that a substitution would be considered. He added that what Mr. Carlson brought up is a common complaint that PCD hears. The proposed Code amendment allows more flexibility.

PC ACTION: FULLER MOVED / TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5B, FILE NUMBER LDC233 FOR A LAND DEVELOPMENT CODE AMENDMENT, LANDSCAPE CODE UPDATE, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (9-0).

6. NON-ACTION ITEMS (NONE)

MEETING ADJOURNED at 10:01 A.M.

Minutes Prepared By: Miranda Benson