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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, September 5th, 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 BRITAIN JACK, JAY CARLSON, JEFFREY MARKEWICH, BRYCE SCHUETTEL, WAYNE SMITH, TIM TROWBRIDGE, AND CHRISTOPHER WHITNEY.

PC MEMBERS VIRTUAL AND VOTING: NONE.

PC MEMBERS PRESENT AND NOT VOTING: NONE.

PC MEMBERS ABSENT: JIM BYERS AND BECKY FULLER.

STAFF PRESENT: MEGGAN HERINGTON, JUSTIN KILGORE, MINDY SCHULZ, KARI PARSONS, RYAN HOWSER, ASHLYN MATHY, SCOTT WEEKS, ED SCHOENHEIT, CHARLENE DURHAM, ERIKA KEECH, AND LORI SEAGO.

OTHERS PRESENT AND SPEAKING: CLEMENT 'BUD' SILVERS JR, CHARLES MANLY JR, PAELEIGH REED, DAVE ELLIOTT, DANIEL JACQUOT, AND MICHAEL BARR.

1. REPORT ITEMS

Ms. Herington advised the board that there would be a non-action item at the end of the hearing. This is a presentation regarding the Your El Paso Master Plan's 3-year implementation report. Additionally, she mentioned that the Land Development Code (LDC) Update's website is now live. There is a link to the that webpage, which includes the consultant's LDC assessment, on the County's Planning and Community Development (PCD) homepage. Commission members and the public are all welcome to submit comments on that LDC Update website. The next PC Hearing is Thursday, September 19th, at 9:00 A.M.

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

3. CONSENT ITEMS

A. Adoption of Minutes for meeting held August 15th, 2024.

PC ACTION: THE MINUTES WERE APPROVED AS PRESENTED BY UNANIMOUS CONSENT (8-0).

B. MS235

MATHY

**FINAL PLAT
DOUBLE SPUR RANCH FINAL PLAT**

A request by Daniel Kupferer for approval of a 40-acre Final Plat creating 3 single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 12420 North Meridian Road, one-tenth of a mile south of the Latigo Boulevard and North Meridian Road intersection. (Parcel No. 5213000007) (Commissioner District No. 1)

NO PUBLIC COMMENT OR DISCUSSION

PC ACTION: SCHUETTPELZ MOVED / TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3B, FILE NUMBER MS235 FOR A FINAL PLAT, DOUBLE SPUR RANCH FINAL PLAT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TEN (10) CONDITIONS, ONE (1) NOTATION, ONE (1) WAIVER, 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 (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

C. VA245

PARSONS

**VARIANCE OF USE
8304 & 8308 CESSNA DRIVE VARIANCE OF USE**

A request by Sund Estate Management Corporation for approval of a Variance of Use to allow a commercial vehicle repair garage in the R-4 (Planned Development) Zoning District. The property is located within Meadow Lake Airport, is within the GA-O (General Aviation Overlay District) and is south of Judge Orr Road and east of Highway 24. (Parcel Nos. 4304002058 and 4304002087) (Commissioner District No. 2)

PC ACTION: THIS ITEM WAS PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER CITIZEN REQUEST.

D. SP217

HOWSER

**PRELIMINARY PLAN
PEERLESS FARMS**

A request by Robert and Wendy Williams for approval of a 40.01-acre Preliminary Plan depicting 7 single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 16975 Falcon Highway. (Parcel No. 4313000001) (Commissioner District No. 2)

NO PUBLIC COMMENT OR DISCUSSION

PC ACTION: MARKEWICH MOVED / SMITH SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3D, FILE NUMBER SP217 FOR A PRELIMINARY PLAN, PEERLESS FARMS, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH FIVE (5) CONDITIONS, THREE (3) NOTATIONS, ONE (1) WAIVER, 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 (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

E. CS243

HOWSER

**MAP AMENDMENT (REZONING)
UDON**

A request by Thani Holdings, LLC, for approval of a Map Amendment (Rezoning) of 15.75 acres from RR-5 (Residential Rural) to CS (Commercial Service). The property is located at 12150 State Highway 94. (Parcel No. 4400000185) (Commissioner District No. 4)

NO PUBLIC COMMENT OR DISCUSSION.

PC ACTION: TROWBRIDGE MOVED / WHITNEY SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3E, FILE NUMBER CS243 FOR A MAP AMENDMENT (REZONING), UDON, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

F. VR2324

HOWSER

**VACATION AND REPLAT
PONDEROSA PINES ESTATES**

A request by Clifford A Joyner for approval of a 3.07-acre Vacation and Replat creating 4 single-family residential lots from 2 single-family residential lots, resulting in a net increase of 2 single-family residential lots. The property is zoned RR-0.5 (Residential Rural), and is located at 18810 Cloven Hoof Drive, Palmer Lake, CO, 80133. (Parcel Nos. 7109002018 & 7109002019) (Commissioner District No. 3)

Mr. Trowbridge mentioned that Mr. Howser had indicated a member of the public wanted to be called in to speak on the item.

Mr. Bailey acknowledged that Mr. Kilgore was speaking with the Audio/Video staff regarding the call-in. While that was taking place, item 3G was discussed. They returned to agenda item 3F afterward. The members of the public were called, but both attempts went to voicemail.

NO PUBLIC COMMENT OR DISCUSSION

PC ACTION: CARLSON MOVED / TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3F, FILE NUMBER VR2324 FOR A VACATION AND REPLAT, PONDEROSA PINES ESTATES, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWO (2) CONDITION, 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 (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

G. VA243

WEEKS

**VARIANCE OF USE
5935 TEMPLETON GAP ROAD VARIANCE OF USE**

A request by Great West Construction for approval of a Variance of Use to allow an office use in the A-5 (Agricultural) and CAD-O (Commercial Airport Overlay) Zoning Districts. The property is located south of Templeton Gap Road, northeast of the intersection of Templeton Gap Road and Corinth Drive. (Parcel No. 631300009) (Commissioner District No. 2)

NO PUBLIC COMMENTS

DISCUSSION

Mr. Carlson suggested adding a condition of approval that stipulates the owner of the property must reside on the property, which he acknowledged is the current situation. He further believes that it would be best to have the approval tied to ownership instead of running with the land.

Mr. Bailey remarked that he had a similar concern regarding duration of approval for a later agenda item.

Mr. Trowbridge expressed his understanding that approval for a Variance of Use application typically runs with the land.

Ms. Herington confirmed. A standard Variance of Use approval does not include either a condition that approval is tied to current ownership or for a specific amount of time. A condition of approval could be added to include information detailed in the applicant's Letter of Intent. The applicant has declared their intention to reside on the property. She suggested the applicant could address whether they would be agreeable to adding that condition.

Mr. Trowbridge asked if the first condition, *"Approval is limited to the use of a contractor's equipment yard, as discussed and depicted in the applicant's Letter of Intent, and Variance of Use Site Plan. Any subsequent addition or modification to the use beyond that described in the applicant's Letter of Intent shall be subject to approval of a new Variance of Use request."*, would be sufficient to tie approval to the current owner or owner occupation.

Mr. Bailey asked if adding a condition of occupation by the owner strays from the intent of the rules as they're written.

Ms. Herington added that it would be very difficult for future County planning staff to review the Letter of Intent 10 years post approval to interpret conditions of approval. It would be much easier for future to staff to reference a clearly written condition of approval on the adopted resolution.

Ms. Seago asked Mr. Carlson if his intent for adding a condition of approval was to require the *property owner* or the *business owner* to reside on the property.

Mr. Carlson clarified that he meant for it to apply to the property owner.

Ms. Seago clarified that if the property owner lives on the property, it wouldn't matter to Mr. Carlson that a different entity operated the contractor's equipment yard.

Mr. Carlson confirmed. He explained that he wants to avoid the residence being demolished in the future and the only remaining use of the land being a contractor's equipment yard.

Ms. Seago then asked if it would be acceptable that the residence be occupied by anyone so long as it continues to exist. The occupant of the house may not be the property owner in that scenario.

Mr. Carlson stated he would prefer that the property owner be the occupant.

Ms. Seago proposed that she could assist with crafting a condition of approval to meet that request. She suggested that instead of crafting the condition to require that the property owner live on the property, phrasing it in a way that approval of the variance would expire upon the residence no longer being occupied by the property owner.

Mr. Bailey asked if that would be restricted to the current owner or apply to any future owner.

Ms. Seago clarified that it could applied either way.

Mr. Carlson stated that he agreed with her suggestion.

Mr. Whitney clarified his understanding that if the property owner moved away, approval of the variance would lapse. (This was confirmed.)

PC ACTION: THIS ITEM WAS THEN PULLED TO BE HEARD AS A CALLED-UP CONSENT ITEM PER MR. BAILEY.

H. MS239

LETKE

MINOR SUBDIVISION

3275 CENTER ICE VIEW – MINOR SUBDIVISION TO LEGALIZE LOT

A request by Andrew C Alm for approval of a Minor Subdivision creating two (2) single-family residential lots. The 12.72-acre property is zoned RR-5 (Residential Rural) and is one-quarter of a mile north of Hay Creek Road. (Parcel No. 7133007024) (Commissioner District No. 3)

PUBLIC COMMENT

Mr. Charles Manly Jr. spoke in opposition. He expressed a concern about adding a well in the location. He discussed his current rate of water flow.

Mr. Bailey stated that the water report was included in the packet, and he did not believe pulling the item to hear a full presentation would be necessary.

Mr. Trowbridge explained that all water in Colorado is owned and managed by the State Engineer. Property owners have the right to access the water via well, but ownership remains with the State. He mentioned that the County Attorney's Office also reviews water rights, which is provided in the full water report for each applicable project. If the State Engineer says that someone has the right to sufficient water, the Planning Commission cannot naysay them. He further mentioned that El Paso County has a more stringent, 300-year water requirement, where the state mandates a 100-year finding.

NO FURTHER DISCUSSION

PC ACTION: SCHUETTELZ MOVED / BRITAIN JACK SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3H, FILE NUMBER MS239 FOR A MINOR SUBDIVISION, 3275 CENTER ICE VIEW - MINOR SUBDIVISION TO LEGALIZE LOT, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH TWELVE (12) CONDITIONS, TWO (2) NOTATIONS, ONE (1) WAIVER, AND A RECOMMENDED CONDITIONAL 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 (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

4. CALLED-UP CONSENT ITEMS

3C. VA245

PARSONS

VARIANCE OF USE 8304 & 8308 CESSNA DRIVE VARIANCE OF USE

A request by Sund Estate Management Corporation for approval of a Variance of Use to allow a commercial vehicle repair garage in the R-4 (Planned Development) Zoning District. The property is located within Meadow Lake Airport, is within the GA-O (General Aviation Overlay District) and is south of Judge Orr Road and east of Highway 24. (Parcel Nos. 4304002058 and 4304002087) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

Mr. Carlson asked if the underlying R-4 zoning would have allowed for the current request.

Ms. Parsons stated that information would be included later in the presentation. She then resumed.

Mr. Trowbridge asked if the roadway and taxiway were clearly separated (i.e., berm).

Ms. Parsons answered that there is no berm because planes and cars travel across both.

Mr. Trowbridge clarified that he is asking if they are identified as being separate from each other so that drivers are aware when they are crossing the taxiway.

Ms. Parsons stated that County staff was able to determine where roadways were different from taxiways, but she doesn't know if the public would be able to make that determination. She stated

she would defer to airport officials regarding an accident log. The applicant may also provide clarification. Her presentation then continued.

Mr. Carlson asked if the repair garage would also work on aircraft.

Ms. Parsons stated the applicant would be able to answer that question.

Mr. Markewich asked what property the Variance would include.

Ms. Parsons explained that the Variance of Use would apply to Lots 7 and 9 as depicted in the Site Development Plan. She reiterated that approval would be tied to the Site Development Plan instead of a Letter of Intent.

Mr. Markewich asked if approval would run with the land, regardless of current owner.

Ms. Parsons confirmed.

Mr. Markewich verified that the restricted uses in the subject approval would apply regardless of a change in business owner.

Ms. Parsons confirmed. The allowed uses are depicted in the Site Development Plan. Her presentation concluded and the applicant's representative began their presentation.

Ms. Nina Ruiz, with Vertex Consulting Services, presented for the applicant.

Ms. Esther Sund, the owner and applicant, addressed Mr. Carlson's earlier question regarding whether the repair shop would work on aircraft. Their company does and will provide services to aircraft when requested and when they are capable. They have worked on airplanes in the past and have done custom painting on airplane parts. There is a current project being delivered to the site which includes custom work on an experimental aircraft being brought in piece-by-piece. She stated that they have also assisted Springs Aviation with tool loans. Overall, she stated that her business does not exclude aviation.

Mr. Smith asked for a visual explanation of the road versus taxiway on an aerial image.

Ms. Sund explained that there are taxi easements on the property. Easements are typically utilized by the hangars that store aircraft, like the buildings south of the subject property. She used the image to point out what that taxiway would look like if it existed. There are no taxiways paved on her property because there are no planes stored there or anywhere on her block. She stated that aircraft is not driven within the easement in front of her property, but the easement does still exist.

Mr. Markewich clarified that there is a taxi easement.

Ms. Sund confirmed and stated it is not utilized.

Mr. Markewich asked if the easement was marked.

Ms. Sund answered that it is not marked.

Mr. Markewich asked if taxiways within easements that are in front of hangars (like the property south of the subject area) are marked.

Ms. Sund replied that those *are* marked. The identification of a taxiway dead-ends at her property line.

Mr. Markewich asked if the taxiway identification began again on the other side of her property.

Ms. Sund referred to the aerial image to identify a property 3 lots north of hers that likely has an identified taxiway. The 3 lots north of her property are vacant and there is no taxiway.

Mr. Markewich asked which direction the airplanes would taxi once they are on Cessna Drive.

Ms. Sund replied that it would depend on where the planes enter. The property located 3 lots north does not have direct access onto Cessna Drive, so once the aircraft uses the taxiway easement on that property, they enter the road perpendicular to Cessna Drive. Those airplanes do not cross in front of her property. Regarding the hangars south of her property, the aircraft will use the taxi easement to enter Cessna Drive and will then taxi along Cessna Drive in front of her property. They do not use the taxi easement on her property.

Mr. Bailey asked for explanation of how vehicles access her property.

Ms. Sund used the aerial image on the screen to indicate that vehicles on Judge Orr Road will turn south onto Cessna Drive, proceed south, and then turn west directly into the subject property. Cessna Drive is the same shared taxiway/road used by any vehicle that enters Meadow Lake Airport ("MLA") to access any hangar. She mentioned that members of the public attending an airport event would also use the same road.

Mr. Bailey asked for clarification of the private road ownership.

Ms. Sund replied that she knows MLA owns most of the road, but she's unsure of the entirety. She suggested that Dave [Elliott] may have more information.

Mr. Bailey clarified that the application is for the subject parcels only and the applicant does not have ownership or maintenance responsibility for the roads leading up to her property.

Ms. Sund confirmed.

Ms. Ruiz added that the applicant has the legal right to access.

Mr. Bailey then compared the situation to anyone leaving their private property and entering a public roadway. Any traffic concerns become the burden of the right-of-way owner, in this case, MLA. He asked if that would be a fair assessment.

Ms. Ruiz stated the property owners pay associate dues to MLA, which provides the maintenance.

Mr. Bailey further stated that the private property owners do not have the authority to implement signage warning vehicle drivers to watch out for aircraft. (The presentation resumed.)

Mr. Whitney asked if there was anything restricting the applicant from providing general services such as oil changes. (In response to Ms. Ruiz' description of the custom work provided by Sund.) The presentation has described the average customer as a Governmental entity, but could that change?

Ms. Ruiz stated that nothing precludes that type of use in the application as it has been presented. She stated that County staff recommended applying for a Variance to allow for vehicle repair, which is what has been requested. She further stated that the applicant would be agreeable to adding a condition of approval to restrict the type of use to reflect that identified in the letter of intent.

Mr. Markewich discussed the various other commercial businesses listed on the presentation slideshow. He mentioned that there are several that don't appear to be aviation-related but are in the immediate area. He asked if those business owners would need to apply for Variance of Use approval as well.

Ms. Ruiz replied that Ms. Parsons addressed that subject in her staff report. She identified that it is possible some of the existing uses may not have gone through the proper application process.

Ms. Herington added that there are 23-27 open Code Enforcement complaints/violations in the vicinity. How each will be resolved is uncertain.

Mr. Markewich clarified that before the current owner purchased the property, it was being used as a diesel mechanic shop and battery shop. He asked if it had been non-conforming for 20 years.

Ms. Ruiz stated that the property had not been used as an airplane hangar for 20 years.

Mr. Markewich asked if the current owner was aware of the restrictions when purchasing. He asked if they assumed a vehicle repair shop was okay because of the past uses.

Ms. Sund confirmed and further stated the building no longer has hangar doors, but garage doors. The financier of their business loan didn't have any questions due to the R-4 zoning and because the building is no longer considered a hangar. It was her assumption that she could do what she wanted on her private property since the land is not owned by the airport. She further mentioned that she rented the property for her business for 2 years before buying the land. The previous owner who rented and sold the property to her was an aviation-related individual.

Mr. Bailey asked if Ms. Sund was required to be a member of the airport's association.

Ms. Sund replied that she is not required to be a member and there are no covenants on her property. She does, however, pay dues to MLA.

Mr. Bailey compared the situation to that of an HOA. If covenants applied to the subject parcel, that information should have been disclosed to the buyer at the time of the sale.

Mr. Carlson pointed out that the application is a request for approval of a vehicle repair shop, but it appears that the current business operates more like a customization shop.

Ms. Ruiz agreed. Typically, when requesting a Variance of Use, County staff will advise an applicant to choose a closely related use. The definition for vehicle repair shop includes a broader list than

what the applicant is providing, but that was deemed to be the closest related option. The applicant's Letter of Intent details the exact use, which is mainly customization of emergency response vehicle. She reiterated that they would work on aircraft when necessary or requested. The applicant is not opposed to adding a condition of approval that limits the uses to those identified in the Letter of Intent.

Ms. Parsons explained that the LDC does not define a use for aircraft maintenance. It does, however, define a repair garage. She pulled up the LDC.

Mr. Trowbridge noted that what the applicant has experienced in this situation is a result of broad language that references separate documentation. There are flaws in attempting to interpret what the intention was from the early 1980's. This is the scenario that Ms. Herington mentioned preferring to avoid. He pointed out that the more specific the board can be in the resolution, the better.

Mr. Bailey brought up that leaving things open to interpretation also causes issues when enforcing the terms of approval. He stated he is concerned that non-conforming uses have been occurring for so long and that there are now a significant number of Code Enforcement complaints.

Ms. Parsons presented the LDC definition for a vehicle repair garage. County staff did not recommend limiting the uses within the definition because the applicant had mentioned in a preliminary meeting that they have provided a variety of those related services in the past. Staff did not want to take that ability away. Perhaps that has changed and they are now willing to limit those allowed uses. A restriction was placed on the site plan that identified heavy trucks, recreational vehicles, and trailers are repaired only for governmental contracts. This was done to avoid the customization of RVs, etc., for the typical public, and was placed on the site plan to avoid referencing a Letter of Intent for future interpretation. The underlying R-4 zoning did come with a Letter of Intent, but it also included a development plan that described specific allowed uses, which is what led staff to the conclusion that a Variance of Use was the best solution.

Mr. Carlson asked for clarification regarding what notes trump others. The 1980s development plan, Letter of Intent, zoning regulations, etc., all seem to have differing recommendations.

Ms. Parsons explained that staff from Planning, Code Enforcement, and the County Attorney's Office collaborated to determine that the underlying zoning and development guidelines permit commercial uses that support the airport. Regardless of what was highlighted by the applicant in their Letter of Intent, the County staff's interpretation of the 1981 R-4 zoning was that PVP (now CC) zoning uses *if* they support the airport. If the commercial use does not support the airport, a Variance of Use is required. She then reminded the board that Code Enforcement is complaint driven, so County staff was not driving through the airport looking for violations.

Mr. Bailey asked if the "Vehicle Repair Garage, Commercial" definition on the presentation slideshow was pulled directly from the LDC. (It was.) He then asked Ms. Parsons if there was any other definition that may better define the applicant's business of a customization shop.

Ms. Parsons verified there is no other definition that would be more precise to the subject request.

Mr. Markewich asked if anything would prevent the current owner from selling the property after Variance approval, and new owners establishing a Jiffy Lube, for example.

Ms. Parsons requested to consult with Ms. Seago before answering.

Mr. Bailey mentioned during that time that Mr. Markewich's question relates to his concern of the duration of the approval. He mentioned that the MLA letter of support specified that their support only extends to the current use and current owner. He suggested that they could add language in a condition of approval.

Mr. Whitney further stated that it seemed like the applicant would be agreeable to a condition of approval that restricted the Variance to the current use.

Ms. Parsons returned to answer the earlier question regarding limits to the approval after future sale of the property. A condition could be implemented that states approval of the variance expires upon sale of the property. That could be enforced with sales history. There could also be a condition that limits the type of work the business owner is allowed to provide. However, it would be difficult for Code Enforcement to visually identify unmarked government vehicles.

Ms. Herington confirmed that the business operates as a body shop, which is not defined in the LDC. She suggested that a condition of approval could specify that major/minor work such as paint, body, and fender work be allowed. They would exclude most engine/transmission work, preventing the possibility of a Jiffy Lube-type business. She confirmed that Ms. Ruiz gave a thumbs up to that suggestion from the audience.

Mr. Markewich stated defining allowed uses would probably be a better solution than restricting approval to the current owner. For example, the current owner could one day decide they wanted to establish their own Jiffy Lube.

Ms. Parsons stated she would present the applicant's site plan. She suggested modifying the notes on that item to be more specific. That way, when the Variance of Use approval resolution refers to the site plan, there is no room for interpretation.

Ms. Herington suggested having the public speak while County staff works on recommended language for conditions of approval.

Mr. Markewich expressed concerns over "opening a can of worms". If the current application is allowed, he wonders how that will impact the surrounding non-compliant uses.

Ms. Herington stated that there would not be a way to prevent that from happening. She stated that every variance is evaluated independently to determine if they meet the criteria. Each variance could be proposing a completely different use in a unique location. Approving one does not necessarily set a precedent.

Mr. Carlson expressed a desire to condition approval of the variance to the current owner as well as the types of allowed uses.

PUBLIC COMMENTS

Mr. Clement 'Bud' Silvers Jr spoke in opposition (before the item was pulled to the called-up agenda). He is a longtime pilot. He and his wife own a hangar in the Meadow Lake Airport. He advised that Cessna Drive is not a road, but a taxiway [for aircraft]. Airplanes have the right of way. He discussed different types of airplanes and how one type, the taildragger, has a blocked view of the road ahead. This type of plane can only be safely taxied by making s-turns. As the general public does not understand that necessity, they could drive their car into a blind spot and be hit by a taxiing plane. His concern is for the general safety of the public driving on Cessna Drive.

Mr. Whitney mentioned that the subject parcel is involved in a Code Enforcement case in which they have been operating the vehicle repair shop in the existing hangar. He asked Mr. Silvers Jr if he had observed any issues with vehicle drivers on Cessna Drive. (This was answered later by Mr. Elliott.)

Ms. Paeleigh Reed spoke in opposition (before the applicant's presentation). She owns and operates Metal Bird Hangars at Meadow Lake Airport. She stated that the location is within the airport. She does not agree with a variance for something that does not support the airport. She stated there are several businesses that are operating under the guise of supporting the airport, but it needs to be brought under control. She stated that there are 76 aircraft on a waitlist for hangar space. While on the waitlist, the aircraft is left outside or stored elsewhere. She asked the Planning Commission to support restricting uses to aircraft related uses only.

Mr. Dave Elliott serves as President of the Board for the Meadow Lake Airport Association serves as the Airport Manager. He acknowledged the letter of no objection he wrote on behalf of the MLA Association. He stated the Sunds are great members and are in good standing with the Association. The deeds for the properties within MLA make no mention of the MLA Association because it did not exist when the airport was established. The bylaws for the Association apply to the individuals, not the private property. It is not an HOA and has no authority over the property. Neither does the FAA. The private hangar complex at MLA is considered a "through the fence" operation. The only authority the Association has in the event an individual does not want to pay the dues is to deny their access to the runway complex.

He acknowledged that there are many non-aeronautical activities taking place at the airport. He discussed three examples. Overall, the Association has taken the stance that as long as the activities occurring inside the private hangar are legal, the Association will not submit complaints. If those activities have a negative impact on airport operations, however, then the Association will get involved. He reiterated that there is an extensive aircraft waitlist for hangar space. While he does not condone using hangar space for non-airplane uses, the Sunds have been good members of the Association and have assisted with airport security. They also assist when people are building airplanes, painting parts, lending tools, etc.

He stated that Cessna Drive is technically a roadway. There are taxiway easements platted on both sides of Cessna Drive, but they have not been improved contiguously. Therefore, Cessna Drive is used for both vehicles and aircraft. The road is maintained by the Association. The Association owns half of the runway and owns the pavement on the taxiway easements.

Mr. Markewich asked for a description of the signage or delineation between roadway and taxiway.

Mr. Elliott answered that when a person leaves Judge Orr Road and travels south on Cessna Drive, there is immediately a fence. During the day, the gate is lifted. It remains open from 7:00 a.m. – 7:00 p.m. but after that time, a code is required. Most people will see the open gate, realize there is an airport on the other side, and turn around. He further explained that there is a sign by the gate that identifies aircraft have the right-of-way. Beyond that point, there are speed limit signs. There are three taxiways that cross Cessna Drive. At the end of Cessna Drive, there is a runway. On that runway, there is aeronautical signage that the public would not understand. He acknowledged that there is an issue with speeding on Cessna Drive. When that happens, there would be little reaction time when a vehicle encounters an airplane. He further stated that there has only been one accident he is aware of, which occurred on a taxiway, not Cessna Drive.

Mr. Whitney summarized that portions of Cessna Drive are both road and taxiway.

Mr. Elliott clarified that Cessna Drive is not officially a taxiway, but it is used that way.

Mr. Whitney asked if there was signage to warn drivers that the road is used as a taxiway in addition to the “aircraft has the right-of-way” sign.

Mr. Elliott answered that there is not.

Mr. Whitney concluded that drivers would be surprised to come nose-to-nose with an airplane.

Mr. Elliott replied that they shouldn’t be surprised because it’s an airport.

Mr. Daniel Jacquot spoke in opposition. He is also a board member on the Association. He stated that at their board meeting, he thought it was unusual that the Sunds were in attendance because people might not want to express concerns in front of an applicant. He stated that he voted against supporting the variance at that meeting, but he did not express his reasoning why afterwards. They voted once. He questioned other members’ votes. He stated that if the Sunds (AccuFix) left the airport, there is another paint shop on the airport property that could still provide services. He stated that most existing businesses that opened on their properties didn’t first declare their intentions. He stated that there have been complaints of cars parked in taxiways at a different transmission shop. He detailed conflicts he’s had with another business (not the Sunds). He further stated that he has not observed body shops operating at other airports like COS, APA, or DEN. He concluded by stating that the Sunds are excellent neighbors and that if any variance were granted, he would be okay with keeping them as neighbors, but he generally does not support non-aviation related businesses being allowed to operate at the airport.

Mr. Michael Barr spoke in opposition. He is also a board member on the Association. He also voted against the variance at their board meeting. He stated he is not worried about AccuFix now, but is worried about the use in the future. He stated that non-aviation related uses got out of control. He expressed the hope that if the Planning Commission approves the variance request for the Sunds, that there be a caveat that approval expires upon the sale of the property.

Ms. Parsons stated that someone contact the downtown office requesting to speak on the item. She is attempting to get their contact info so that they can be called in.

Ms. Herington advised the board that the member of the public did not provide their full phone number, so they were not able to be called in. They will be asked to provide their comments for the BOCC hearing which will take place on 9/26/2024.

DISCUSSION

Ms. Parsons pulled up the note on the site plan, *"Repair of vehicles is limited to the following: electrical work, structural work, paint, body and fender work be permitted in association with a governmental contract and Meadowlake Airport Association Members on the site."* She further explained that the applicant would like to maintain the ability to service vehicles for MLA property owners. A second note did not change from how it was previously presented on the site plan.

Mr. Bailey read the condition of approval currently listed on the drafted resolution; *"Additional aviation-related repair is allowed on the subject properties pursuant to the General Aviation Overlay District and the 1982 R-4 (Planned Development) Zoning District."* He noted that the condition doesn't mention approval is tied to a site plan or Letter of Intent. He asked if a condition was missing.

Ms. Parsons explained that the coinciding site plan defines the allowed uses, and the applicant would not be able to expand beyond what is defined on that approved document.

Mr. Bailey mentioned that on past variance approvals, language that tied in the site plan or Letter of Intent was typically present in some way.

Ms. Parsons reminded the board that the County would prefer to identify restrictions on plat notes instead of referring to Letters of Intent that are open to interpretation.

Mr. Bailey asked for Ms. Seago's recommendation.

Ms. Seago replied that the board can add a condition referring to the site plan if they so choose. She referenced the drafted resolution for another Variance of Use application, which does include language that makes that reference.

Ms. Parsons asked that the board not impose a condition that references the applicant's Letter of Intent because that document references the confusing 1981 R-4 language. The condition of approval and the site plan notes do not remove the underlying allowed uses. If a future owner of this property wanted to create an airplane repair shop, they would be allowed to do so by right.

Mr. Whitney clarified that Mr. Bailey would prefer to have a condition of approval that ties to or matches what is found on the site plan.

Mr. Bailey acknowledged that it would be his personal preference for consistency and to draw attention to the additional restrictions.

Ms. Herington suggested that a condition of approval be added to the drafted resolution that refers to the site plan. She further suggested that the board can have a conversation with staff later to discuss moving away from referencing applicants' Letters of Intent. She advised that the board should evaluate the language Ms. Parsons presented on the site plan because that would be the condition that future staff looks at when determining compliance.

Mr. Schuettpelz agreed with the request to add a condition of approval on the resolution. He further requested that approval be tied to ownership of the property rather than running with the land. If there is a new property owner in the future, they should be required to submit a new variance request if their intention is to pursue non-aviation related uses.

Mr. Bailey explained that the site plan note would address the acceptable use issue, but the other topic which they discussed was limiting approval to current ownership. That was requested for the other variance request on the agenda as well.

Mr. Markewich asked if that limitation should be on the site plan or the resolution.

Ms. Seago answered that it should be on the resolution.

Mr. Ruiz provided rebuttal to the public comments and discussion. The applicant is agreeable to the condition/note that was presented on the site plan by Ms. Parsons. The applicant is concerned about adding a condition of approval that ties the variance to current ownership. If the business thrives, she may want to expand to another location. If she were to do that, she wouldn't be able to sell the business she built up at the current location. Adding that condition of approval may cause a financial burden if she is only allowed to market the property as a vacant building. However, any future owner of the business would be restricted by the site plan note.

Mr. Bailey asked if it would be enough that the underlying zoning permits aviation related uses.

Ms. Ruiz mentioned that there is a previous plat note that restricts the uses to airport hangars and does not allow for maintenance. She then addressed the public comments. She reiterated that AccuFix is a good neighbor and is well liked among Association members. Examples of business owners that have contributed to problems are separate from Ms. Sund. She believes that the opposition is more concerned about setting a precedent than in allowing Ms. Sund's business to continue.

Mr. Markewich stated that the note on the site plan seemed reasonable, and he did not see a need to add an additional condition tying approval to the current ownership. He expressed support of the application with the language Ms. Parsons added to the site plan.

Mr. Trowbridge agreed with Mr. Markewich's comments. He agreed with the applicant's remarks that if they were to sell the business, there shouldn't be an issue with the same type of business continuing in that location (under the same site plan restrictions). He further stated that although the property is within the confines of Meadow Lake Airport, it remains private property. He believes the language added to the site plan is sufficient.

Mr. Whitney agreed with both Mr. Markewich and Mr. Trowbridge.

Mr. Carlson agreed with the site plan note but disagreed with dismissing a condition restricting approval to current ownership. He believes there is a problem at the airport and that there is a mess. He stated that conditioning approval to the current owner for this project would help clean up that mess.

Mr. Schuettpelz agreed with Mr. Carlson's remarks. He reiterated that property and hangars were sold in the past without discretion. To attempt now at reeling that back in for airport uses only will be difficult.

Ms. Brittain Jack stated that the Planning Commission's responsibility is to evaluate the request for a variance, not to clean up what has been going on for 20 years.

Mr. Bailey agreed with Ms. Brittain Jack. He doesn't believe cleaning up the mess should fall on the current applicant. He reiterated that the current proposal is one of many. He is concerned about limiting the current applicant (with a conditional approval) when other situations are in existence. He doesn't think they should be looking so broadly outside the subject request. He believes the use is compatible because it's been there for a long time and there are other uses like it. He agreed that the hardship falls within the limitations of the LDC. Fixing the situation with a variance seems appropriate.

Mr. Smith agreed with Mr. Bailey's remarks.

Mr. Trowbridge requested a second condition of approval to tie the resolution to the site plan.

Ms. Parsons read the added second condition into the record: *"Uses are limited to the Site Plan submitted in support of the Variance of Use."*

PC ACTION: TROWBRIDGE MOVED / WHITNEY SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3C, FILE NUMBER VA245 FOR A VARIANCE OF USE, 8304 & 8308 CESSNA DRIVE VARIANCE OF USE, AMMENDING THE RESOLUTION ATTACHED TO THE STAFF REPORT TO REFLECT TWO (2) CONDITIONS AND TWO (2) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (6-2).

IN FAVOR: BAILEY, BRITTAIN JACK, MARKEWICH, SMITH, TROWBRIDGE, AND WHITNEY.

IN OPPOSITION: CARLSON AND SCHUETTPELZ.

ADDITIONAL COMMENTS

Mr. Carlson disagreed that it's not the Planning Commission's job to clean up the existing mess. Where else would that take place? This application process is where issues happening in the community should be brought.

Mr. Schuettpelz added that when the applicant purchased the property, they should have done their due diligence in researching if their intended use was allowed instead of assuming.

3G. VA243

WEEKS

**VARIANCE OF USE
5935 TEMPLETON GAP ROAD VARIANCE OF USE**

A request by Great West Construction for approval of a Variance of Use to allow an office use in the A-5 (Agricultural) and CAD-O (Commercial Airport Overlay) Zoning Districts. The property is located south of Templeton Gap Road, northeast of the intersection of Templeton Gap Road and Corinth Drive. (Parcel No. 631300009) (Commissioner District No. 2)

STAFF & APPLICANT PRESENTATIONS

Mr. Weeks presented a fourth condition of approval proposed due to previous discussion. This was drafted by Ms. Seago and has been reviewed and agreed upon by the applicant. He read the condition into the record: *"Approval of the Variance of Use shall remain in effect only so long as the existing or any future property owner resides on the property. If the property owner is not a natural person, the owner or an employee of the entity that owns the property shall reside on the property to fulfill this requirement."*

Mr. Chuck Crum, representing the applicant with M.V.E., Inc., confirmed that the applicant is agreeable to the added condition of approval.

NO PUBLIC COMMENTS

NO FURTHER DISCUSSION

PC ACTION: CARLSON MOVED / SMITH SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3G, FILE NUMBER VA243 FOR A VARIANCE OF USE, 5935 TEMPLETON GAP ROAD VARIANCE OF USE, AMENDING THE RESOLUTION ATTACHED TO THE STAFF REPORT TO REFLECT FOUR (4) CONDITIONS AND THREE (3) NOTATIONS, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

5. REGULAR ITEMS

A. ID244

PARSONS

SPECIAL DISTRICT SERVICE PLAN SOUTHERN COLORADO RAIL PARK METROPOLITAN DISTRICT NOS. 1-3

A request from Edw. C. Levy Company, and White Bear Ankele Tanaka and Waldron, for approval of a Colorado Revised Statutes Title 32 Special District Service Plan for the Southern Colorado Rail Park Metropolitan District Nos. 1-3. The 3,108-acre area included within the request is zoned A-5 (Agricultural) and RR-5 (Residential Rural) and is located south of Charter Oak Road and east of the Fort Carson Military Installation. The service plan includes the following: a maximum debt authorization of \$430,000,000.00, a debt service mill levy of 50 mills for commercial, and an operations and maintenance mill levy of 15 mills, for a total maximum combined mill levy of 65 mills. The statutory purposes of the districts include the provision of the following:

- 1) street improvements, transportation, safety protection;
- 2) design, construction, and maintenance of drainage facilities;
- 3) design, land acquisition, construction, and maintenance of recreation facilities;
- 4) mosquito control;
- 5) solid waste disposal;
- 6) design, construction, and maintenance of water systems including fire hydrants;
- 7) sanitation systems; and
- 8) security services.

(Parcel Nos. 6600000030, 6600000040, 6600000041, 6600000046, 6600000047, 6600000048, 6600000004, 6600000008, 6600000009, 6600000010, 6600000011, 6600000012, and 6600000014) (Commissioner District No. 4)

STAFF & APPLICANT PRESENTATIONS

Mr. Markewich reiterate that the City of Colorado Springs finds the application acceptable. He asked for verification that the language about eminent domain is transferable to the City.

Ms. Parsons confirmed and read condition of approval number one: *"If any portion of the land within the Southern Colorado Rail Park Metropolitan District Nos. 1-3 annexes into a municipality, City Council or the appropriate body within the municipality shall be the authorizing entity in regard to: eminent domain powers, increase to the maximum mill levy or debt, and modification of the Service Plan as described in Conditions of Approval Nos. 2-6 of the Southern Colorado Rail Park Board of County Commissioners Resolution approving the subject Service Plan (ID244)."* She confirmed that that City is agreeable to that condition.

Ms. Brittain Jack asked if the Ray Nixon power plant was located in unincorporated County.

Ms. Parsons confirmed but added that it is owned and operated by the City of Colorado Springs. Most of the City's utilities are in the County, including the WSEO's that will come before the Board.

Mr. Steve Mulliken, attorney representing the applicant, introduced the proposal and gave a brief presentation.

Mr. Sean Allen, attorney representing the applicant, explained that there is approximately 5.6 million square feet of commercial space to support the \$430 million maximum debt authorization. The estimated value of that commercial square footage is taken, and that value is extrapolated out to approximately \$410 million in PAR. In the three series of debts, the first will be all new money (first issuance), the second series will occur 5 years later (to refund the first series and issue new money), and the third series will occur 5 years later (to refund again and issue the final phase of new money). At that point, the total project funds, total PAR, will be issued. That is the method used to estimate what money is needed. He then reiterated the points covered by Ms. Parsons regarding mandatory criteria of approval.

Mr. Carlson asked how phase one, specifically the railroad, was paid for.

Mr. Mulliken answered that the Metro District will not pay for the railroad. That will either be paid for privately by the applicant or through grants.

Mr. Carlson expressed his understanding of how the first 3 phases of development would help pay for their own infrastructure, but he asked if any infrastructure would be completed in phase 4 prior to development in that area.

Mr. Mulliken answered that the location of the last phase includes where the mining operation currently exists and is already approximately 70% completed. The bluff will not serve the railroad and will be industrial only. When it comes time to finish development of that area, there will be 2 different Metro Districts providing issuance.

Mr. Trowbridge asked for more information about the repayment plan along with build-out of all phases of development.

Mr. Mulliken explained that the subject proposal differs from the typical residential Metro District in that there are no homeowners. He had considered including a small area of affordable housing within the vicinity, but that was decided against due to proximity to the industrial rail park, Ft. Carson, etc. He stated that when the financial projections were done, they estimated \$225/sq ft for the value of the industrial properties. He stated they are usually estimated at a higher value than that. He believes their estimates produced a conservative number. As the first manufacturer is brought in, the value of the property will increase. Property owners will pay taxes on the current assessed values. He anticipates that after the first property user moves in, the cost of phase 1's development will nearly be paid for.

Mr. Carlson clarified that the estimated value of \$225/sq ft was for the improvements, not the land.

Mr. Mulliken confirmed.

Ms. Brittain Jack asked if annexation to the City of Colorado Springs would result in a flagpole.

Mr. Mulliken replied that the annexation statute states that contiguity cannot be disrupted or prevented due to an intervening governmental or public land, which occurs with Fort Carson in this case. He further stated that they are currently working with the City.

NO PUBLIC COMMENTS

NO FURTHER DISCUSSION

PC ACTION: BRITTAIN JACK MOVED / TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5A, FILE NUMBER ID244 FOR A SPECIAL DISTRICT SERVICE PLAN, SOUTHERN COLORADO RAIL PARK METROPOLITAN DISTRICT NOS. 1-3, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH SEVEN (7) CONDITIONS AND ONE (1) NOTATION, THAT THIS ITEM BE FORWARDED TO THE BOARD OF COUNTY COMMISSIONERS FOR THEIR CONSIDERATION. THE MOTION TO RECOMMEND APPROVAL PASSED (8-0).

IN FAVOR: BAILEY, BRITTAIN JACK, CARLSON, MARKEWICH, SCHUETTPELZ, SMITH, TROWBRIDGE, AND WHITNEY.
IN OPPOSITION: NONE.

6. NON-ACTION ITEMS

A. A Presentation regarding the implementation action matrix in the Master Plan (3-year update).

PC ACTION: THIS ITEM WAS POSTPONED TO THE PLANNING COMMISSION HEARING ON 9/19/2024.

MEETING ADJOURNED at 12:16 p.m.

Minutes Prepared By: Miranda Benson