

Meggan Herington, AICP, Executive Director
El Paso County Planning & Community Development

O: 719-520-6300
MegganHerington@elpasoco.com
2880 International Circle, Suite 110
Colorado Springs, CO 80910

Board of County Commissioners

Holly Williams, District 1
Carrie Geitner, District 2
Stan VanderWerf, District 3
Longinos Gonzalez, Jr., District 4
Cami Bremer, District 5

EL PASO COUNTY PLANNING COMMISSION

MEETING RESULTS (UNOFFICIAL RESULTS)

Planning Commission (PC) Meeting
Thursday, May 16, 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, ERIC MORAES, JEFFREY MARKEWICH, 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, AND BRANDY MERRIAM.

STAFF PRESENT: JUSTIN KILGORE, KARI PARSONS, RYAN HOWSER, KYLIE BAGLEY, JOE LETKE, ED SCHOENHEIT, CHARLENE DURHAM, DANIEL TORRES, MIRANDA BENSON, AND LORI SEAGO.

OTHERS PRESENT AND SPEAKING: MATTHEW DOZIER, WILLIAM STUBER, LARRY MANNING, DARLENE JENSEN, AND JANDY BARENTINE.

1. REPORT ITEMS

Mr. Kilgore advised the board that the next PC Hearing will be held Thursday, June 6, 2024, at 9:00 A.M. This will serve as the annual meeting when officers are selected. There will be a presentation by Clarion regarding the LDC update process.

Ms. Seago introduced a new County Attorney Office staff member, Erika Keech. She will represent the Planning Commission and Planning Department in the future.

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

3. CONSENT ITEMS

A. Adoption of Minutes for meeting held May 2, 2024.

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

B. SP237

HOWSER

**PRELIMINARY PLAN
WYOMING ESTATES**

A request by Home Run Restorations, Inc. for approval of a 36.62-acre Preliminary Plan depicting 6 single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 14515, 14715, 14750, and 14755 Teleo Court, on the west side of Curtis Road, approximately 2.75 miles north of Highway 94. The applicant is also seeking a finding of water sufficiency with the Preliminary Plan. (Parcel Nos. 4333003003, 4333004001, 4333004002, and 4333004003) (Commissioner District No. 2)

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

C. MS234

HOWSER

**MINOR SUBDIVISION
GUNTZELMAN PORCELAIN PINES**

A request by Christa and Kristian Guntzelman for approval of a 35.06-acre Minor Subdivision creating 3 single-family residential lots. The property is zoned R-T (Residential Topographic) and is located at the intersection of Mountain Road and Kulsa Road, approximately one-quarter of a mile west of Chipita Park Road. (Parcel No. 8322200018) (Commissioner District No. 3)

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

D. VR223

BAGLEY

**VACATION AND REPLAT
AFTA SUBDIVISION**

A request by CST Metro LLC for approval of an 8.90-acre Vacation and Replat creating 2 commercial lots and 1 tract. The subject property is zoned CS (Commercial Service) and is located northeast of the intersection of New Meridian Road and Highway 24 and southeast of the intersection of Old Meridian Road and Highway 24. (Parcel Nos. 5312402015, 5312402016, 5312403003, 5312403004, 5312404003, 5312405003, and 5312405005) (Commissioner District No. 2)

NO PUBLIC COMMENT

DISCUSSION

Mr. Trowbridge asked for more information regarding the traffic study.

Ms. Bagley presented a map of the proposed subdivision. She explained where the roads are located.

Mr. Trowbridge asked where ingress to the new convenience store would be located and which structure would remain on the property.

Mr. Schoenheit explained that the existing Circle K building will be removed and a new structure will be constructed. He further explained that the proposed construction drawings show the existing access to Highway 24 being closed. An access permit granted by the City of Colorado Springs will allow a limited turn onto Meridian Road.

Mr. Trowbridge asked if that would be a restricted right in, right out intersection.

Mr. Schoenheit confirmed. He stated there would be $\frac{3}{4}$ movement, but not full movement.

Mr. Trowbridge asked if traffic from Highway 24 would need to pass the area to turn later down the road and return.

Mr. Schoenheit referred to a slideshow image. He stated that the City of Colorado Springs controls access to Meridian Road in that location. It was reiterated that there would no longer be direct access to Highway 24. Access to the subject property would only be possible through the interior roads.

PC ACTION: MS. FULLER MOVED / MR. MORAES SECONDED TO RECOMMEND APPROVAL OF CONSENT ITEM 3D, FILE NUMBER VR223 FOR A VACATION AND REPLAT, AFTA SUBDIVISION, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH ELEVEN (11) 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 (9-0).

4. CALLED-UP CONSENT ITEMS

3B. SP237

HOWSER

PRELIMINARY PLAN WYOMING ESTATES

A request by Home Run Restorations, Inc. for approval of a 36.62-acre Preliminary Plan depicting 6 single-family residential lots. The property is zoned RR-5 (Residential Rural) and is located at 14515, 14715, 14750, and 14755 Teleo Court, on the west side of Curtis Road, approximately 2.75 miles north of Highway 94. The applicant is also seeking a finding of water sufficiency with the Preliminary Plan. (Parcel Nos. 4333003003, 4333004001, 4333004002, and 4333004003) (Commissioner District No. 2)

Mr. Howser asked if the public could summarize their concerns so they may be addressed without a full presentation.

Mr. Matthew Dozier provided public comment. He supplied photos (part of the EDARP file) of drainage mitigation ditches in the area. He stated they are full of silt. He stated he would like to see those areas cleaned up before the final stages. He asked for clarification regarding whether the cul-de-sac, maintained by the HOA, would be public or private. He mentioned that traffic has increased in the area and that he has experienced theft from his barn.

Mr. Daniel Torres, with DPW Engineering, explained that the area described is within Wyoming Estates Filing No. 1. The site has an open permit and DPW is aware that it is not yet finished. The ditch on the north side is identified in construction drawings as a rip-rap ditch and still needs to be completed. Once all improvements from Filing No. 1 are complete, DPW will proceed with preliminary acceptance for the roadway. The driveway that continues west is platted right-of-way but will be maintained by the HOA via license agreement. It is currently a private driveway.

Mr. Carlson asked if the sediment will be dealt with when the ditches are complete.

Mr. Torres replied that the sediment should be mitigated with the rip-rap identified in the drainage report and according to the construction drawings.

Mr. Whitney pointed out that while the zoning is [RR-5], the placetype is identified as Suburban Residential and could potentially support higher density development.

Mr. Howser discussed the Master Plan and Suburban Residential placetype. He agreed that the placetype could support higher density but added that an applicant would need to first meet the criteria of a Map Amendment (Rezoning) application, including compatibility. The zoning districts of the surrounding vicinity are RR-5, A-5, and A-35. Higher density zoning may not be compatible.

Mr. Markewich asked for more information regarding drainage. He asked if drainage would connect to a system east of the subject parcel. He asked about drainage on adjacent property.

Mr. Torres replied that the water primarily flows east. He referred to a slideshow image to explain the flow. He doesn't know how water is draining on properties to the north and west. Based on the map's contour lines, drainage may continue west, north of the subject property, and not tie into the subject property's culvert. Water that flows directly into the subject property is directed to the drainage ditch. He cannot speak to the design of a separate filing.

Mr. Markewich summarized that development west of the property does not have a drainage plan that authorizes a tie-in to the drainage design on the subject property. (Mr. Torres confirmed.) He then asked how the drainage from this property connected to property to the east.

Mr. Torres explained that runoff would connect with the ditch along Curtis Road and then flow north as it historically does.

Mr. Markewich reiterated that he wanted to ensure upstream and downstream water flows were considered. He suggested more information being provided to the BoCC.

Mr. Torres verified that it was part of the drainage report submitted by the applicant. He repeated that the drainage north of the subject property is part of Filing No. 1 and is not part of the request. Filing No. 1 is an open construction site.

Mr. Carlson asked what would prevent build-up of sediment in the new drainage channel.

Mr. Torres answered that once the lots are stabilized, stormwater will be diverted into the channel to slow the rate of flow. Any sediment build-up should be maintained and removed as needed.

Mr. William Stuber provided public comment. He owns the property directly west. He reiterated that the drainage area most discussed is the one furthest north. He then discussed the history. The northern drainage channel was developed where there had been an easement platted for the six surrounding properties and a public access road, which appears to now be private. He stated that the road used by the six properties to the west follows the drainage. He further stated that he has an issue with the subdivision process. One Minor Subdivision was submitted and now there is a second Minor Subdivision being submitted with a replat of the first filing to accommodate

access. He suspects that it was done in a way to circumnavigate the Major Subdivision process. He read LDC 7.2.1(C)(1)(e), *"Circumvention of Process. If it is determined that the applicant is using the minor subdivision process to circumvent the subdivision process such as the submittal of adjoining multiple minor subdivisions or multiple replats of the same property, the applicant shall be required to comply with the preliminary plan and final plat process."* He opposes the public right-of-way now being platted as a private right-of-way with an HOA responsible for maintaining it. He stated that the western properties vacated a legal easement as part of Filing No. 1 with the understanding that it would be a public access road to his property. He is concerned that it will become a private road maintained by an HOA not yet established. He stated that during Filing No. 1, what was presented before the Planning Commission and recommended for approval was different than what the BoCC ultimately approved. LDC 7.2.1(C)(1)(b) states, *"Applicability. A minor subdivision is a division of land that results in the creation of 4 or fewer lots that do not discernibly impact surrounding properties, environmental resources or public facilities."* He disagrees that what is being proposed has little impact on surrounding properties. He then mentioned that there are existing Code violations on Teleo Court where concrete dumpster pads have been poured in the drainage area. He mentioned that the overall process started 5 years ago, and construction has been taking place for 2. He expressed frustration with the amount of time it has taken to finalize.

Mr. Carlson asked for Ms. Seago's thoughts regarding circumvention of the process.

Ms. Seago stated that when the initial Minor Subdivision was approved, it was understood that the applicant would likely come back to propose additional lots. With that in mind, that is the reason the applicant is currently being required to do a full Preliminary Plan rather than a second Minor Subdivision.

Mr. Trowbridge recommended that the standard hearing procedure be followed, and a staff presentation be given. (Mr. Whitney agreed.)

STAFF & APPLICANT PRESENTATIONS

Mr. Howser provided a staff presentation. He explained the background of the request to explain why the applicant is currently requesting a Preliminary Plan. He also clarified that there will be a net increase of two lots.

Mr. Torres then began his presentation.

Mr. Trowbridge clarified that by stating the drainage does not adversely affect downstream property, this means that what flows onto the property flows off the property to maintain historic flows.

Mr. Torres agreed and added that ECM criteria requires that the drainage maintains historic flow. Any increase to historic flow would need to be mitigated. The applicant is addressing stormwater quality by proposing runoff reduction per ECM criteria. Water entering the property is being routed through ditches that run along the roadway. He clarified that Teleo Court will be a County owned and maintained road after acceptance. Where the aerial image identifies Teleo Court is where the existing drainage ditch is located. That access was replaced with the "S-curve" Teleo Court observed on the image.

Mr. Carlson asked for confirmation that Teleo Court will be a public right of way.

Mr. Torres confirmed. He explained that the driveway beyond the right of way will be private.

Mr. Moraes pointed out that the Preliminary Plan in the staff packet identifies a 60-foot *private* right of way.

Mr. Torres stated that was an error. It should say *public* right of way. He will make sure the staff report is updated. If the property to the west proposes subdivision, it would be their responsibility to extend the roadway further.

Mr. Markewich asked for clarification regarding Curtis Road. The "Map Series" part of the staff report shows Curtis Road west of Teleo Court.

Mr. Torres explained that Curtis Road only runs north/south. There is an error with the mapping software that was used to create that image.

Mr. Markewich asked if a road existed west of Teleo Court.

Mr. Torres answered that it is a private driveway.

Mr. Howser clarified that there is no road west of Teleo Court. The GIS software may have created that label because properties along that driveway are addressed as Curtis Road. Overall, the label is a GIS mapping error.

Mr. Markewich asked for a correction to be made to the "Map Series", removing the label of Curtis Road, before presentation to the BoCC.

Mr. Whitney asked for clarification regarding what is public versus private in the area.

Ms. Seago explained that the length of Teleo Court from Curtis Road to the edge of the property line is being dedicated as public right of way on the Final Plat. The part of the road that the County is currently going to accept and maintain, however, ends at the existing cul-de-sac. The adjacent property in the northwest corner will be allowed to have a private driveway connecting to the public right of way dedication, but that section of the right of way will not be maintained by the County. It is a common planning practice to look ahead and obtain right of way dedication for adjacent parcels in anticipation of future development.

Ms. Fuller clarified the reason for the past confusion. She further added that the road name changing from one side of Curtis Road to the other (Patton Drive on one side, Teleo Court on the other) is also confusing.

Mr. Torres stated the County does not control the naming of the roads. He believes Enumerations (PPRBD) allows the road names to change.

Mr. Howser clarified that the former road labeled Teleo Court (running along the northern property line) was a part of a private easement across the subject property for the properties to the west. There was a condition on that easement that if any of the properties subdivided and a

road was built, the easement was required to be vacated. This explains why it appears that both currently exist. The new road has not yet been completed and accepted by the County. Once the road is finalized, the easement is vacated and the previous label on Teleo Court should be removed. The staff presentation concluded.

Mr. Smith asked who would pay for the extension of Teleo Court when the time comes.

Mr. Torres answered that the burden of future road improvements would be on the future development requiring extension of Teleo Court.

Mr. Shawn Shaffer, with Home Run Restorations, Inc., spoke. He did not have a presentation. He offered to answer any questions. He reiterated that he has followed the required process.

Mr. Carlson asked Mr. Shaffer to address the sediment build-up. He asked how it will be maintained until the upstream development is complete.

Mr. Shaffer stated the rip-rap did its job by stopping sediment from flowing downstream. He used a slideshow image to explain where water flows on the property.

Mr. Carlson asked who is responsible for digging out sediment as it builds up in the drainage ditch.

Mr. Shaffer replied that it is his responsibility. He recognized that the neighbors' concerns are valid and that there is ongoing maintenance he needs to complete.

Mr. Joseph Alessi, representing the applicant, discussed the previous easement along the northern edge of the property. The applicant was required to relocate that road so that it aligns with the subdivision to the east. This is what caused the controversy and resulted in all the property owners to the west needing to change their addresses. There were no further questions.

PUBLIC COMMENTS

Mr. Dozier stated that his previous concerns were addressed. He added that while it was explained that drainage should be flowing north and east, it is currently running where the previous easement was located. There is currently nothing directing the water. His concerns are addressed if the applicant clears the drainage build-up.

DISCUSSION

Ms. Fuller suggested to Mr. Shaffer that he make his own presentation with explanation and supporting points when he appears before the BoCC.

PC ACTION: MS. FULLER MOVED / MS. BRITAIN JACK SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3B, FILE NUMBER SP237 FOR A PRELIMINARY PLAN, WYOMING ESTATES, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH THREE (3) 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).

**MINOR SUBDIVISION
GUNTZELMAN PORCELAIN PINES**

A request by Christa and Kristian Guntzelman for approval of a 35.06-acre Minor Subdivision creating 3 single-family residential lots. The property is zoned R-T (Residential Topographic) and is located at the intersection of Mountain Road and Kulsa Road, approximately one-quarter of a mile west of Chipita Park Road. (Parcel No. 8322200018) (Commissioner District No. 3)

STAFF & APPLICANT PRESENTATIONS

Mr. Howser commented on last-minute agency review comments that were received (and are now part of the EDARP record). It was requested that the lots be platted with a 50-foot no-build buffer along all lot lines that are adjacent to the National Forest. He pulled up an image of the proposal to show that the proposed parcels already have a no-build designation where they are adjacent to National Forest property.

Mr. Carlson asked what was depicted in the bottom right-hand corner of the proposal.

Mr. Howser answered that it is a drainage easement. The presentation continued.

Mr. Whitney asked if it's Mr. Howser's opinion that the request for a no-build buffer along the National Forest is moot since the area already has a no-build designation due to slope.

Mr. Howser agreed. If agreeable, the applicant could add a more detailed buffer explanation, but it might not be necessary since it's already designated no-build.

Mr. Markewich asked if the properties northwest of the subject parcel also had to comply with a 50-foot buffer.

Mr. Howser explained that they do not have a 50-foot buffer because they do not abut the National Forest and only share a property line with the subject parcel.

Ms. Charlene Durham, with DPW Engineering, began her presentation.

Mr. Carlson asked if Nampa Road currently exists.

Ms. Durham answered that there is no road constructed, but the land was dedicated at the initial plat in 1921.

Mr. Moraes asked if the part of Mountain Road that exists after Kulsa Road (and leads into the subject property) will become a driveway.

Ms. Durham explained that it will remain public right of way, but the County Engineer will have license agreement allowing the three lots to use the right of way as a driveway. Those property owners will be responsible for maintaining that portion of the road.

Mr. Markewich asked if there is currently a formal agreement between the County and the developer related to access.

Ms. Durham answered that the County is working on an agreement. She added that Mr. Howser will later discuss adding a condition of approval that addresses the license agreement.

Mr. Markewich asked if Kulsa Road is paved. (It is.) He then asked if there was any intention to pave the portion of Mountain Road after it extends past Kulsa Road.

Ms. Durham stated that Mountain Road is an unimproved (gravel) road and she is unaware of any intention to pave it.

Mr. Markewich asked again about the part of Mountain Road after it extends past Kulsa Road.

Ms. Durham answered that it would not be paved. It will also not be County maintained, which is why the County Engineer believes the best path forward is to establish a license agreement allowing the property owner(s) to maintain the road.

Mr. Markewich asked if the property owners could pave the road.

Ms. Durham answered that she believes they could.

Ms. Seago added that even though the County will not be maintaining the road, it will remain public right of way and the County would control what happens with the road. This is why the property owner is required to get a license agreement from the County to build and maintain a driveway. If the property owner wanted to make major changes (such as pavement), they would need to receive permission from the County to do so.

Mr. Markewich clarified that paving that portion of the road is not part of the current proposal.

Ms. Durham confirmed. There were no further questions for Ms. Durham.

Mr. Howser presented the additional condition that County staff recommends. He explained how the motion would need to be made if deciding to include the added condition.

Ms. Seago verified that the language of the condition is acceptable. While it's not typical to include a condition for this reason, the Planning Commission has the right to do so.

Mr. Howser explained that the reason they requested the added condition was because the license agreement was requested so late in the application process. He added that a license agreement submittal had been received by PCD at the time of the hearing. Because that agreement has been received and is currently in review, it is the Planning Commission's discretion whether adding the 7th condition of approval is necessary. Staff presentation concluded.

Mr. Brett Louk, with SMH Consultants, presented on behalf of the property owner.

Mr. Carlson added that the agency review letters mentioned all improvements should be on private land only. He asked for verification that nothing would be built on the National Forest land.

Mr. Louk confirmed.

Mr. Smith asked if the part of Mountain Road discussed earlier would remain gravel.

Mr. Louk replied that it is his understanding that (at least initially), the road will remain gravel. As the lots sell, it will be up to the future homeowners whether they would like to improve it or not. He doesn't anticipate a fully paved road, but perhaps asphalt millings could be an option. He added that the subdivision covenants (not an HOA) establish that each of the property owners will be equally responsible for the maintenance of the road. Once the first lot sells, the license agreement and maintenance agreement will be turned over to the future lot owner(s). As additional lots sell, those property owners will be added to the agreements.

PUBLIC COMMENTS

Mr. Steven Krohn provided public comment. He stated he is not in support of or against the proposal. He asked if the grey area on the northern portion of the proposal was a no-build area.

Mr. Carlson explained that public comments could be made but the Planning Commission could not answer questions.

Mr. Larry Manning spoke in opposition. He is concerned about the condition of the existing road. The area includes a steep slope. Widening the road may include a retaining wall. He is concerned that the public will not have access to review future changes to the road since they will be part of a private license agreement. He stated that he currently uses the right of way as his driveway.

Mr. Whitney clarified that the road being discussed is the spur of Mountain Road that extends past Kalsa Road and extends into the subject property. He asked Ms. Seago to verify if that is the portion of the road subject to a license agreement and would be held to County standards.

Ms. Seago confirmed that they are discussing that portion of the road which is anticipated to be subject to a license agreement.

Ms. Durham verified the part of the road being discussed. She pulled up a slideshow image for reference. She stated that she is not aware of any proposed improvements to the existing road. As mentioned earlier, the plat was established in 1921, so even though the road is County owned and maintained, it is only 18 feet wide. Mountain Road is no wider, is gravel, and is not maintained. Any future improvements to the road will be reviewed to meet current County standards.

Mr. Markewich mentioned that he would assume any degradation that occurs to the road during construction of new homes would be the property owner/applicant's responsibility to correct.

Ms. Durham confirmed.

Mr. Whitney stated that if the road will be subject to a license agreement, the County is in the driver's seat regarding the details of that agreement. What will happen to that road will be determined by what is included within the license agreement. If it is an "as-is" license agreement, or it will be the type that lists what criteria needs to be met in order to access it.

Ms. Durham confirmed.

Ms. Darlene Jensen spoke in opposition. She doesn't believe that any proposed license agreement is available in EDARP. She would like to know when that will be available for public

review. She would like to know about future improvements to Mountain Road. She asked if the developer/property owners would bear the cost to improve the proposed shared driveway and any needed improvements to the existing Mountain Road. She would like to ensure that they have uninterrupted use of the spur to their driveway.

Mr. Kilgore commented that the license agreement proposal was submitted to EDARP the day before this hearing (5/15/2024) and is available now.

Ms. Jandy Barentine spoke in opposition. She had an earlier concern about how the proposed lots will take access, but that has been cleared up from the presentation. Her second concern is regarding wildlife. The area has many active mountain lions.

Mr. Louk spoke in rebuttal. He repeated that a draft of the license agreement was just submitted to EDARP and is currently being reviewed by County staff. The license agreement states that maintenance of the shared driveway will be the responsibility of three future property owners. Essentially, the current users of that stub will be getting their driveway maintained by other people. It will be ensured that their access is not impeded during construction. Regarding the current condition of the road being able to handle additional traffic, there will be a minimal number of trips generated, which is why a traffic study wasn't triggered.

Mr. Smith asked if the Fire District had any comments regarding the limited access.

Mr. Louk answered that the Cascade Fire Department does not have criteria and relies on County criteria, which allows the driveway access that is proposed.

Mr. Markewich asked for clarification regarding the grey area of the proposal.

Mr. Louk pulled up a slideshow image to explain that the norther portion of the northern lot, which is all grey, is designated a no-build area due to slope.

Mr. Markewich asked if setbacks are established from the property line or if they are established beginning at the no-build line. He asked if a property owner can propose improvements right up to the no-build area.

Mr. Louk replied that there is a 25-foot setback from the no-build area.

DISCUSSION

Mr. Moraes asked how no-build areas are designated.

Mr. Howser answered that there will be a plat note and will be depicted on the plat image as a hatched area (with definition), for example.

Mr. Moraes asked if it's possible to replat a property to eliminate the no-build area.

Mr. Howser replied that technically, someone could request a vacation of the no-build area, but they would need to provide evidence that the no-build area is no longer needed. Because the subject area is significantly sloped, it's unlikely, but there is a process for that kind of request.

Mr. Markewich read the added condition into the record and included it in his motion for recommendation. *"The applicant shall submit and receive approval of a public right-of-way license agreement prior to acceptance of the plat for recording."*

PC ACTION: MR. MARKEWICH MOVED / MR. MORAES SECONDED TO RECOMMEND APPROVAL OF CALLED-UP ITEM 3C, FILE NUMBER MS234 FOR A MINOR SUBDIVISION, GUNTZELMAN PORCELAIN PINES, ADDING ONE (1) CONDITION TO THE RESOLUTION ATTACHED TO THE STAFF REPORT, RESULTING IN SEVEN (7) CONDITIONS, ONE (1) NOTATION, 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. REGULAR ITEMS

A. SKP234

PARSONS

SKETCH PLAN SOUTHERN COLORADO RAIL PARK SKETCH PLAN

A request by Edw C Levy Co D/B/A Schmidt Construction Inc., for approval of a 3,108.9-acre Sketch Plan. The applicant intends to develop a commercial, light, and heavy industrial park with a new rail spur from the existing CSU rail located at the Ray Nixon Power Plant property to the eastern boundary of the Fort Carson Military Installation. The property is located south of Charter Oak Ranch Road and west of I-25. (Parcel Nos. 6600000030, 6600000040, 6600000041, 6600000046, 6600000047, 6600000048, 6600000004, 6600000008, 6600000009, 6600000010, 6600000011, 6600000012, and 6600000014) (Commissioner District No. 4)

STAFF & APPLICANT PRESENTATIONS

Ms. Parsons explained that the public comment attachment to the SKP234 staff report is not relevant to the Southern Colorado Rail Park Sketch Plan. It is in regard to the Southern Powers Access Management Plan, which will be presented before the Planning Commission later in 2024. No opposition has been received for SKP234. She added that the Major Transportation Corridors Plan will be presented to the board June 6, 2024. The presentation then continued.

Mr. Trowbridge asked why it is appropriate at the current stage for the Planning Commission to recommend a waiver from review of an annexation impact report.

Ms. Parsons explained that the Code allows for a waiver from the annexation impact report. She stated that because this project includes a Sketch Plan, detailed studies and reports are available. Those extensive studies are not normally available with other annexations. With that in mind, County Staff is requesting the Board allow that waiver and expedite the process for annexation.

Ms. Fuller asked why the Sketch Plan and a Metro District are being requested in the County if it's known that they will be requesting annexation into Fountain. She asked why annexation isn't being done first.

Ms. Parsons answered that the applicant can explain more about the grant process, but ultimately, the reason is tied to funding.

Mr. Whitney asked why the Planning Commission is considering the request for a waiver if the Board of County Commissioners makes the decision.

Ms. Parsons replied that it is being discussed because it's part of the application. The presentation then continued.

Ms. Durham presented the Engineering slides. There were no questions regarding drainage.

Mr. Markewich asked if there would be Fort Carson access through the property, besides the rail.

Ms. Durham referred to a Sketch Plan image to show potential access to Fort Carson. The applicant will address that access in more detail during their presentation.

Mr. Whitney clarified that the overall project would take many years.

Ms. Durham confirmed. County presentations concluded.

Ms. Andrea Barlow, with N.E.S., Inc, began her presentation.

Mr. Steve Mulliken, Attorney with the applicant, introduced their team's representatives and discussed the history.

Ms. Barlow continued her presentation. She provided an overview of the request.

Mr. Mulliken concluded the presentation.

Mr. Carlson asked about ownership of the railroad right-of-way.

Mr. Mulliken explained that it will be owned by a Title 32 or 29 quasi-governmental entity. He then addressed the previous question about Fort Carson access. He explained that there will be an interior collector road that will connect to Gate 19. Many people access through a southern entrance, so once there is a Highway link to Powers Boulevard, a better route will be available.

Mr. Markewich asked about the properties surrounded by the subject parcel.

Mr. Mulliken stated there are 5 properties owned by 4 owners that are located within the subject property. He stated it is likely that those properties will be purchased. Preliminary discussions have been held.

Ms. Brittain Jack clarified that the property is considering annexation into the City of Fountain.

Mr. Mulliken confirmed. He added that there is contiguity with Fountain. Fountain has provided will-serve letters. The annexation process has not started yet. He discussed how being rural helps during the grant process. There are unanswered questions regarding utilities currently.

Ms. Brittain Jack stated she is concerned about Fountain's capacity.

Mr. Mulliken commented that they have alternatives in mind.

Mr. Moraes asked how much of a lynchpin the grants are to the feasibility of the project.

Mr. Mulliken answered that they have a Plan A and Plan B. Currently, they are implementing Plan A, which is a public-private partnership hoping to get grants. Completion of the full engineering to extend the rail line from the current spur through the Levy property to Fort Carson will likely cost \$23-25 million. The project is important to solve federal problems. He believes they will successfully receive grants to help with the cost. When grants are received, usually funds need to be matched. He then touched on the other scenario they are pursuing, Plan B (private investment). There is an emphasis on getting advanced manufacturing back to the United States. Plants are expanding and people need homes. They could get a call informing them of an interest to put a manufacturing plant on this property. That could be a \$1-4 billion project which would provide immediate funding to get everything done. The applicant is open to either opportunity. Having a Sketch Plan in place is important to the Plan B scenario because it shows that the community is behind the plan.

Mr. Smith asked who would own the entire property in the future.

Mr. Mulliken answered that once everything is built-out, they hope that there will be 300-400-acre sites owned by on-site major manufacturers. The railroad will be owned by the Metro District or Title 29 authority. Much of it may still be owned by the Levy Company.

Mr. Smith asked if the Levy Company would oversee and ensure that infrastructure is maintained.

Mr. Mulliken reiterated that one of the reasons they are looking into a Title 32 entity is to manage long-term maintenance and security obligations. That would be funded by the property owners that pay taxes based on their mill levy. He added that there will be an association that controls the long-term development.

Ms. Fuller expressed support for the project.

Mr. Trowbridge remarked that if the name were changed to Southern Colorado Rail Enterprise, the acronym could be "SCORE".

NO PUBLIC COMMENTS OR FURTHER DISCUSSION

PC ACTION: MR. SCHUETTELZ MOVED / MR. TROWBRIDGE SECONDED TO RECOMMEND APPROVAL OF REGULAR ITEM 5A, FILE NUMBER SKP234 FOR A SKETCH PLAN, SOUTHERN COLORADO RAIL PARK SKETCH PLAN, UTILIZING THE RESOLUTION ATTACHED TO THE STAFF REPORT WITH THREE (3) CONDITIONS, 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 12:07 P.M.

Minutes Prepared By: Miranda Benson